GUIDE TO RECALL

For City Offices

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Table of Contents

INTRODUCTION 3
Use of This Guide 3
What Is Recall and What Circumstances Justify It? 4
Who Can Be Recalled? 4
Circumstances Under Which a Recall Is Prohibited 4
Who Conducts the Recall Election? 4
Who Can Initiate a Recall? 4
Separate Nature of Each Recall 5
Cost of a Recall 5

STARTING THE RECALL 6
Preparing the Notice of Intention 6
Serving the Notice on the Incumbent 6
Filing the Notice and Proof of Service 6
Publishing the Notice 7
Incumbent's Answer 7
Campaign Finance Reporting 8

BUILDING THE PETITION 9
Overview 9
Format of the Recall Petition 9
Filing of Blank Copies of Petition and Proof of Publication 11
Review and Approval of Petition Format 12

SIGNATURE REQUIREMENTS AND CIRCULATION DEADLINES 13
When Circulation of the Recall Petition May Begin 13
Number of Days to Circulate Petition 13
Number of Signatures Needed 13
Withdrawal of Signatures from Petitions 14

COLLECTING SIGNATURES 15
Who Can Circulate a Recall Petition? 15
Who Can Sign? 15
Registering or Re-Registering Potential Signers 15
Circulator Must Complete and Sign Declaration of Circulator 15
Including a "Cushion" to Allow for Invalid Signatures 16
Causes of Invalid Signatures 16
Legiblity of Signatures 17
Circulation of Recall Petitions on Private Property 17
Penal Provisions 17

FILING THE RECALL PETITION 19
Filing the Recall Petition 19

VERIFICATION OF PETITION SIGNATURES 20
Verification of Petition Signatures 20
CERTIFYING RESULTS OF SIGNATURE VERIFICATION 21
Insufficient Number of Valid Signatures 21
Sufficient Number of Valid Signatures 21
Restrictions on Access to Recall Petitions 21
RESIGNATION OF OFFICHOLDER 22
Resignation of Officeholder 22
THE RECALL ELECTION 23
Calling the Election 23
Filing Requirements for Candidates 23
Design of the Ballot 25
Sample Ballot Pamphlet 25
The Voter's Responsibility While Voting in a Recall 26
Majority Vote Required to Recall the Incumbent 26
Plurality Vote to Elect a Successor 26
Campaign Finance Reporting Requirements and Limitations 26
THE AFTERMATH 28
Repeating a Recall if the Incument Is Not Recalled 28
Right of the Recalled Incumbent to Run in Future Elections 28
APPENDICIES 29-39
A: Flow Chart: Qualifying a Recall for the Ballot
B: Rules for Counting the Number of Words
C: Sample Notice of Intention to Circulate Recall Petition
D: Sample Affidavit of Proof of Personal Service
E: Sample Affidavit of Proof of Service by Certified Mail
F: Sample Recall Petition Form
G: Format Rules for Petition

Guide to Recall

FOR CITY OFFICES

INTRODUCTION

Use of This Guide

This guide is intended to provide basic, useful facts about the recall process for city elected offices. The laws governing recall do not supersede the provisions of a city charter or of ordinances adopted pursuant to a city charter relating to recall.

For recall of state officeholders, see the *"Procedure for Recalling State and Local Officials"* published by the Office of the Secretary of State. For recall of county, school district, special district, and judicial offices, contact the county elections official.

Federal officeholders are *not* subject to recall.

This guide should be used in conjunction with:

- The attached flow chart (**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 Office of the Secretary of State.
- The applicable sections of the California Elections Code, Government Code, California Constitution, etc.

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

Important: Because of the complexity of the recall process, all parties involved are advised to seek private legal counsel.

INTRODUCTION (CONTINUED)

What Is Recall and What Circumstances Justify It?

The California Constitution defines recall as "the power of the electors to remove an elective officer." (Art. II, Sec. 13) Neither the California Constitution nor the Elections Code says under what circumstances recall is justified. Instead, the Constitution says, in connection with recalls of state officers, "[s]ufficiency 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 incumbent's answer, it states that, "[t]he 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."

Who Can Be Recalled?

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

Circumstances Under Which a Recall Is Prohibited

A recall may not be commenced if any of these apply (§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.

Who Conducts the Recall Election?

The city elections official (i.e. the City Clerk Administrator) is the person responsible for conducting the recall. (§11002b) In the event however that the city elections official is the incumbent whose recall is being sought, then the duties imposed upon him or her shall be performed by some other person designated by the governing board. (§11201)

Who Can Initiate a Recall?

Any qualified elector may initiate a recall. A qualified elector is defined as being a registered voter of the jurisdiction and eligible to vote on the office of the incumbent they seek to recall. (§§11005, 322)

INTRODUCTION (CONTINUED)

Separate Nature of Each Recall

Each recall is a separate process and requires successful completion of the steps shown on the flow chart (**Appendix A**). If, for example, there are three separate incumbents to be recalled, there must be three of each of the following (See §1111021 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 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 typically will be circulating multiple petitions, and requesting voters to sign each of however many petitions are involved. Not all voters will choose to sign each petition, with the result that when the petitions are filed with the city elections official, the total number of signatures submitted for each recall petition will vary.

Cost of a Recall

The cost of a recall election is charged to the government agency whose officials are sought to be recalled. Contact the city 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.

STARTING A RECALL

Preparing the Notice of Intention

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

- The name and title of the officer to be recalled.
- A statement of no more than 200 words expressing the reasons for the recall. (See **Appendix B** for rules on counting words.)
- The printed name, signature, and residence address of each of the proponents. Note: If a proponent cannot receive mail at the residence address, he or she must provide an alternative mailing address.
- The language contained in §11023 informing the incumbent of his or her right to file an answer.

A sample Notice of Intention form is included in this guide (see **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 city elected office in a city with 1,000 or more registered voters, the minimum number of signatures required on a nomination petition is 20 (§10220), 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 on the office of the incumbent they seek to recall. (§11005)

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 (§11021). If serving by certified mail, recall proponents are advised to obtain from the city elections official the incumbent's most current and correct mailing address, as listed on the incumbent's voter registration record.

Filing the Notice and Proof of Service

The ***original*** Notice of Intention must be filed with the city elections official within seven (7) days of the incumbent having been served, along with an affidavit of time and manner of service. (See **Appendix D and E** for examples of affidavits used for personal delivery and certified mail, respectively.)

STARTING A RECALL (CONTINUED)

Filing the Notice and Proof of Service (continued)

A separate Notice of Intention shall be filed for each incumbent 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 incumbent sought to be recalled and his or her mailing address.

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

Publishing the Notice

The 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. (§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 city elections official later in the process. (§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 intent. All other parts of the Notice of Intent, 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. (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 city elections official.

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 city elections official within seven (7) days after the filing of the Notice of Intention by the proponents. It must be signed, and shall be accompanied by the incumbent's printed name and business or residence address.

STARTING A RECALL (CONTINUED)

Incumbent's Answer (continued)

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. (§11023) (There is no requirement that the incumbent file any proof of service with the city elections official.)

- ✓ *Note to proponents: In the event the incumbent's answer is apparently not received by any proponent, contact the city 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 city elections official whether or not an answer has been filed, prior to proceeding to the next step in the recall process.*

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.

BUILDING THE PETITION

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. A similar version is also provided in "*Procedures for Recalling State and Local Officials*" published by the Secretary of State.

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

Format of the Recall Petition

The recall petition format provided by the Secretary of State or city elections official is mandatory and must be used. (§§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. (§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, 11043)

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

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.

BUILDING THE PETITION (CONTINUED)

Format of the Recall Petition (continued)

- ✓ *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. (§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.

b. *Signature Space:*

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

"Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the [*insert name of electoral jurisdiction, i.e. City of Santa Cruz*] of [*insert name of geographical location, i.e. County of Santa Cruz*], California."

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

- 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. (§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 city elections official in verifying the petition.

BUILDING THE PETITION (CONTINUED)

Format of the Recall Petition (continued)

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:

- 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:

- that the circulator circulated that section and witnessed the appended signatures being written;
- that according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be;
- that the circulator is a registered voter in the electoral jurisdiction of the incumbent sought to be recalled; and
- that the circulator certifies to the content of the declaration as to its truth and correctness, under penalty of perjury. The circulator shall state the date and the place of execution on the declaration along with his or her signature. (§§104, 11046)

Filing of Blank Copies of Petition and Proof of Publication

Two blank copies of the recall petition must be filed with the city 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. (§11042)

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

BUILDING THE PETITION (CONTINUED)

Review and Approval of Petition Format

The city elections official shall review the petition format within ten (10) days and notify the proponents in writing that the petition is either approved for circulation or requires modification. (§11042)

If changes are necessary, proponents have ten (10) days to file two blank copies of the *corrected* petition with the city elections official. This process shall be repeated until no further alterations are necessary. (§11042)

- ✓ *Note to elections official: As a courtesy, the incumbent should also be notified when approval on format is given.*

SIGNATURE REQUIREMENTS AND CIRCULATION DEADLINES

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 elections official as meeting the requirements of the Elections Code. (§11042(d)) The time period available for circulating the petition is measured from when the elections official notifies the proponents that the petition meets the form and wording requirements. (§11220(a))

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 (§11220), as follows:

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

Number of Signatures Needed

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

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

SIGNATURE REQUIREMENTS AND CIRCULATION DEADLINES (CONTINUED)

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 city 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 – and clearly indicate the requestor indeed signed such petition – and contain the person's name, residence address and signature.

- ✓ *Note: The city 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.*

COLLECTING SIGNATURES

Who Can Circulate a Recall Petition?

Registered voters in the jurisdiction who are qualified to vote on the office of the incumbent sought to be recalled. (§11045)

Who Can Sign?

Only registered voters who, at the time of signing the recall petition, are qualified to vote on the office held by the incumbent whose recall is sought. (§§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.) (§§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. The voter then must affix his or her mark in the appropriate space on the petition, and have one person witness the mark by signing their names on the same line next to the mark. (§100.5, Gov. Code 16) According to the Secretary of State's legal counsel, witnesses do not have to be registered, and the circulator may serve as a witness.

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 office of the county elections official on or before the date the petition is filed. (§2102(b)).

- ✓ *Note to proponents: It will assist the city elections official in verifying signatures on the petition if the circulator notes in the left hand margin of the petition, adjacent to the signature, these newly completed registration cards' affidavit number and notifies the elections office at the time of delivery that these registration cards are related to the specific petition. Proponents should also be aware that completed registration cards must be delivered to the office of the county elections official within three (3) days of receipt from the voter.* (§2138)

Circulator Must Complete and Sign Declaration of Circulator

The circulator must personally affix – in 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, 11046)

COLLECTING SIGNATURES (CONTINUED)

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.

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 (See §§ 100, 105, 321, and 359):

- The signer is not eligible to vote on the office held by the incumbent 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).
- 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/her voter registration card on file with the office of the county elections official.

Certain defects in the declaration of the circulator, such as failure of the circulator to sign the declaration (§§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" in the signatures or addresses that the voters have written on the petition.

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

COLLECTING SIGNATURES (CONTINUED)

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.

Circulation of Recall Petitions on Private Property

Petition circulators often seek to circulate petitions at shopping centers and other private property. With shopping centers being 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 on private property.

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 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 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)

COLLECTING SIGNATURES (CONTINUED)

Penal Provisions (continued)

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 to cause or permit 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, two or three years, or 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 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, two or three years, or 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 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)

FILING THE RECALL PETITION

All sections of the recall petition circulated in the City of Santa Cruz must be filed with the city 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 city 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))

VERIFICATION OF PETITION SIGNATURES

The city 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 by §11225. To save time and money, election officials typically choose the latter when presented with petitions with large numbers 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 election official is required to conduct a 100% signature examination of the petition. (If the random sample shows that the number is less than 90%, the petition will be certified as insufficient. If it is over 110%, it will be certified as sufficient.) (§11225)

CERTIFYING RESULTS OF SIGNATURE VERIFICATON

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)

Sufficient Number of Valid Signatures

If the petition is found to have sufficient valid signatures to qualify the recall for the ballot, the city 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:

- 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.

Restrictions on Access to Recall Petitions

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

- Elections officials 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 certification of insufficiency. (§11301)

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. (§11302)

THE RECALL ELECTION

Calling the Election

Within 14 days after the meeting at which the governing body considers the certificate of sufficiency received from the city elections official, the governing body is to issue an order calling the election. (§11240)

If the governing body fails to act within those 14 days, the city 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)

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 after a state holiday. (§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)

Filing Requirements for Candidates

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

EXCEPTION: Although it is clear that trial court judges – both Municipal and Superior court – 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 (see County Counsel of Nevada County option, Appendix H) but never resolved since the recall petition never qualified for the ballot. IT is, therefore, suggested that elections officials seek their own legal counsel to clarify this issue should it arise.

THE RECALL ELECTION (CONTINUED)

Filing Requirements for Candidates (continued)

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 city 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. (§11381(b))

The incumbent may not be a candidate to succeed himself or any other member of the same governing board that is also the subject of recall (§11381(c)) . . . but 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 13 days.*

Each candidate for city office shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, and not less than five nor more than 10 voters in a city of less than 1,000 registered voters. Only one candidate may be named in any one nomination paper. (§10220)

Once a nomination paper is filed with the elections official, the nomination paper may not be returned to the candidate to obtain additional signatures. If the nomination paper is determined to be insufficient or the candidate fails to obtain the correct number of valid signatures on his or her nomination paper, the elections official shall retain the original nomination paper, provide a copy of the nomination paper to the candidate with an indication of which signatures are valid, and issue one supplemental petition to the candidate on which the candidate may collect additional signatures. The supplemental petition shall be filed not later than the last day for filing for that office. The form of the supplemental petition shall be the same as the nomination paper, except that the word "Supplemental" shall be inserted above the phrase "Nomination Paper." (§10221b)

a. *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.

b. *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. (§13.5)

THE RECALL ELECTION (CONTINUED)

Filing Requirements for Candidates (continued)

c. Candidate Statements

Candidates' Statements of Qualifications for publication in the Voter's Information Pamphlet are optional. The cost of statements in a recall election will be determined by the 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 incumbent whose recall is being sought may also submit a statement for inclusion in the sample ballot pamphlet. (§11327) Statement must be filed no later than 5 p.m. on the last day of candidate filing.

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

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

Design of the Ballot

The question on the ballot will be: "Shall [name of incumbent sought to be recalled] be recalled (removed) from the office of [title of office]?", with the voter marking either "Yes" or "No". (§11320) Below that 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 space must also be provided. (§11322)

If there are multiple recalls that have qualified for the ballot, following the list of candidates to succeed to one office would be 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, §13112 and §13113.

Sample Ballot Pamphlet

The sample ballot pamphlet 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. (§11325)

THE RECALL ELECTION (CONTINUED)

Sample Ballot Pamphlet (continued)

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. (§11325)

The Voter's Responsibility While Voting in a Recall

Previous law (§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.

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. (§11384)

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. (§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)

Campaign Finance Reporting Requirements and Limitations

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.

It is imperative for all parties involved with a recall to check with the city elections official on any and all applicable state and local laws in this regard.

THE RECALL ELECTION (CONTINUED)

Campaign Finance Reporting Requirements and Limitations (continued)

Additional information about specific disclosure requirements is available by contacting the state Fair Political Practices Commission, which enforces the Political Reform Act, at 1-866-275-3772. The address is 428 "J" Street, Suite 800, Sacramento, CA, 95814.

THE AFTERMATH

Repeating a Recall if the Incumbent Is Not Recalled

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

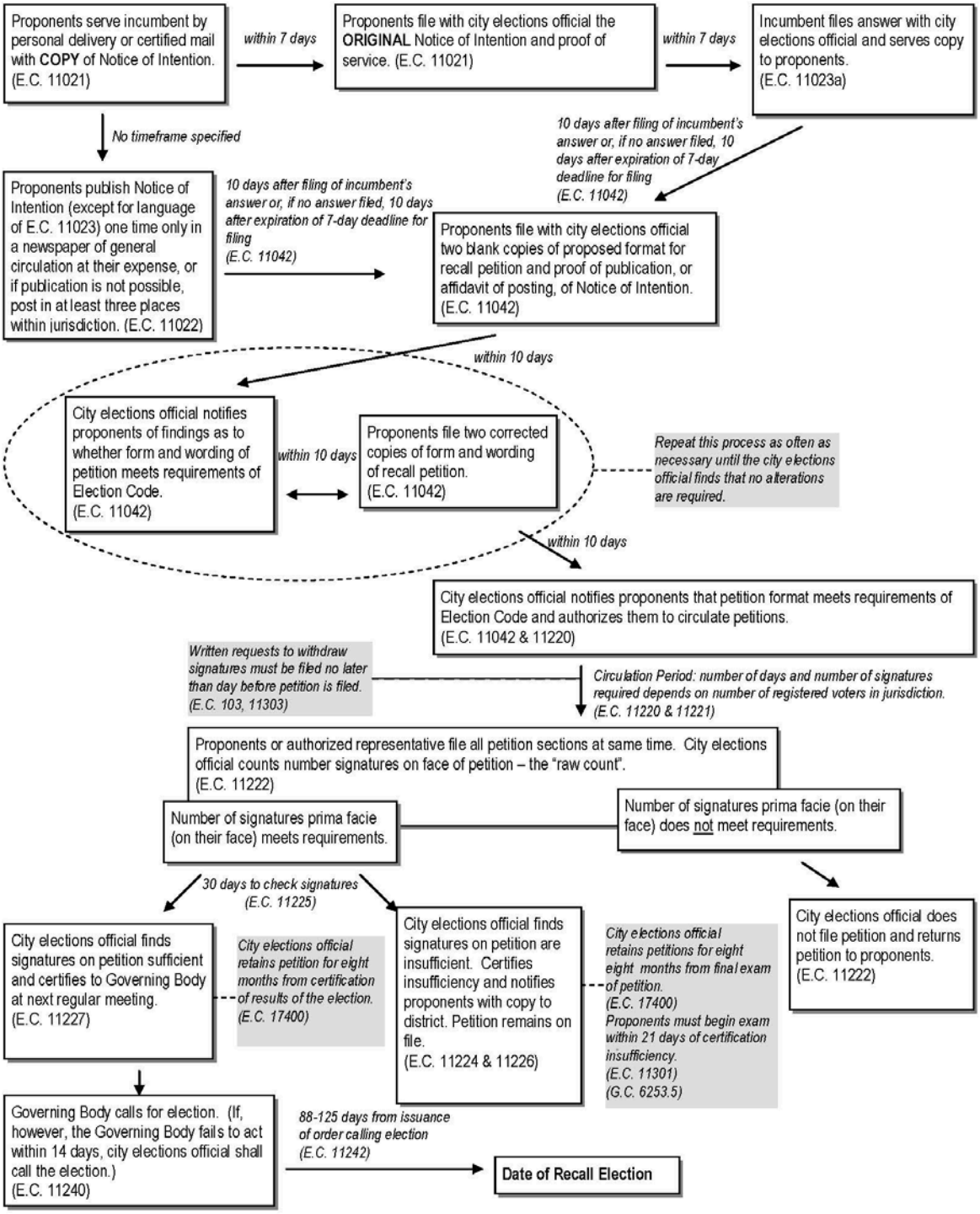
Right of the Recalled Incumbent to Run in Future Elections

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.

APPENDIX A

FLOW CHART: QUALIFYING A RECALL FOR THE BALLOT

Steps and Timeframes Involved in Preparing and Circulating the Recall Petition



APPENDIX B

RULES FOR COUNTING THE NUMBER OF WORDS

The Elections Code (§9) establishes the rules for counting the number of words in the proponents' statement of reasons, the incumbent's answer and candidate statements, etc. See below:

Each word is counted as one word except:

Punctuation: Punctuation is not counted.

Titles: Words used in the title of the document, such as "Notice of Intent to Circulate Recall Petition" are not counted.

Proper Nouns & Geographical Names: All proper nouns, including geographical names, shall be counted as one word. For example, "Pajaro Valley Unified School District" shall each be counted as one word.

Abbreviations: Each abbreviation for a word, phrase, or expression shall be counted as one word.

Hyphenations: Hyphenated words that appear in any generally available dictionary shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

Dates: Dates shall be counted as one word regardless of how they are written (1/1/2015 or January 1, 2015).

Numbers: Any number consisting of a digit or digits shall be considered as one word. Any number that is spelled, shall be considered as a separate word. "100" shall be counted as one word, whereas "one hundred" shall be counted as two words.

Phone and Internet: Website addresses and telephone numbers shall be counted as one word.

Percent Signs (%), Number Signs (#), etc.: It is department policy to count numbers consisting of a digit or digits used with a dollar sign ($), cent sign (¢), percentage sign (%), or number sign (#) as one word.

APPENDIX C

SAMPLE: NOTICE OF INTENTION TO CIRCULATE RECALL PETITION[1]

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
(name of city)

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 _____,
(name of office held) (name of city)

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[3])

Telephone number to contact proponents (optional):

_____[4]

SAMPLE: NOTICE OF INTENTION TO CIRCULATE RECALL PETITION[1] (CONTINUED)

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

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 scrutinized for accuracy 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 appoints 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.

APPENDIX D

SAMPLE AFFIDAVIT OF 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
(print full name)

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

SAMPLE AFFIDAVIT OF PROOF OF PERSONAL SERVICE (CONTINUED)

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

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
(date)

the U.S. Post Office located in _____ a **copy** of the
(place, e.g., name of city of 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 Recall to this Proof of Service.

SAMPLE AFFIDAVIT OF PROOF OF SERVICE BY CERTIFIED MAIL (CONTINUED)

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

SAMPLE RECALL PETITION FORM

Petition must be in at least 8-point type. The request for the election, the Notice of Intention and the Answer must be printed on each side of the sheet of paper on which signatures appear. All petition sections must be printed in uniform size and darkness with uniform spacing. §11041 All text for the Notice of Intent and Answer will be formatted flush left. No bullets; no capitalization, bolding or underlining for emphasis. Limited use of italics is permitted.

Must have 1" top margin

*****SAMPLE*** PETITION FOR RECALL**

TO THE HONORABLE (*INSERT NAME OF THE GOVERNING BODY THAT CALLS THE ELECTION*),

Pursuant to the California Constitution and California Election laws, we the undersigned registered and qualified electors of the (*insert electoral jurisdiction*) of (*insert name of city or county*), California respectfully state that we seek the recall and removal of (*insert name of person whose recall is being sought*) holding the office of (*insert name of office*) in (*insert electoral jurisdiction*), California.

We demand an election of a successor to that office.

The following Notice of Intention to Circulate Recall Petition was served on (*insert date petition was served*) to (*insert name of person whose recall is being sought*).

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION

TO THE HONORABLE (*INSERT NAME OF THE PUBLIC OFFICIAL WHOSE RECALL IS BEING SOUGHT*),

Pursuant to Section 11020 of the California Elections Code, the undersigned, registered qualified voters of the (*insert name of city*), County of (*insert name of county*), 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 (*insert title of office*), in the (*insert name of city*), County of (*insert name of county*), State of California, and to demand an election of a successor for that office.

The grounds for the proposed recall are as follows: (*Insert grounds for the recall – see "Important Notes"*)

The printed names of the proponents are as follows: (*Print names – see "Important Notes".*)

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 have to include the paragraph regarding the incumbent's right to file an answer.

The answer of the officer sought to be recalled is as follows:
(*Insert answer here. Following all text, print the name, address and contact information provided by the incumbent. Format for name is "s/Name"*)

Insert answer – 200 words. If no answer, insert "No Answer was Filed." §11041 (a) (3)

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

			FOR OFFICIAL USE ONLY
1.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	1" column §11043(c)
	YOUR SIGNATURE	CITY ZIP	
2.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY ZIP	
3.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY ZIP	
4.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY ZIP	

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)

I_____ declare:
(Print Name)

1. My residence address is _____ in _____County, California, and I am a registered voter or qualified to be a registered voter in (*insert electoral jurisdiction*);
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.

_____
(Signature)

Petition must have ½ inch margin on bottom. §11043(b)
Petitions may be printed on letter or legal-sized paper.

Proponents may insert a return address and deadline here.

APPENDIX G

FORMAT RULES FOR PETITIONS

All petition sections must be printed in uniform size and darkness with uniform spacing. (§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 Intention 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) request that an election be called to elect a successor to the office.

   (b) 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 section 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.

FORMAT RULES FOR PETITIONS (CONTINUED)

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 election 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.