GUIDE TO RECALL

FOR

COUNTY, SCHOOL DISTRICT, SPECIAL DISTRICT AND LOCAL JUDICIAL OFFICES

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A Guide to Recall
for County, School District, Special District and Local Judicial Offices

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A Guide to Recall
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I. INTRODUCTION

1. Use of This Guide

This guide is intended to give basic, useful facts about the recall process for county, school district, special district, and trial court (Municipal and Superior court) elected offices.

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

For recall of state officeholders, see the *"Procedure for Recalling State and Local Officials"* published by the Office of the Secretary of State.

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 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.

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." (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."

3. Who Can be Recalled?

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

4. 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.

5. Who Conducts the Recall Election?

The county elections official (Registrar of Voters). (§11002) In the event, however, that the county 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 Board of Supervisors. (§11201)

6. 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)

7.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 §§11021 and 11044.):

- Notice of Intention
- Affidavit of Time and Manner of Service
- Affidavit of Proof of Publication (or Posting, if applicable) of the Notice of Intention

Set of Two Blank Copies of the Proposed Petition Formats

- Recall Petition

Any error 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 Solano County Elections Office, the total number of signatures submitted for each recall petition will vary.

8. Cost of a Recall

The cost of a recall election is charged to the government agency whose officials are sought to be recalled. Contact the ROV for an estimate of the cost. If the recall election can be consolidated with a regularly scheduled election or another special election, the cost may be considerably reduced.

II. STARTING THE RECALL

1. 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. (§ 1020) 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 give 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 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.*** (§11020) For example, In the case of a county elected office, the minimum number of signatures required on a nomination petition is 20 (§8062(a)(3)), hence the minimum number of proponents required to sign the recall's Notice of Intention is 20.

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

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

3. Filing the Notice and Proof of Service

The ***original*** Notice of Intention must be filed with the Solano County Elections Office 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.)

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 give the incumbent a copy of the filings, upon request.

4. Publishing the Notice

Proponents are also required to publish, at their expense, the Notice of Intention at least once in a newspaper of general circulation serving the jurisdiction of the 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 petitions are filed. Proponents must request and obtain from the newspaper a signed affidavit* to show proof of publication . . . this document will need to be filed with the Solano County Elections Office later in the process. (§11042)

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 give timely publication). *If posting is used, an affidavit attesting to the postings will be required to be filed with the Solano County Elections Office*.

5. Incumbent's Answer

The incumbent has the right to give 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 Solano County Elections Office 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.

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 Solano County Elections Office.)

- *Note to proponents: In the event the incumbent's answer is apparently not received by any proponent, contact the Solano County Elections Office, since the incumbent's answer must also be filed there under the same deadline. It is the proponents' responsibility to verify with the 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 8** for additional information.

III. BUILDING THE PETITION

1. Overview

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

See **Appendix F** for a sample recall petition form. A similar version is also given 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 Solano County Elections Office for its review ***and agreement*** as to whether the petition conforms to the requirements of the Elections Code. (§11042)

2. Format of the Recall Petition

The recall petition format given by the Secretary of State or County 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).

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.

  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. Coast Fire Protection District*] of [*insert name of geographical location, i.e. County of Solano*], California."

<u>Note to proponents:</u> When a petition is circulated in more than one county, each section of the petition shall bear the name of the county in which it is circulated, and only registered voters of that county may sign that section. (§11047)

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

- printed name;
- signature;
- residence address, 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 County Elections Official in verifying the petition.

c. *<u>Declaration of Circulator</u>*:

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)

3. Filing of Blank Copies of Petition and Proof of Publication

Two blank copies of the recall petition must be filed with the Solano County Elections Office 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)

4. Review and Agreement of Petition Format

The Solano County Elections Office 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 Solano County Elections Office. 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.*

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 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 Elections Office notifies the proponents that the petition meets the form and wording requirements. (§11220(a))

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 (§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

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 (§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%

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

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

Often, however, judges have not been required to appear on the ballot for several terms because they drew no opposition when up for election. (§8203) The number of signatures needed is then calculated as 20% of the total number of votes cast *within that judicial jurisdiction* (countywide for Superior Court, for example) for all candidates in the countywide office (e.g. Sheriff or District Attorney) with the *least* number of votes in the most recent general election. (§11221) “Countywide office” is defined as “an elective office wholly within the county, which is voted on throughout the county.”

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 Solano County Elections Office no later than the day before the petition is filed. (§§103 and 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 Solano County Elections Office 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?

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

2. 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.*

If a recall petition is circulated in more than one county, a separate section should be used for each county. Each section of the petition must include the name of the county in which it is circulated, and only registered voters of that county may sign that section. (§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 Solano County Elections Office on or before the date the petition is filed**. (§2102(b))

- *Note to proponents: It will assist the Solano County Elections Office 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 Solano County Elections Office within three (3) days of receipt from the voter. (*§2138)

4. 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)

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 (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 Solano County Elections Office.

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 Solano County Elections Office may use the most current version of the Secretary of State’s *“Official Petition Verification Guidelines.*”

7. Legibility of Signatures

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

8. 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 private property.

9. Improper Signature – Gathering Tactics

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

a. Misrepresentation *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)

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. 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 or 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 or 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)

VI. FILING THE RECALL PETITION

All sections of the recall petition circulated within a particular county must be filed at the same time with that County's Elections Office. No additional signatures may be filed or accepted after that time. The petition sections must be filed by the proponents or by any person or persons authorized in writing by a proponent. A copy of the written authorization must be included with the filing. (§11222(a))

If the Elections Office determines that the number of signatures, on its face, appears to be equal to or greater than the minimum required, the petition will be accepted for filing. If the number is less than the minimum required, the petition will not be accepted for filing and will be returned to the proponents. (§11222(b))

If the petition was circulated in more than one county, the elections official of each county shall affix, with the certificate showing the results of his or her examination, the number of registered voters of the county residing within the electoral jurisdiction of the officer sought to be recalled. (§11223)

VII. VERIFICATION OF PETITION SIGNATURES

The Elections Office 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 given by §11225. To save time and money, election officials typically choose the latter when presented with petitions with large volumes of signatures.

If the number of valid signatures, as determined by the random sample, is equivalent to 90-110% of the number needed to qualify the recall for the ballot, the 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)

VIII. CERTIFYING RESULTS OF SIGNATURE VERIFICATON

1. <u>Insufficient Number of Valid Signatures</u>

If the petition is found to contain an insufficient number of valid signatures to qualify the recall for the ballot, no further action is taken and the petition remains on file. (§11226)

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

2. Sufficient Number of Valid Signatures

If the petition is found to have sufficient valid signatures to qualify the recall for the ballot, the Solano County Elections Office 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.

3. 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 states 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:

- Employees of the County Elections Office 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)

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. (§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 Solano County Elections Office, the governing body is to issue an order calling the election. (§11240)

If the governing body fails to act within those 14 days, the County Elections Official shall call for the election within five days.

A recall election shall be conducted, canvassed, and the results declared in substantially the manner stated by law for a regular election for the office. (§11328) One election is sufficient for the recall of several officers. (§11329)

If the recall is to be voted on by voters in more than one county, the elections official of the county with the largest number of registered voters who will be voting in the election shall set the date in consultation with elections officials of the other counties. (§11241)

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

2. 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, but was 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 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. (§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 shortened. 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.*

Nomination petitions may or may not be required of candidates, depending on the office held by the incumbent. The number of nominating signatures, if any, will be the same as required of candidates seeking that particular office in a regular election. (§11381) Check with the Solano County Elections Office 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. (§8104(b))

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 show documentation of his or her qualifications. (§13.5)

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 Solano County Elections Office 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 to 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.

3. 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(g) and 13112.

4. 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)

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)

5. The Voter Does Not Need to Vote on the Recall Question in Order to Have the Vote Count for a Candidate

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.

6. 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)

7. 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)

8. 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 Solano County Elections Office on any and all applicable state and local laws in this regard.

Additional information about specific disclosure requirements is available by contacting the state Fair Political Practices Commission, which enforces the Political Reform Act, at (916) 322-5662. The address is 428 "J" Street, Suite 800, Sacramento 95814.

XI. THE AFTERMATH

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 months of that election nor during the last six months of the official's term of office. (§11007)

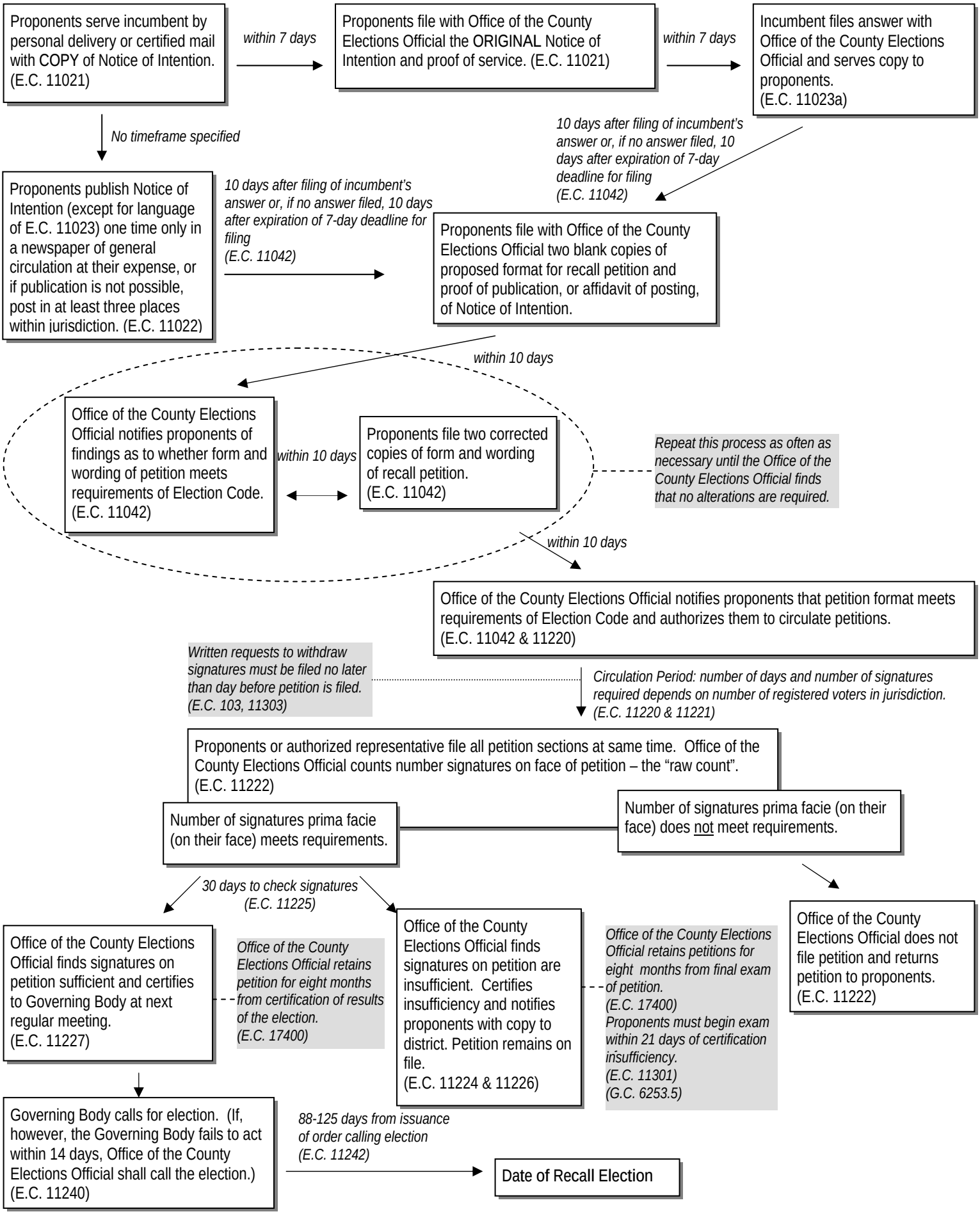
2. Right of the Recalled Incumbent to Run in Future Elections

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.

APPENDIX A

Qualifying a Recall for the Ballot

Steps and Timeframes Involved in Preparing and Circulating the Recall Petition



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.

CITIES/COUNTIES: All geographical names shall be counted as one word. Areas that have boundaries and can be mapped are considered geographic areas. For example, "County of Santa Cruz" and "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 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. January 1, 2000 shall be counted as two words, whereas 1/1/00 shall be counted as one word.

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

PHONE & INTERNET: Web site addresses and telephone numbers shall be counted as one word.

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

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION[1]

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

Pursuant to Section 11020 of the California Elections Code, the undersigned, registered qualified voters of the

_____, County of _____,
(name of district) (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 _____,
(title of office)

in the _____, County of _____, State
(name of district) (name of county)

of California, and to demand an election of a successor for that office.[2]

The grounds for the proposed recall are as follows:

(State grounds, 200 words or less)

The printed names, signatures, and business or residence addresses of the proponents are as follows:

	Name	Address	Signature
1.			
2.			
3.			

…10. (or more, see Footnote[3])

Telephone number to contact proponents: _____[4]

This Notice and the proof of service will be filed with the County Elections Official. You may file an answer to the statement of the proponents with the County Elections Official within 7 days after the notice is filed. It may not be more than 200 words. If an answer is filed, a copy of it must also be served personally or by certified mail within the same 7-day period on one of the above proponents. The answer shall have the printed name, signature, business or residence address of the officer being sought to be recalled.

A copy of this notice and proof of service will be filed with the County Elections Official.

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[1] **CAUTION:** 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 appoint a successor to the office.
[3] At least 10 signatures are required. In many cases more than 10 are required. 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

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 I, _____ executed this proof of personal service:

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

_____
(complete signature)

APPENDIX E

PROOF OF SERVICE BY CERTIFIED MAIL

I, _____ declare that:
(print full name)

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.

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)

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

APPENDIX F

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 district*), 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 district*), 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 (*insert electoral jurisdiction*) of *(insert name of city or county*), 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 that I am 18 years of age or older.
(Print Name)

1. My residence address is _____ in City_____County _____ State _____.
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.