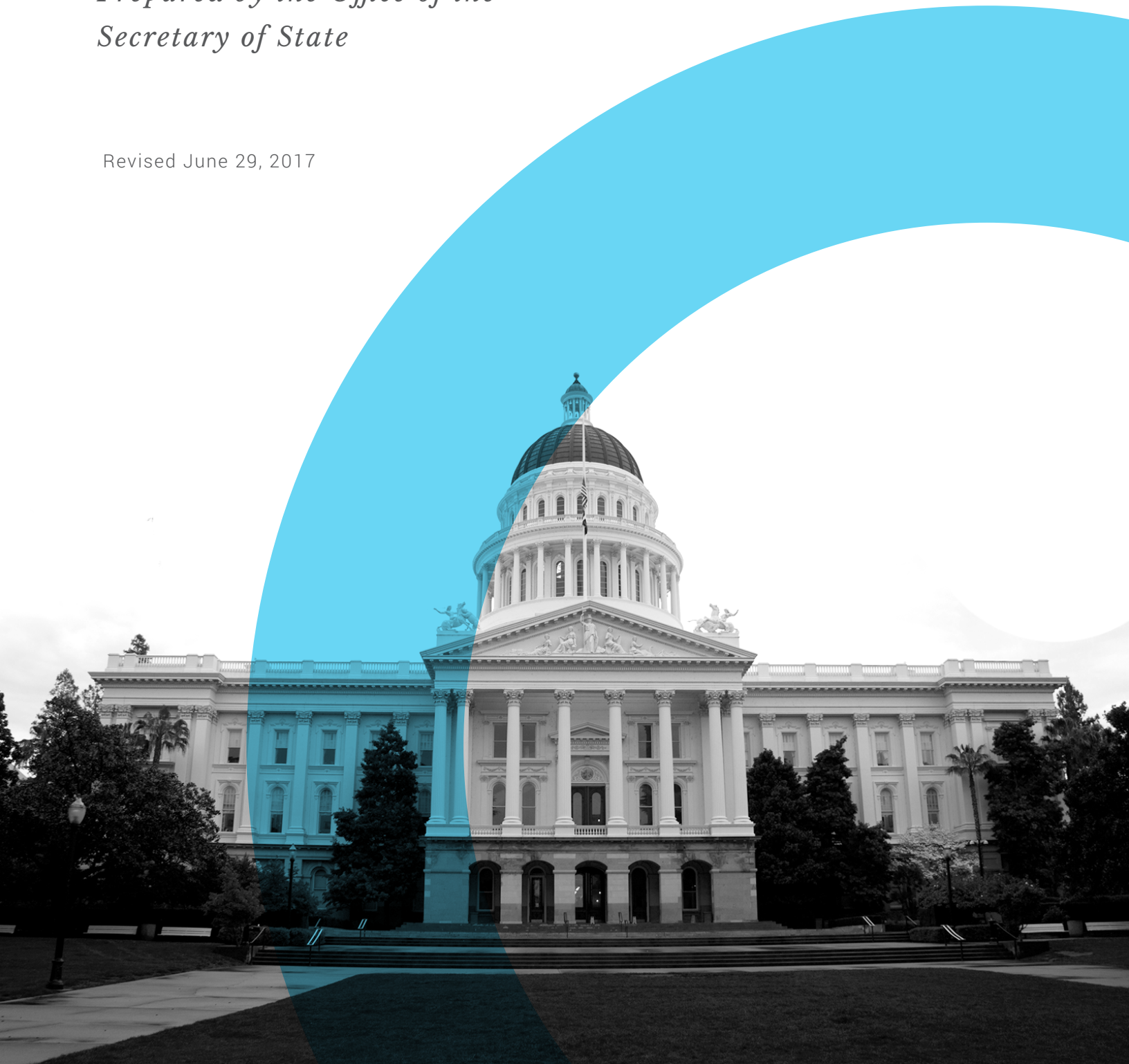
PROCEDURE FOR RECALLING STATE AND LOCAL OFFICIALS

Prepared by the Office of the Secretary of State

Revised June 29, 2017



Preface

Recall is the power of the voters to remove elected officials before their terms expire. It has been a fundamental part of our governmental system since 1911 and has been used by voters to express their dissatisfaction with their elected representatives.

This publication examines the law of recall as it applies to state and local officials. In some ways, the procedures that apply to the recall of state officials are different from those that apply to local officials. Therefore, this publication is divided into separate parts to help avoid confusion. *Be sure to check the Table of Contents to ensure you are referencing the proper procedure.*

Please note that the procedures described herein do not apply to federal officers. Federal officers are not subject to recall. The removal of U.S. Representatives or U.S. Senators is governed by the United States Constitution, Article 1, Sec. 5 (2), which states "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member." The President, Vice President and all civil officers of the United States are removed through the process of "impeachment" which is governed by the United States Constitution.

This Guide is designed to reflect all current laws, regulations, and rules that pertain to recall, but it does not have the force and effect of law, regulation, or rule. Therefore, in the unlikely event there is a conflict between the Guide and a law, regulation, or rule, the law, regulation, or rule shall take precedence. Before beginning any recall effort, the proponents should obtain the most up-to-date information available.

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Chapter I
General Recall Provisions

Recall in General

Recall is the power of the voters to remove an elective officer.
(Cal.Const., Art. II, Secs. 13-19; Elections Code § 11000 et seq.)

Any state officer may be recalled. These include the elected offices of Governor, Lieutenant Governor, Secretary of State, Treasurer, Controller, Attorney General, Superintendent of Public Instruction, Insurance Commissioner, Members of the State Board of Equalization, State Legislators, and Justices of Courts of Appeal and the State Supreme Court. A State officer appointed in lieu of election or to fill a vacancy in one of these offices may also be recalled. (Elections Code §§ 11001, 11006)

The State Constitution requires that the Legislature must provide for the recall of local officers. This provision, however, does not affect counties and cities whose charters provide for recall. (Cal. Const., Art. II, Sec. 19)

A "local officer" is defined as an elective officer of a city, county, school district, community college district, or special district, or a judge of a trial court.
(Elections Code §§ 11001, 11004)

For the purpose of recall of local officers, the term "clerk" refers to the appropriate elections official for the jurisdiction in which the recall is being sought, in particular:

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

2. The city clerk in the case of the recall of elective officers of a city; or

3. The secretary of the governing board in case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidates' nomination papers are filed with the secretary of the governing board. (Elections Code §§ 307, 311, 11002)

"Governing Board" includes a city council, the board of supervisors of a county, the board of trustees of a school district or community college district, or the legislative body of a special district. In the case of the recall of a trial court judge "governing board" means the board of supervisors. (Elections Code § 11003)

Recall proceedings may not be commenced against an officer of a city, county, special district, school district, community college district, or county board of education if:

(a) The officer has not held office during the current term for more than 90 days,

(b) A recall election has been determined in the officer's favor within the last six months, or

(c) The officer's term ends within six months or less.

These limitations do not apply to an officer appointed in lieu of an election pursuant to Elections Code section 10229(a)(2). (Elections Code § 11007)

The “proponents” of the recall are those voters who initiate the recall proceedings and have control of circulating and obtaining signatures to the recall petition. All of the required proponents of a recall must be registered voters who, based on their residence, are qualified to vote for the office of the officer they seek to recall.
(Elections Code §§ 322, 11005)

Chapter II
Recall of State Officers

Preliminary Steps

The Notice of Intention

To begin recall proceedings against a state officer, the recall proponents must serve, file, and publish or post a notice of intention to circulate a recall petition.
(Elections Code § 11006)

Prepare the Notice of Intention

The proponents should ensure that the notice of intention complies with California law. If a notice of intention is found to be deficient, the proponents will be required to prepare a new notice of intention, including the collection of signatures. The notice of intention must contain:

(a) The name and title of the officer sought to be recalled.

(b) A statement, not over two hundred words in length, of the reasons for the recall. A reason must be provided, but under Article II, Section 14(a) of the California Constitution, the sufficiency of this reason is not reviewable.

(c) The printed name, signature, and residence address of each proponent of the recall. If a proponent cannot receive mail at his or her residence address, the notice of intention must also contain a mailing address for the proponent. The number of proponents that sign the notice of intention must be at least 10 or equal to the number of signatures required to be filed on the nomination paper of the officer sought to be recalled, whichever is greater.

(d) The text of Elections Code section 11023, which describes how the officer sought to be recalled may file an answer.
[See Exhibit A] (Elections Code §§ 11020, 11041(a)(2))

Serve and File the Notice of Intention

A copy of the notice of intention must be served by personal delivery or by certified mail on the officer sought to be recalled. In addition, the original of the notice of intention, along with an affidavit of the time and manner of service, must be filed with the Secretary of State within seven days of being served. A separate notice of intention must be filed for each officer sought to be recalled.
[See Exhibits B and C] (Elections Code § 11021)

Publish the Notice of Intention

A copy of the notice of intention (including addresses and signatures) must be published at the proponents' expense at least once in a newspaper of general circulation. The publication need not include the text of Elections Code section 11023. If there is no newspaper of general circulation in the jurisdiction of the officer whose recall is being sought, the proponents may satisfy the publication requirement by posting the notice of intention in at least three public places within the jurisdiction. (Government Code § 6000 et seq.; Elections Code § 11022)

Obtain and File Proof of Publication

The proponents must file proof of publication at the same time that they file two blank copies of the proposed recall petition with the Secretary of State.[1] Proof of publication is obtained from the newspaper publisher after the notice of intention appears in print. (Elections Code § 11042)

Answer of Recallee

Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the Secretary of State an answer of not more than two hundred words. (Elections Code § 11023(a))

The answer must be signed and accompanied by the printed name and business or residence address of the officer sought to be recalled. (Elections Code § 11023(c))

If an answer is filed, the officer must, within seven days after the filing of the notice of intention, serve a copy of the answer, by personal delivery or by certified mail, on one of the proponents named in the notice. (Elections Code § 11023(b))

Prepare the Recall Petition

The next step in the recall process for state officials requires the proponents to prepare the recall petition for circulation. The Secretary of State is required to provide a format for the petition, which is included as Exhibit D to this publication; may also be obtained from any county elections official. The recall petition format prepared by the Secretary of State is mandatory and must be used. (Elections Code §§ 11041, 11043.5)

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

Noncomplying petition forms will be rejected as invalid.

[1] In the rare case that publication was satisfied by posting the Notice of Intention in three public places, an affidavit of posting must be filed instead of proof of publication.

Heading

The recall petition must include a margin at least one inch wide across the top of each page and a margin at least one-half inch wide along the bottom of each page.
(Elections Code § 11043)

Each side of a sheet of paper on which signatures appear must include, in no less than 8-point type:

(a) A request that an election be called to elect a successor to the office.[2]

(b) A copy of the notice of intention, including the statement of reasons for recall, and the names (no addresses) of at least ten proponents.[3] 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. (Elections Code § 11041)

Signature Space

Each signer must personally place his or her own information on the petition and must personally sign it (unless prevented by disability, etc.). The petition must be designed so that each signer can personally affix his or her:

(a) Printed name

(b) Signature

(c) Residence address, giving street and number, or if no street or number exists, an adequate designation of the residence so that its location may be readily determined.

(d) The name of the incorporated city or unincorporated community.
(Elections Code §§ 100, 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.

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[2] If the officer is a justice of the Supreme Court or of a court of appeal, the request shall be that the Governor appoint a successor to the officer. (Elections Code section 11041(a)(1))

[3] Legislative intent was to delete any address information from the petition. Proponents are those voters who initiate the recall proceedings and have control of the circulation of and obtaining signatures to the recall petition.

Signature spaces must be consecutively numbered commencing with the number one for each petition section. (Elections Code § 100)

A space at least one inch wide must be left blank along the right margin of the page, after each name and address, for the use of the elections official in verifying the petition. (Elections Code §§ 100, 11043)

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:

(a) The printed name of the circulator.

(b) The residence address of the circulator, giving street and number, or if no street or number exists, an adequate designation of the residence so that its location may be readily determined.

(c) The dates between which all signatures to the petition section were obtained.

(d) That the circulator circulated that section and witnessed the appended signatures being written.

(e) 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.

(f) That the circulator is 18 years of age or older.

(g) 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.

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

Number of Sections

Petitions to recall state officers 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. One page is one side of a sheet of paper on which any signatures appear. (Elections Code § 11040)

Receive Approval of the Recall Petition

Proponents must file two blank copies of the proposed petition with the Secretary of State within ten days after the filing of the answer to the notice of intention, or, if no answer is filed, within ten days after the expiration of the seven-day period for filing the answer. The Secretary of State must, within ten days of receiving the copies of the petition, determine whether the proposed form and wording of the petition meet the necessary requirements and notify proponents in writing of the findings. If it is found that the petition does not meet the requirements, the notification must include a statement of what alterations in the petition are necessary. Then, the proponents must file two blank copies of the corrected petition with the Secretary of State within ten days after receiving the notification.

The submitted blank copies of the petition will be carefully reviewed for uniformity correctness and will be compared to the notice of intention and publication to assure accuracy in text, punctuation, capitalization, spelling, format, etc. If the comparison discloses discrepancies, the petition will be rejected.

The ten-day correction notification period and ten-day filing period for corrected petitions is repeated until the Secretary of State finds that no alterations are required. No signatures may be obtained on the recall petition until the form of the petition has been approved by the Secretary of State. (Elections Code § 11042)

Determine the Number of Signatures Required

Statewide Officer

For a recall of a statewide officer, a petition must be signed by registered voters equal in number to twelve percent (12%) of the last vote for the office. Signatures must be obtained from at least five different counties and must be equal in number to at least one percent (1%) of the last vote for the office in each of five counties.
(Cal. Const., Art. II, Sec. 14(b); Elections Code § 11221(c))

State Senators, Members of the Assembly, Members of the Board of Equalization, and Judges of the Courts of Appeal

The number of signatures needed on the petition to recall State Senators, Members of the Assembly, Members of the Board of Equalization and Judges of Courts of Appeal must equal at least twenty percent (20%) of the last vote for the office.
(Cal. Const., Art. II, Sec. 14(b); Elections Code § 11221(c))

Circulate the Recall Petition

Who Can Circulate

The recall petition can be circulated by any person 18 years of age or older. (Elections Code §§ 102, 11045)

Who Can Sign Petition

Registered voters who are qualified to vote for the office of the officer sought to be recalled can sign a recall petition. (Elections Code §§ 322, 11045)

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 for which it is circulated, and only registered voters of that county may sign that section. (Elections Code § 11047)

Withdrawal of Signatures

Initial signature withdrawal period: Any voter may withdraw his or her signature from the recall petition upon filing a written request with the county elections official prior to the day the petition section on which the signature appears is filed. (Elections Code §§ 103, 11303)

Supplemental signature withdrawal period: In addition to the initial signature withdrawal period, any voter may withdraw his or her signature from the recall petition upon filing a written request with the county elections official within 30 business days after the Secretary of State notifies counties that a sufficient number of registered voters signed the petition to initiate a recall election. (Elections Code § 11108(b))

File the Petition - Deadline

Within 160 days from the time the Secretary of State notifies the proponents that the form and wording of the petition is correct, proponents must file a petition with the requisite number of valid signatures. (Cal. Const., Art. II, Sec. 14(a))

Each section of a recall petition must be filed with the elections official of the county for which it was circulated. Each petition section shall be filed by the proponents or by any person or persons authorized in writing by a proponent. A copy of any written authorization must accompany <u>each</u> submission to the elections official. (Elections Code §§ 11102, 11103)

Duties of the County Elections Official

Thirty days after a recall has been initiated and every thirty days thereafter, or more frequently at the discretion of the elections official, the elections official determines the number of qualified voters who have signed the recall petition. Upon the completion of the examination, the county elections official certifies and submits the results and an unsigned copy of the petition to the Secretary of State. (Elections Code § 11104)

Once the signatures reported by county elections officials equals at least 10 percent of the total signatures required, the county elections official has thirty business days to verify all signatures submitted during that reporting period, and must certify the results and submit a blank copy of the petition to the Secretary of State. (Elections Code §§ 9031(b), 11107)

No later than ten business days after the supplemental withdrawal period, county elections officials must report to the Secretary of State the total number of signatures that have been withdrawn. (Elections Code § 11108(c))

Duties of the Secretary of State

The Secretary of State maintains a continuous count of the signatures submitted by each county. When the Secretary of State receives from one or more county elections officials a petition certified to have been signed by a sufficient number of registered voters, the Secretary of State must, within ten days, transmit to each county elections official. (Cal. Const., Art. II, Sec. 14(c); Elections Code § 11108(a))

Within two business days after county elections officials have reported the total number of signatures withdrawn pursuant to Elections Code § 11108(b), the Secretary of State will make an additional determination as to whether the petitions have been signed by the sufficient number of registered voters to initiate a recall election. (Elections Code § 11108(c))

If the Secretary of State determines that the petition has the requisite number of valid signatures to initiate a recall election, the Secretary of State must notify the Department of Finance of the results. If the petition does not have the requisite number of valid signatures, the Secretary of State must notify the county elections officials that they must continue to verify signatures; however, this is dependent on a number of factual scenarios such as, if there are additional signatures to verify and whether the circulation period has ended. (Elections Code § 11108(c))

Upon the expiration of the Joint Legislative Budget Committee's 30-day review and comment period (see next section below), the Secretary of State shall certify to the Governor that the proponents have submitted a sufficient number of valid signatures to qualify the recall for the ballot. (Elections Code §§ 11108(e), 11109)

Duties of the Department of Finance and Joint Legislative Budget Committee

Upon notification by the Secretary of State that the petition has the requisite number of valid signatures to initiate a recall, the Department of Finance shall, in consultation with the affected county elections officials and the Secretary of State, estimate the costs of the recall election and submit this estimate to the Chairperson of the Joint Legislative Budget Committee, Governor, and the Secretary of State. (Elections Code § 11108(d))

The Joint Legislative Budget Committee has 30 days to review and comment on the estimate provided to them by the Department of Finance.
(Elections Code § 11108(e))

Only Proponents May Examine Petition

If a petition is found to be insufficient by the Secretary of State, the proponents whose names are listed on the notice of intention must be allowed to examine the petition signatures in order to ascertain which signatures were disqualified and the reasons therefor. This right of examination is not otherwise available to proponents or to the public in general. If the proponents examine the petition signatures, the examination must begin not later than 21 days after certification of insufficiency.
(Government Code § 6253.5, Elections Code § 11301)

Notice of Recall Election

Upon receiving certification of the sufficiency of the recall petition from the Secretary of State, the Governor must publish a notice for the holding of the recall election.
(Elections Code § 11110)

Election

An election to determine whether to recall an officer and, if appropriate, to elect a successor, shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.
(Cal. Const., Art. II, Sec. 15(a))

The recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal to at least fifty percent (50%) of all the voters eligible to vote at the recall election. (Cal. Const., Art. II, Sec. 15(a))

Officers charged by law with duties concerning elections are required to make all arrangements for such election. The election must be conducted, returns canvassed, and the result declared, in all respects as are other state elections.

(Elections Code § 11110)

Chapter III
Recall of Local Officers

Preliminary Steps

The Notice of Intention

Proponents begin the recall of an elective officer, including any officer appointed in lieu of election or to fill a vacancy, by the service, filing and publication or posting of a notice of intention to circulate a recall petition. (Elections Code § 11006)

Prepare the Notice of Intention

The proponents should ensure that the notice of intention complies with California law. If a notice of intention is found to be deficient, the proponents will be required to prepare a new notice of intention, including the collection of signatures. The notice of intention must contain:

(a) The name and title of the officer sought to be recalled.

(b) A statement, not over two hundred words in length, of the reasons for the recall. A reason must be provided, but under Article II, Section 14(a) of the California Constitution, the sufficiency of this reason is not reviewable.

(c) The printed name, signature, and residence address of each proponent of the recall. If a proponent cannot receive mail at his or her residence address, the notice of intention must also contain a mailing address for the proponent. The number of proponents that sign the notice of intention must be at least 10 or equal to the number of signatures required to be filed on the nomination paper of the officer sought to be recalled, whichever is greater.

(d) The text of Elections Code section 11023, which describes how the officer sought to be recalled may file an answer.

[See Exhibit A] (Elections Code §§ 11020, 11041(a)(2))

Serve and File the Notice of Intention

A copy of the notice of intention must be served by personal delivery or by certified mail on the officer sought to be recalled. In addition, the original of the notice of intention, along with an affidavit of the time and manner of service, must be filed with the local elections official within seven days of being served. A separate notice of intention must be filed for each officer sought to be recalled.

[See Exhibits B and C] (Elections Code § 11021)

Publish the Notice of Intention

A copy of the notice of intention (including addresses and signatures) must be published at the proponents' expense at least once in a newspaper of general circulation. The publication need not include the text of Elections Code section 11023. If there is no newspaper of general circulation in the jurisdiction of the officer whose recall is being sought, the proponents may satisfy the publication requirement by posting the notice of intention in at least three public places within the jurisdiction. (Government Code § 6000 et seq.; Elections Code § 11022)

Obtain and File Proof of Publication

The proponents must file proof of publication at the same time that they file two blank copies of the proposed recall petition with the Secretary of State.[4] Proof of publication is obtained from the newspaper publisher after the notice of intention appears in print. (Elections Code § 11042)

Answer of Recallee

Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the Secretary of State an answer of not more than two hundred words. (Elections Code §11023(a))

The answer must be signed and accompanied by the printed name, and business or residence address of the officer sought to be recalled. (Elections Code § 11023(c))

If an answer is filed, the officer must, within seven days after the filing of the notice of intention, serve a copy of the answer, by personal delivery or by certified mail, on one of the proponents named in the notice. (Elections Code § 11023(b))

Prepare the Recall Petition

The next step in the recall process for local officials requires the proponents to prepare the recall petition for circulation. The Secretary of State is required to provide a format for the petition, which is incuded as Exhibit D to this publication, or may be obtained from any county elections official. The recall petition format prepared by the Secretary of State is mandatory and must be used. (Elections Code §§ 11041, 11043.5)

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

Noncomplying petition forms will be rejected as invalid.

[4] In the rare case that publication was satisfied by posting the Notice of Intention in three public places, an affidavit of posting must be filed instead of proof of publication.

Heading

The recall petition must include a margin at least one inch wide across the top of each page and a margin at least one-half inch wide along the bottom of each page.
(Elections Code § 11043)

Each side of a sheet of paper on which signatures appear must include, in no less than 8-point type:

(a) A request that an election be called to elect a successor to the office.

(b) A copy of the notice of intention, including the statement of reasons for recall, and the names (no addresses) of at least ten proponents.[5] 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. (Elections Code § 11041)

Signature Space

Each signer must personally place his or her own information on the petition and must personally sign it (unless prevented by disability, etc.). The petition must be designed so that each signer can personally affix his or her:

(a) Printed name.

(b) Signature.

(c) Residence address, giving street and number, or if no street or number exists, an adequate designation of the residence so that its location may be readily determined.

(d) The name of the incorporated city or unincorporated community.
(Elections Code §§ 100, 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.

[5] Legislative intent was to delete any address information from the petition. Proponents are those voters who initiate the recall proceedings and have control of the circulation of and obtaining signatures to the recall petition.

Signature spaces must be consecutively numbered commencing with the number one for each petition section. (Elections Code § 100)

A space at least one inch wide must be left blank along the right margin of the page, after each name and address, for the use of the elections official in verifying the petition. (Elections Code §§ 100, 11043)

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:

(a) The printed name of the circulator.

(b) The residence address of the circulator, giving street and number, or if no street or number exists, an adequate designation of the residence so that its location may be readily determined.

(c) The dates between which all signatures to the petition section were obtained.

(d) That the circulator circulated that section and witnessed the appended signatures being written.

(e) 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.

(f) That the circulator is 18 years of age or older.

(g) 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.

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

Number of Sections

Petitions to recall state officers 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. One page is one side of a sheet of paper on which any signatures appear. (Elections Code § 11040)

Receive Approval of the Recall Petition

Proponents must file two blank copies of the proposed petition with the elections official within ten days after the filing of the answer to the notice of intention, or, if no answer is filed, within ten days after the expiration of the seven-day period for filing the answer. The elections official must, within ten days of receiving the copies of the petition, determine whether the proposed form and wording of the petition meet the necessary requirements and notify proponents in writing of the findings. If it is found that the petition does not meet the requirements, the notification must include a statement of what alterations in the petition are necessary. Then, the proponents must file two blank copies of the corrected petition with the elections official within ten days after receiving the notification.

The submitted blank copies of the petition will be carefully reviewed for uniformity correctness and <u>will be compared to the notice of intention and publication</u> to assure accuracy in text, punctuation, capitalization, spelling, format, etc. If the comparison discloses discrepancies, the petition will be rejected.

The ten-day correction notification period and ten-day filing period for corrected petitions is repeated until the elections official finds that no alterations are required. No signatures may be obtained on the recall petition until the form of the petition has been approved by the elections official. (Elections Code § 11042)

<u>Determine the Number of Signatures Required</u>

If an officer of a city, county, school district, county board of education, or resident voting district is sought to be recalled, the number of signatures must be equal in number to not less than the following percent of registered voters in the electoral jurisdiction:

(a) Thirty percent (30%) if the registration is less than 1,000.

(b) Twenty-five percent (25%) if the registration is less than 10,000 but at least 1,000.

(c) Twenty percent (20%) if the registration is less than 50,000 but at least 10,000.

(d) Fifteen percent (15%) if the registration is less than 100,000 but at least 50,000.

(e) Ten percent (10%) if the registration is 100,000 or above[6].

If a judge of a superior court is sought to be recalled, the number of valid signatures must be equal in number to at least the twenty percent (20%) of the last vote for the office. If the office has not appeared on the ballot since its creation or did not appear at its last regularly scheduled date, the number of signatures must be equal in number to at least twenty percent (20%) of the votes cast within the jurisdiction for the "countywide office" which had the least number of votes in the most recent general election in the county in which the judge holds his or her office.
(Cal.Const., Art. II, Sec. 14(b); Elections Code § 11221(c))

If an officer of a landowner voting district is sought to be recalled, signatures of voters owning at least ten percent (10%) of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled is required. (Elections Code § 11221(d))

Circulate the Recall Petition

Who Can Circulate

The recall petition can be circulated by any person 18 years of age or older.
(Elections Code §§ 102, 11045)

Who Can Sign Petition

Registered voters who are qualified to vote for the office of the officer sought to be recalled can sign a recall petition. (Elections Code §§ 322, 11045)

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 for which it is circulated, and only registered voters of that county may sign that section.
(Elections Code § 11047)

Withdrawal of Signatures

Any voter may withdraw his or her signature from the recall petition upon filing a written request with the county elections official prior to the day the petition section on which the signature appears is filed. (Elections Code §§ 103, 11303)

[6]The number of registered voters is calculated as of the time of the last report of registration by the county elections official to the Secretary of State prior to the finding by the elections official that no alterations are required in the form of the recall petition.

Filing of Petition - Deadline

After approval by the elections official, proponents must submit to the elections official, during normal business hours as posted, a petition with the requisite number of signatures within:

(a) 40 days if the electoral jurisdiction has less than 1,000 registered voters.

(b) 60 days if the electoral jurisdiction has less than 5,000 registered voters but at least 1,000.

(c) 90 days if the electoral jurisdiction has less than 10,000 registered voters but at least 5,000.

(d) 120 days if the electoral jurisdiction has less than 50,000 registered voters but at least 10,000.

(e) 160 days if the electoral jurisdiction has 50,000 registered voters or more[7]. (Elections Code § 11220)

Each petition section shall be filed by the proponents or by any person or persons authorized in writing by a proponent. All sections of the petition circulated in a single county must be filed at one time. A copy of the written authorization must be included with the filing. Each section of the petition must be filed with the elections official in the jurisdiction for which it was circulated. If a petition is circulated in more than one county, it must be filed in the county for which it was circulated. (Elections Code § 11222)

Examination by the Elections Official

When proponents bring in the petition for filing, the elections official must count the number of signatures on it. If, from this examination the elections official determines that the number of signatures, on its face, equals or is in excess of the minimum number of signatures required, the elections official shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not so filed must be returned to the proponents and is void for all purposes. (Elections Code § 11222)

The elections official must verify every signature submitted or, where more than 500 signatures are submitted, may use a random sampling signature verification technique.

If the random sampling technique is not used, the elections official has 30 business days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays,

[7]The number of registered voters is calculated as of the time of the of the last report of registration by the county elections official to the Secretary of State made prior to approval of the petition format by the county elections official.

to determine whether the petition is signed by the required number of voters, certify the results of the examination, and notify the proponents. If the petition is found to have sufficient signatures, the elections official must certify the results to the governing board at its next regular meeting. If the petition is found to have insufficient signatures, the elections official must certify this result. (Elections Code § 11224)

If the random sampling technique is used, the elections official must complete the examination of the sample of signatures within 30 business days of the filing of the petition. If, for example, eighty percent (80%) of the sample signatures are found to be valid, then eighty percent (80%) of the entire number of signatures are deemed to be valid.

If the statistical sampling determines that the number of valid signatures is greater than one hundred ten percent (110%) of the required number, the petition is considered qualified without further verification, and the elections official must certify the results of the examination to the governing board at its next regular meeting.

If the statistical sampling shows that the number of valid signatures is within ninety to one hundred ten percent (90-110%) of the number of signatures needed, the elections official must examine and verify each signature filed. If the result of this complete examination shows that the petition has the required number of signatures, the elections official must certify the results of the examination to the governing body at its next regular meeting. If the number of valid signatures is less than the required number, the elections official shall certify the petition to be insufficient. If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the later filing of an entirely new petition to the same effect.

If the total number of valid signatures is less than ninety percent (90%) of the number of signatures required to qualify the petition, the elections official shall certify the petition to be insufficient. If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the later filing of an entirely new petition to the same effect. (Elections Code § 11225)

Upon completing the examination of the petition, the elections official shall attach to the petition a certificate showing the result of this examination and shall notify the proponents of either the sufficiency or insufficiency of the petition.
(Elections Code §§ 11222, 11224, 11225, 11226, 11227)

Only Proponents May Examine Petition

If a petition is found to be insufficient by the elections official, the proponents whose names are listed on the notice of intention must be allowed to examine the petition signatures in order to ascertain which signatures were disqualified and the reasons therefor. This right of examination is not otherwise available to proponents or to the

public in general. If the proponents examine the petition signatures, the examination must begin not later than 21 days after certification of insufficiency.
(Government Code § 6253.5; Elections Code § 11301)

Notice of Recall Election

Within 14 days of receiving the certificate of sufficiency, the governing body must issue an order stating that an election will be held to determine whether or not the officer named in the petition shall be recalled. (Elections Code § 11240)

If the governing body fails to issue the order within 14 days, the county elections official, within 5 days, shall set the date for holding the election. 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 for holding the election in consultation with the elections officials of the other counties.
(Elections Code § 11241)

Election

The election shall be held not less than 88 nor more than 125 days after the issuance of the order, and if a regular or special election is to be held throughout the electoral jurisdiction of the officer sought to be recalled within such time period, the recall election shall be held on the same day and consolidated with the regular or special election. (Elections Code § 11242)

Chapter IV
The Recall Election

State Officer

The officer sought to be recalled may not be a candidate to succeed himself/herself at the recall election. (Cal. Const., Art. II, Sec. 15(c))

Nomination papers and the declaration of candidacy for state offices must be filed no less than 59 days prior to the date of the election and not before the day the order of the election is issued. (Elections Code § 11381)

The Secretary of State will certify the names of the candidates by the 55th day prior to the election. (Elections Code § 11381)

Local Officer

Nomination papers and the declaration of candidacy must be filed not less than 75 days prior to the date of the election and not before the day the order of the election is issued. (Elections Code § 11381)

If the elections official is required to certify to the governing board, he/she shall certify the names of the candidates by the 71st day prior to the election.
(Elections Code § 11381)

In General

At the election, voters will decide whether or not to recall the officer and, if there is a candidate, will also choose a successor if the recall is successful.

The recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for the office.
(Elections Code § 11328)

If there are several officers to be recalled, one election is sufficient.
(Elections Code § 11329)

At every recall election (other than a landowner voting district election) the following question shall be asked: "Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?" To the right of this question shall be the words “Yes” and “No” on separate lines with an enclosed voting space to the right of each. (Elections Code § 11320)

An officer whose recall is being sought may file a statement with the elections official in accordance with the provisions of Elections Code section 13307 to be sent to each voter together with the sample ballot. (Elections Code § 11327)

If a majority of the votes on a recall proposal are “Yes,” the officer is removed and, if there is a candidate, the candidate who receives the highest number of votes is the successor to the unexpired term of the recalled officer.
(Cal. Const., Art. II, Sec. 15; Elections Code §§ 11381(c), 11384, 11385)

If one-half or more of the votes at a recall election are “No,” the officer sought to be recalled shall continue in office. (Elections Code § 11383)

If the candidate who received the highest number of votes fails to qualify for the office within 10 days after receiving his or her certificate of election, the office to which he or she was elected shall be vacant, and shall be filled according to law.
(Elections Code § 11386)

Special Considerations

A justice of an Appellate Court will be appointed by the Governor to replace a recalled justice. (Cal. Const., Art.ll, Sec. 15(c))

If a recall of the Governor or the Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.
(Cal. Const., Art. II, Sec. 17)

A state officer who is not recalled must be reimbursed by the State for the officer's recall election expenses legally and personally incurred.
(Cal. Const., Art. II, Sec. 18)

Proponents of recalls, officers subject to recall, and candidates may have disclosure requirements under the Political Reform Act. (Government Code § 81000, et seq.) Questions should be directed to the Fair Political Practices Commission, 428 "J" Street, Suite 450, Sacramento, CA 95814, (916) 322-5660.

EXHIBIT A

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION[1]

TO THE HONORABLE _____(see footnote[2])_____: Pursuant to Section 11020, California Elections Code, the undersigned registered qualified voters of _____(see footnote[3])___, in the State of California, hereby give notice that we are the proponents of a recall petition and that we intend to seek your recall and removal from the office of _____(see footnote[4])_____ , in _____(see footnote 3)__, California, and to demand election of a successor in that office (see footnote[5]).

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. ...		
4. ...		
.....		
.....		
10. …. (or more. See footnote[6])		

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

A copy of this notice and proof of service will be filed with the ___(see footnote[7])_____.

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.

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

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

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

[4] Insert here the name of office held.

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

[6] At least ten are required. In many cases more than ten are required. Check with your election official to determine the actual number.

[7] Secretary of State, County Elections Official, City Clerk, Secretary of District, as appropriate.

EXHIBIT B

PROOF OF PERSONAL SERVICE

I,_____declare that:
(print full name)

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

_____
(print name)

_____
(city, state, zip code)

(____)_____.
(telephone number)

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

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

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

_____

on_____at_____am/pm;
(date) (time)

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

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

under the laws of the State of California that the foregoing is true and correct, and that I, _____executed this proof of personal service:

on_____at_____
(date) (place of signing, e.g., city or county)

_____
(complete signature)

EXHIBIT C

PROOF OF SERVICE BY CERTIFIED MAIL

I,_____declare that: (print full name)

I am over the age of 18 years, and I_____in (reside/am employed)

_____County at_____ (complete address)

_____

On_____, 20__, I deposited in the mail at

_____a copy of the (place, e.g., name of city or county)

Notice of Intention to Recall_____ (name of person sought to be recalled)

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

_____at: (name of officer sought to be recalled)

_____ (mail address)

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

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

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

that I executed this Proof of Service: On_____at (date)

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

_____ (complete signature)

EXHIBIT D

PETITION FOR RECALL

TO THE HONORABLE _____(See note[1])_____,

Pursuant to the California Constitution and California election laws, we the undersigned registered and qualified electors of the _____(See note[2])_____ of _____(See note[3])_____, California, respectfully state that we seek the recall and removal of _____(See note[4])_____, holding the office of _____(See note[5])_____, in _____(See note[2])_____, California.

We demand an election of a successor to that office. (See note[6])

The following Notice of Intention to Circulate Recall Petition was served on _____(Date)_____ to _____(See note[4])_____:

(Insert complete text of Notice of Intention here)

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

(Insert Officer's Statement here—200 words or less)
(If no statement, insert "No Answer was Filed")

Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the _____(See note[2])_____ of _____(See note[3])_____, California.

Column must be at least 1" wide

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

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

I, _____(See note[7])_____, solemnly swear (or affirm) all of the following:

1. That I am 18 years of age or older.
2. That my residence address, including street and number, is _____. (If no street or number exists, a designation of my residence adequate to readily ascertain its location is _____.)
3. That the signatures on this section of the petition form were obtained between _____(Month and Day)_____, 20_____, and _____(Month and Day)_____, 20_____; that I circulated the petition and I witnessed the signatures on this section of the petition form being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.

I certify 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.[8]

_____ _____
Circulator's Signature Date

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

[2] Insert Electoral Jurisdiction here – County, City, District name, as appropriate.

[3] Insert geographical location here – City, County, etc., as appropriate.

[4] Insert here – name of person whose recall is being sought.

[5] Insert here – name of office.

[6] In case of Supreme Court or Appellate Court Justice, request shall be that the Governor appoint a successor.

[7] Insert here – Printed full name of person who gathered signatures.

[8] The petition must be set in at least 8 point type. If signature spaces are printed on both sides of a sheet of paper, the above information, except for the declaration of circulator must appear on each side of the paper. The circulator's declaration must follow the last signature box. It is suggested that petition be printed on 8 ½" x 14" paper in order to maximize the number of signatures spaces printed on a sheet of paper.