

Guide for Recalls

CONTRA COSTA COUNTY ELECTIONS

Disclaimer:

This handout does not have the force of the law, regulation, or rule. It applies to the recall process of County Officers, Superior Court Judges, School, and Special District board members.

The recall process is technically complex and highly regulated by state laws.

You are strongly urged to contact private legal counsel to advise you of the legal requirements of the petition process. The Contra Costa County Elections Division (CCCED) does not give legal advice.

All references are to the California Elections Code unless otherwise noted.

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Revised May 2019

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Templates

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Recall of Local Officers

Preliminary Steps

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)

The Notice of Intention contains:

- (a) the name and title of the officer being recalled.
- (b) a statement, not over two hundred words in length, outlining the reasons for the recall. A reason must be provided, however, the legal sufficiency of the reason is not reviewable.
- (c) the text of Elections Code section 11023, which describes how the officer being recalled may file an answer.
[See Exhibit A] (Elections Code §§ 11020, 11041(a) (2))
- (d) the printed name, signature, and residence address, including street and number, city, and zip code, of each proponent of the recall.
 - 1. 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.
 - 2. 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 being recalled, whichever is greater.
 - 3. Proponents of the recall petition must be registered voters of the jurisdiction of the officer being recalled.

(Elections Code § 11005)

If a Notice of Intention is found to be deficient in meeting the Election Code requirements, the proponents will be required to prepare a new Notice of Intention, including the collection of signatures.

The Notice of Intention must be served by personal delivery or by certified mail on the officer being recalled. In addition, a copy of the Notice of Intention, and an affidavit containing of the time and manner of service, must be filed with the local CCCED within seven days of service. A separate Notice of Intention must be filed for each officer being recalled.

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

Publication of the Notice of Intention

The Notice of Intention, including proponents' addresses and signatures, must be published at the proponents' expense one time in a newspaper of general circulation within the jurisdiction. The publication does not need to include the text of Elections Code section 11023.

If there is no newspaper of general circulation in the jurisdiction of the officer being recalled, the proponents may satisfy the publication requirement by posting the Notice of Intention in at least three public places within the jurisdiction.

(Government Code § 6061 et seq.; Elections Code § 11022)

The proponents must file proof of publication or an affidavit of posting as proof of publication as well as two blank copies of the proposed recall petition with the CCCED.

(Elections Code § 11042)

Response of Officer Being Recalled

Within seven days after the filing of the Notice of Intention, the officer being recalled may file a response of not more than two hundred words, with the CCCED.

(Elections Code § 11023(a))

The response must be signed and include the printed name and address (business or residence) of the officer being recalled.

(Elections Code § 11023(c))

If a response is filed, the officer being recalled 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, to one of the proponents named in the notice.

(Elections Code § 11023(b))

Preparation of the Recall Petition

The recall proponents prepare a draft of the recall petition proposed for circulation. Proponents shall use the recall petition template provided by the Secretary of State and available from the CCCED or the Secretary of State.

All petition sheets must be printed in uniform size and darkness with uniform spacing.

(Elections Code § 11041(b))

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 (b))

We recommend the petition sheets be double-sided to easily contain all required information. 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 of at least ten proponents.
- (c) the response, if any, of the officer being recalled. If the officer has not responded, the petition must so state.

(Elections Code § 11041)

Format of Signature Blocks

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

- (a) printed name,
- (b) signature,
- (c) residence address,
- (d) and the name of the incorporated city or unincorporated community.

(Elections Code §§ 100, 11043)

Signature blocks must be consecutively numbered commencing with the number one for each petition sheet of paper. We recommend that each sheet contain space for 10 signatures and all sheets need to be the same.

(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 CCCED in verifying the petition.

(Elections Code §§ 100, 11043)

Declaration of Circulator

Each sheet of the petition must have a declaration statement indicating the following:

- (a) space for the printed name of the circulator.
- (b) space for 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) space for the dates between which all signatures to the petition sheet were obtained.
- (d) that the circulator circulated that sheet 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) a statement that the circulator certifies to the content of the declaration as to its truth and correctness, under penalty of perjury.
- (h) space for the circulator to state the date and the place of execution on the declaration along with his or her signature.

Number of Sheets

Petitions to recall officers may consist of any number of separate sheets which must be exact duplicates except as to signatures and matters required to be affixed by signers and circulators.

(Elections Code § 11040)

File Proposed Recall Petition for Approval

Proponents must file two blank copies of the proposed petition with the CCCED during normal business hours within ten days after the filing of the response to the Notice of Intention, or, if no answer is filed, within ten days after the expiration of the seven-day period for filing a response.

The CCCED within ten days of receiving the copies of the petition, determine whether the proposed form and wording of the petition meet the requirements and notify proponents in writing of the findings.

The submitted blank copies of the petition will be carefully reviewed for uniformity and correctness and will be compared to the notice of intention and publication. If the comparison discloses discrepancies, the petition will be rejected.

If the petition does not meet the requirements, the CCCED will notify the proponents what alterations to the petition are required.

Then, the proponents must file two blank copies of the corrected petition with the CCCED within ten days after receiving the notification.

The ten-day correction notification period and ten-day filing period for corrected petitions is repeated until the CCCED finds that no further edits are required. No signatures may be collected until the form of the petition has been approved by the CCCED.

(Elections Code § 11042)

Determination of Number of Signatures Required

Superior Court Judges

If a judge of the superior court is being recalled, the number of valid signatures must be greater than or equal to at least twenty percent (20%) of the votes cast for that office at the last election.

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 greater than or equal to at least twenty percent (20%) of the votes cast within the jurisdiction for the countywide office which had the least number of votes cast in the most recent general election.

(Cal.Const., Art. II, Sec. 14(b); Elections Code § 11221(c))

Other Elected Officials

If an officer of a city, county, school district, community college district, or county board of education, is being recalled, the number of signatures must be greater than or equal the following percent of registered voters in the jurisdiction:

- (a) Thirty percent (30%) if registered voters are less than 1,000.
- (b) Twenty-five percent (25%) if registered voters are less than 10,000 but at least 1,000.
- (c) Twenty percent (20%) if registered voters are less than 50,000 but at least 10,000.
- (d) Fifteen percent (15%) if registered voters are less than 100,000 but at least 50,000.
- (e) Ten percent (10%) if registered voters are 100,000 or above.

Circulation of the Recall Petition

Circulation

The recall petition can be circulated by any person 18 years of age or older.

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

(Elections Code §§ 102, 104, 11046)

Signers

Registered voters of the jurisdiction of the officer being recalled can sign a recall petition.

(Elections Code §§ 322, 11045)

If a jurisdiction spans multiple counties, a separate sheet should be used for each county. Each sheet of the petition must include the name of the county for which it is circulated. Only registered voters of that county may sign that sheet.

(Elections Code § 11047)

Withdrawal of Signatures

Any voter may withdraw his or her signature from the petition by filing a written request with the CCCED prior to the petition sheet on which their signature appears is filed.

(Elections Code §§ 103, 11303)

Submission of Petition

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

- (a) 40 days if the jurisdiction has less than 1,000 registered voters.
- (b) 60 days if the jurisdiction has less than 5,000 registered voters but at least 1,000.
- (c) 90 days if the jurisdiction has less than 10,000 registered voters but at least 5,000.
- (d) 120 days if the jurisdiction has less than 50,000 registered voters but at least 10,000.
- (e) 160 days if the jurisdiction has 50,000 registered voters or more.

(Elections Code § 11220)

Each petition sheet shall be submitted to CCCED by the proponents or by a person or persons authorized in writing by a proponent. A copy of the written authorization must be included with the filing.

Each sheet of the petition must be filed with the county elections official in the county for which it was circulated. All sheets of the petition circulated in a single county must be filed at one time. If a petition is circulated in more than one county, each sheet of the petition must be filed in the county for which it was circulated.

(Elections Code § 11222)

Examination of the Petition

The CCCED must make a determination that the raw number of signatures is sufficient by counting the total number of signatures prior to accepting the petition as filed. If, from this examination the CCCED determines that the number of signatures, on its face, is greater than or equals to the minimum number of signatures required, the CCCED shall accept the petition for filing. The petition shall be deemed as filed on that date. Any rejected petition will be returned to the proponents and is void.

(Elections Code § 11222)

Random Sample

The CCCED must verify every signature submitted or, where more than 500 signatures are submitted, may verify signatures by using a random sample technique as described in code.

(Elections Code § 11225)

The CCCED has 30 business days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, to determine whether the petition is signed by the required number of voters and determine the sufficiency of the petition. If the petition is found to have sufficient signatures, the CCCED forwards the results to the governing board for consideration at its next regular meeting.

(Elections Code § 11224)

Status of Failed Petition

If a petition is found to be insufficient by the CCCED, the proponents or representatives of the proponents, as designated in writing, will be allowed to examine the petition signatures in order to ascertain which signatures were disqualified and for what reasons. This right to examine is not otherwise available to the public in general. The examination of the petition signatures must begin not later than 21 days after certification of insufficiency.

(Government Code § 6253.5; Elections Code § 11301)

Recall Election

The governing body issues an order stating that an election will be held to determine whether or not the officer named in the petition shall be recalled within 14 days after the meeting at which the governing body received the notification of sufficiency.

(Elections Code § 11240)

If the governing body fails to issue the order within 14 days, the CCCED, within 5 days, shall set the date for holding an 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 shall set the date of the election in consultation with the Elections Officials of the other counties.

(Elections Code § 11241)

The election shall be held not less than 88 nor more than 125 days after the issuance of the order. If a regular or special election is to be held throughout the jurisdiction of the officer being recalled within that time period, the recall election shall be held on the same day and consolidated with the election.

(Elections Code § 11242)

Format of the Ballot

The recall question will be presented to the voters as “Shall (name of person being recalled) be recalled from the office of (title of office)?”. Below the question, the words “Yes” and “No” on separate lines with a voting space to the left.

The names of the candidates nominated to succeed the person being recalled shall follow under the recall question.

(Elections Code § 11320, 11322)

Nomination of Candidates to Succeed Person being Recalled

The CCCED will publish the dates of the nomination period, which starts the day after the order of the election and up to 75 days prior to the date of the election.

Voters interested in running to succeed the officer being recalled can file nomination documents in the CCCED during those dates.

No person who is being recalled may be a candidate for the same governing board whose recall is being sought at the same election.

(Elections Code § 11381)

EXHIBIT A

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION¹

TO THE HONORABLE _____ (see footnote²) _____ : Pursuant to Section 11020, California Elections Code, the undersigned registered qualified voters of _____ (see footnote³) _____, 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 footnote⁴) _____, in _____ (see footnote 3) _____, California, and to demand election of a successor in that office (see footnote⁵).

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 footnote⁷) _____.

Elections Code section 11023. (a) Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the elections official, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents.

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

(c) The answer shall be signed and shall be accompanied by the printed name and business or residence address of the officer sought to be recalled.

¹ Caution: The Notice of Intention must be published 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. Each proponent must provide their complete residence address, including street and number, city, and ZIP Code.

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

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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 _____
(name of person being 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)

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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 _____
(name of county) (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 being recalled)

in a sealed envelope, with fully prepaid postage thereon for certified mail, addressed to:
_____ at:
(name of officer being recalled)

_____ (mail address)

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

I, _____, declare under
(print full name)

penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I executed this Proof of Service: On _____ at:
(date)

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

_____ (complete signature)

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EXHIBIT D

PETITION FOR RECALL

TO THE HONORABLE _____ (See note¹),

Pursuant to the California Constitution and California election laws, we the undersigned registered and qualified electors of the _____ (See note²) of _____ (See note³), California, respectfully state that we seek the recall and removal of _____ (See note⁴), holding the office of _____ (See note⁵), in _____ (See note²), California.

We demand an election of a successor to that office. (See note⁶)

The following Notice of Intention to Circulate Recall Petition was served on _____ (Date) to _____ (See note⁴):

(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 note²) of _____ (See note³), California.

Column must be at least 1" wide

	PRINT YOUR NAME _____ 1. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	
	PRINT YOUR NAME _____ 2. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	
	PRINT YOUR NAME _____ 3. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	
	PRINT YOUR NAME _____ 4. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	
	PRINT YOUR NAME _____ 5. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	
	PRINT YOUR NAME _____ 6. YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY _____ CITY ZIP	

	PRINT YOUR NAME <u>7.</u> YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY CITY ZIP	
	PRINT YOUR NAME <u>8.</u> YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY CITY ZIP	
	PRINT YOUR NAME <u>9.</u> YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY CITY ZIP	
	PRINT YOUR NAME <u>10.</u> YOUR SIGNATURE AS REGISTERED TO VOTE	RESIDENCE ADDRESS ONLY CITY ZIP	

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

I, _____ (See note⁷), 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 signature spaces printed on a sheet of paper.