

SAN FRANCISCO
GUIDE TO RECALL ELECTIONS



DEPARTMENT OF ELECTIONS

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ATTACHMENT AND SAMPLES

1. *Sample* Petition for Recall of Local San Francisco Officials
2. Secretary of State's Procedure for Recalling State and Local Officials
 - *Sample* Proof of Personal Service
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NOTE: *This publication is for general information only and does not have the force or effect of law, rule, or regulation. The Department of Elections strongly recommends that proponents consult an attorney about the recall process, including the format of the recall petition. Recall proponents should not rely on this guide or the attached samples as a substitute for legal advice. Laws or procedures may have changed since the publication of this guide.*



I. INTRODUCTION

This guide summarizes the procedures and requirements for recalling local officials. The San Francisco Charter establishes some of the principal procedures and requirements for the recall of local officials. Where the San Francisco Charter or Municipal Elections Code do not address a particular aspect of the recall process, applicable provisions of California law apply. For this reason, the Secretary of State's guide to recalls, entitled *Procedure for Recalling State and Local Officials*, is a useful resource for anyone interested in the recall process. (For recall of local officers, see Section II, beginning at page 14). The Secretary of State's guide is attached (Attachment #1). The San Francisco Charter and San Francisco Municipal Elections Code are available online at

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. The California Elections Code is available online at www.leginfo.ca.gov/calaw.html.

This guide does not have the force or effect of law, regulation, or rule, and interested parties should not rely on this guide as a substitute for consulting with an attorney. If there is a conflict between this guide and any applicable law, regulation, or rule, the law, regulation or rule applies. Because of the complexity of the recall process, all parties involved are advised to seek private legal counsel.

Please note that if you are circulating a recall petition, you may be required to file campaign finance disclosure statements under the State's Political Reform Act. For more information, contact your attorney, the Technical Assistance Division of the Fair Political Practices Commission (866-275-3772 or www.fppc.ca.gov), and the San Francisco Ethics Commission (415-252-3100 or www.sfgov.org/ethics).

If you have questions about this guide, please call the Department of Elections at 554-4375.

II. WHO MAY BE SUBJECT TO RECALL?

San Francisco Charter § 14.103, California Elections Code § 11007

Under the San Francisco Charter, the following local officials may be subject to a recall:

- Any elected official of the City and County
- The City Administrator
- The Controller
- Any member of the Airport Commission
- Any member of the governing board of the Unified School District
- Any member of the governing board of the Community College District
- Any member of the Ethics Commission.
- Any member of the Public Utilities Commission.

However, no recall petition may be initiated with respect to an officer who has held office for less than six months or who has had a recall election determined in his or her favor within the last six months. In addition, an officer whose term ends within six months or less may not be recalled.



III. INITIATING A RECALL

*California Elections Code §§ 11000-11329;
San Francisco Charter § 14.103*

The California Elections Code governs many of the preliminary steps of a recall, including service, filing and publication of the notice of intention to circulate a recall petition and the answer of the recall. The California Elections Code is available online at www.leginfo.ca.gov/calaw.html, and the Secretary of State's *Procedure for Recalling State and Local Officials* (Attachment #1) summarizes the California Elections Code provisions that govern how to initiate a recall. For procedures governing the recall of local officers, see Section II, beginning at page 14.

IV. FORMAT OF RECALL PETITION

*California Elections Code §§ 104, 11040-41, 11043-44, 11046;
San Francisco Charter §§ 3.100(15), 13.101.5*

Except as provided below, the California Elections Code governs the format of recall petitions. Please refer to the Secretary of State's guide (Attachment #1) for more information about the format of a recall petition.

The San Francisco Charter differs from the California Elections Code in the manner of replacing recalled officials. The Charter provides that, in the event that an elected official is recalled, a vacancy is created and the Mayor – or, if the Mayor is recalled, the Board of Supervisors – shall appoint a person to fill the vacancy until a replacement is elected at a later date. (SF Charter §§ 3.100(15), 13.101.5.) **For this reason, a petition to recall an elected official may not call for a replacement election. Instead, the recall petition should include a request that the Mayor or the Board of Supervisors appoint a person to fill the vacancy created by the recall, if it is successful.**

A recall petition, which may consist of any number of separate sections, must include all of the following in no less than 8-point type:

- A copy of the notice of intention, including the statement of grounds for recall. The copy of the notice of intention must contain the names of at least 10 recall proponents.
- The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.
- A petition to recall any officer other than the Mayor must include a request that the Mayor appoint a person to fill the vacancy until a replacement may be elected at a later date. A petition to recall the Mayor must include a request that the Board of Supervisors appoint a person to fill the vacancy until a replacement may be elected at a later date.

(CAEC §§ 11040, 11041; Charter § 3.100(15), 13.101.5.) Each section of the petition must be an exact duplicate except for the signatures and information provided by signers and circulators. Each section must be printed in uniform size and with uniform spacing. Applicable law does not specify the number of signatures that must be attached to each section.

The petition shall provide sufficient space for each signer to affix the following:

- The signer's signature.
- The signer's printed name.



- The signer's residence address including street and number or, if no street or number exists, adequate designation of residence so that the location may be readily ascertained.
- The signer's city of residence.

(CAEC §§ 100, 11043.)

Each section of the petition must include a declaration of the petition circulator in the space following the petition signatures. All blanks in the declaration must be completed in the circulator's own handwriting (typewritten declarations will invalidate the petition). The declaration should include the following information:

- Blank space for the printed name of the circulator;
- Blank space for the residence address of the circulator at the time of the signing of the declaration, including the street and number or, if no street or number exists, enough information about the residence location so that the Department of Elections can readily determine the location;
- Blank space for the dates between which the circulator obtained all the signatures on the petition;
- The circulator's statement that he or she circulated that section of the petition and witnessed the signatures being written;
- The circulator's statement that, on his or her information or belief, each signature is the genuine signature of the person whose name it purports to be; and
- The circulator's statement that the circulator is a registered voter in the jurisdiction of the officer sought to be recalled.
- The circulator's certification as to the truth and correctness of the declaration, signed under penalty of perjury.
- The circulator's signature, including his or her given name and middle name or initial, immediately preceded by the date and place of signing the declaration.

(CAEC §§ 104, 11046.)

The recall petition must include a blank space, at least one inch wide, following the name of each signer for the use of the Department of Elections in verifying the petition signatures. The petition must also include a blank margin, at least one inch wide, across the top of each page, and a blank margin, at least one-half inch wide, across the bottom of each page. (CAEC § 11043.)

A separate petition is necessary to propose the recall of each officer. (CAEC § 11044.)

V. REVIEW AND APPROVAL OF RECALL PETITION BEFORE GATHERING SIGNATURES

California Elections Code § 11042

The recall proponent is required to file with the Department of Elections two blank copies of the recall petition. The blank copies must be filed within 10 days after the officer sought to be recalled files the answer to the notice of intention, or, if no answer is filed, within 10 days after the expiration of the seven-day period specified in California Elections Code section 11023. At the same time, the recall proponent is also required to file with the Department of Elections proof of publication of the notice of intention, if the notice of intention was published, or an affidavit of posting of the notice of intention, if the notice of intention was posted. (CAEC § 11042.)



Within 10 days of receiving the blank copies of the petition and the proof of publication or posting, the Department of Elections is required to notify the recall proponent in writing whether the proposed form and wording of the petition meets all applicable requirements. (CAEC § 11042(b).) If the form and wording of the petition do not meet all applicable requirements, the recall proponent must, within 10 days after receiving the written notification, file two blank copies of the corrected petition. The 10-day periods for notification and correction of errors is repeated until the Department of Elections determines that the form and wording of the petition meet all applicable requirements. (CAEC § 11042(c).)

The recall proponent may not gather any petition signatures until the Department of Elections notifies the proponent that the form and wording of the proposed recall petition meets all applicable requirements. (CAEC § 11042(d).)

Most common causes for delays in qualifying recall petitions:

- Proponents are not registered in the district of the officer to be recalled
- Proponents are not registered at the address that appears in the voter registration database
- Sections of the petition do not conform with the format as outlined in the guide
- Text content varies when more than one petition form is submitted
- Proof of publication content differs from the approved petition
- Circulator is not registered in the district of the officer to be recalled
- Process of serving, filing and publishing the Notice of Intent was not executed properly

VI. GATHERING SIGNATURES

California Elections Code §§ 100.5, 103-04, 2102, 11045-46;
San Francisco Charter §§ 14.103-04;
San Francisco Municipal Elections Code § 335

Who may circulate a recall petition?

Only registered voters of the electoral jurisdiction of the officer sought to be recalled are qualified to circulate a recall petition for that officer. (CAEC § 11045.) For example, if an officer is elected Citywide, any San Francisco voter may circulate a petition to recall that officer. If an officer is elected by District, only voters who reside in that district may circulate a petition to recall that officer.

Each section of the petition must include a Declaration of Circulator, including a statement that the circulator is a registered voter in the jurisdiction of the officer sought to be recalled. (CAEC § 11046.) The Declaration of Circulator must also include the circulator's name and residence; dates of circulation; a statement that the circulator personally circulated and witnessed each signature; and on the circulator's best information and belief, the signatures are genuine. (CAEC § 104.) The circulator's name, circulator's residence, and the dates of circulation must be hand-written. The declaration must be signed under penalty of perjury. (CAEC § 104.)

How can petition circulators identify themselves?

Upon request, the Department of Elections will provide to any petition circulator or person in charge of petition circulators, badges indicating whether a circulator is paid or is a volunteer. Any person who intentionally fails to wear the appropriate badge is guilty of an infraction. (MEC § 335.) In addition, upon request by any person, petition circulators must disclose the names of the proponents of the petition. (MEC § 335.)



Who may sign a recall petition?

Only registered voters of the electoral jurisdiction of the officer sought to be recalled are qualified to sign a recall petition for that officer. (CAEC § 11045.) For example, if an officer is elected Citywide, any San Francisco voter may sign a petition to recall that officer. If an officer is elected by District, only voters who reside in that district may sign a petition to recall that officer.

How many signatures are required?

The required number of signatures to recall an officer is determined by the California Elections code. To call a recall election for an officer elected Citywide, the recall proponent must submit valid signatures of at least ten percent of registered voters of the City and County at the time the proponent(s) filed the notice of intention to circulate the recall petition. (CAEC § 11221.)

To call a recall election for an officer elected by district, the recall proponent must submit valid signatures of at least fifteen or twenty percent of the registered voters of the district at the time of the filing of the notice of intention to circulate the recall petition. Please check with the Department of Elections to determine the number of registered voters in the district. (CAEC § 11221.)

May a circulator register a person to vote and at the same time obtain that person's signature on a recall petition?

Yes. As long as the voter registration card is received and processed by the Department of Elections before submission of the recall petition, the petition signature is valid. (CAEC § 2102 (b).)

What if a voter wants to sign a recall petition but is unable (due to a disability or other reason) to personally complete and sign the petition?

The voter may request another person to print the voter's name and residence information on the recall petition, but the voter must personally mark or sign the petition, and the mark or signature must be witnessed by another person. The witness must sign the petition to indicate that the witness in fact witnessed the mark or signature. (CAEC § 100.5.)

Can a person who signs a recall petition withdraw her or his signature?

Any voter can withdraw his or her signature from a recall petition by filing a written, verified request with the Department of Elections before the recall petition is filed. Once the petition is filed, no signatures can be withdrawn. (Charter § 14.104; CAEC § 103.)



VII. PETITION CIRCULATORS

The proponent(s) of a recall are required to ensure that any person, company, or other organization who solicits signatures to qualify the proposed initiative measure, whether they are paid or volunteers, receives instruction on the requirements and prohibitions imposed by state law with respect to the circulation of petitions and the gathering of signatures. Such instructions must emphasize the prohibition of the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot. (CAEC § 9607.)

The petition may be circulated by a number of individuals carrying separate, identical parts of the petition called sections. Each petition circulator who obtains signatures must complete the declaration attached to the petition. (See Section IV, above.) The declaration must be signed under penalty of perjury under the laws of the State of California. It need not be sworn before a notary public or other officer authorized to administer oaths, but must include the circulator's signature, date, and place of signing (Cal. Civ. Proc. Code Section 2015.5).

Upon request, the Department of Elections will provide to any petition circulator or person in charge of petition circulators, badges indicating whether a circulator is paid or is a volunteer. Any person who intentionally fails to wear the appropriate badge is guilty of an infraction. (MEC § 335.) In addition, upon request by any person, petition circulators must disclose the names of the proponents of the petition. (MEC § 335.)

Prior to allowing a person to circulate an initiative petition for signatures, the person, company official, or other organizational officer who is in charge of signature gathering shall execute and submit to the proponent(s) a signed statement that reads as follows (see Attachment 4; CAEC § 9609):

I, _____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Dated this ____ day of _____, 20__

This statement shall be kept on file by the proponent(s) for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials.

In addition, all paid circulators shall execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement, prior to soliciting signatures on an initiative petition, that reads as follows (see Attachment 5; CAEC § 9610):

I, _____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Paid Circulator)

Dated this ____ day of _____, 20__



This statement shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials. Unpaid circulators are not required to complete this statement.

VIII. VERIFICATION OF RECALL PETITION SIGNATURES

California Elections Code §§ 11224-25

How long will it take to determine whether there are enough signatures to qualify the recall?

Within 30 business days from the date of filing, the Department of Elections will notify the recall proponent whether the recall qualifies for the ballot. (CAEC § 11224.)

Note: The Department of Elections strongly encourages recall proponents to separate petition sections into groups with ten (10) signatures per page, nine (9) signatures per page, etc. This will facilitate signature verification and certification of results.

Does the Department of Elections verify every signature on the petition?

The California Elections Code provides that if a petition contains more than 500 signatures, the Department of Elections may use a random sampling technique to verify petition signatures. (CAEC § 11225.) The random sample must be drawn so that each petition signature has an equal chance of selection, and must include at least 500 or 5% of signatures, whichever is greater. (CAEC § 11225 (a).) The sampling technique is described in detail in California Administrative Code sections 20520-40. (2 C.C.R. §§ 20520-40.)

What are the reasons for determining that a petition signature is invalid?

The California Elections Code imposes strict rules governing verification of petition signatures. For example, a petition signature is invalid and cannot be counted if

- the signer is not a registered voter;
- the signer does not provide a residence address on the petition;
- the signer provides a residence address on the petition that is a mail drop or post office box;
- the residence address written on the petition is different from the residence address listed on the signer's Voter Registration Card;
- the signature on the petition is different from the signature on the voter's Voter Registration Card;
- a person other than the signer pre-printed the signer's address on the petition; or
- the petition circulator failed to complete or sign the affidavit portion of the petition.

The Department of Elections recommends that all initiative proponents consult an attorney concerning the validity of petition signatures.



IX. IF THE RECALL QUALIFIES: TIMING OF THE RECALL ELECTION

San Francisco Charter § 14.103

The scheduling of recall elections of local officials is governed by the San Francisco Charter. Under the Charter, upon certifying the sufficiency of a recall petition's signatures, the Director of Elections is required immediately to call a special recall election, which must be held not less than 105 nor more than 120 days from the date of calling. If the potential date of the special recall election is within 105 days of a previously-scheduled general municipal or statewide election, the Director of Elections is required to consolidate the special recall election with the general municipal or statewide election. Under these circumstances, the special recall election may be held more than 120 days from the date of calling or fewer than 105 days if the Director determines that he or she can fulfill all of the legal requirements related to placing a measure on the ballot. (Charter § 14.103.)

X. THE VOTER INFORMATION PAMPHLET & PUBLICATION OF ARGUMENTS FOR AND AGAINST THE RECALL

San Francisco Municipal Elections Code §§ 110, 500(c)(7), California Elections Code § 11325

The Voter Information Pamphlet contains information about ballot measures, including the proposed recall of local officials. . (MEC §§ 110, 500(c).) This information includes a digest of the measure prepared by the Ballot Simplification Committee and arguments for and against the measure. The Department of Elections will publish free of charge a "proponent's argument" in support of the proposed recall and an "opponent's argument" against the recall. For a fee, or with signatures of voters gathered in lieu of the fee, others may submit arguments for or against the proposed recall. For more information about ballot arguments, please refer to the Department of Elections' *Ballot Argument Guide*.

Additionally, State law requires that the Voter Information Pamphlet include the statement of reasons for the recall that appeared on the notice of intent and the answer, if any, that was filed by the officer whose recall was sought. (CAEC § 11325.)

XI. IF THE OFFICER IS RECALLED . . . APPOINTMENT OR REPLACEMENT

San Francisco Charter § 13.101.5

Under the Charter, the recall election presents a single question to the voters: whether a particular officer should be recalled from office. The recall election does not include replacement candidates. A simple majority (50% plus one of the total number of votes cast on the measure) is required to recall a local official.

The San Francisco Charter governs replacement of recalled officers. If an elective office (other than the office of Mayor) becomes vacant because of a recall, the Mayor shall appoint a qualified person to fill the vacancy. If the office of Mayor becomes vacant because of a recall, the President of the Board of Supervisors shall serve as Acting Mayor until the Board of Supervisors appoints a successor.

Any person appointed to fill a vacancy created by recall will serve only until a successor is elected. Generally, a successor is elected at the next election scheduled to occur no less than 120 days after the date of the vacancy.



XII. CAMPAIGN FINANCE DISCLOSURE & OTHER REQUIREMENTS

Campaign Finance Disclosure

State and local law regulate money raised and spent to qualify, support or oppose ballot measures, including the proposed recall of local officials. Anyone who raises or spends \$1,000 or more to qualify a measure for the San Francisco ballot, or to support or defeat a San Francisco measure, must file campaign finance disclosure statements with the San Francisco Ethics Commission. (Cal. Gov't Code §§ 82013(a), 84101; 84200 *et. seq.*, S.F. Charter § C3.699-11; S.F. Campaign & Governmental Conduct Code § 1.106.)

Section 1.113 of the S.F. Campaign & Governmental Conduct Code requires committees that have raised or spent funds to support or oppose a measure during the signature-gathering period to file campaign finance disclosure documents with the San Francisco Ethics Commission. Committees subject to this requirement include: committees primarily formed to support or oppose the measure, general purpose recipient committees that are the proponents of the measure, and committees making independent expenditures of \$1,000 or more to support or oppose the measure. For these committees, campaign finance disclosure statements must be filed on the 5th and 20th day of every month in which the measure is circulating, and on the 5th day of the month following the end of circulation if necessary to disclose contributions or expenditures during the signature-gathering period. The signature-gathering period begins on the date that the proponent(s), or persons working or volunteering for the proponent(s), begin to circulate the petition.

In addition, within one business day of the first date that a petition is circulated for signatures, the proponent(s) must notify the Ethics Commission by e-mail or facsimile that they have begun to circulate the petition. Upon such notification, the Ethics Commission will post on its website the section 1.113 filing schedule for that petition.

Further details regarding the forms that must be used to comply with section 1.113 are available on the Ethics Commission's website at <http://www.sfethics.org>. You may also call the Ethics Commission at (415) 252-3100 with any questions or concerns regarding this reporting requirement, or any other campaign finance disclosure requirements.

Campaign Signs

Both state and local law regulate the posting of political signs and distribution of handbills on public property. Copies of San Francisco's Sign Ordinance (S.F. PWC Art. 5.6, § 184.56-185.68, and Art. 5.7, § 184.69-184.78), and material from the California Department of Transportation concerning the California Outdoor Advertising Act are available at the Department of Elections. For more information about posting political signs on public property, please contact the San Francisco Department of Public Works (415) 554-5810 or the California Department of Transportation at (916) 651-9378.

Each page of each section must be no less than 8-point type. Petition must have 1 inch top margin. The request for the election, appointment of a successor by Mayor, 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. CAEC §11041. All text for the Notice of Intent and Answer will be formatted flush left. Bullet, capitalization, bolding or underlining or emphases are not permitted.

PETITION FOR RECALL OF LOCAL SAN FRANCISCO OFFICIALS

TO THE HONORABLE DIRECTOR OF ELECTIONS,

Pursuant to the California Constitution, California Elections Code, and the San Francisco Charter, the undersigned registered qualified voters of the City and County of San Francisco, hereby give notice that we are the proponents of a recall petition and that we intend to seek the recall and removal from the office of *(insert name of office held)* in *(insert electoral jurisdiction)*.

We request that the Mayor appoint 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)*

Insert complete Notice of Intention to Circulate Recall Petition.

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. the business or residence addresses of the proponents may be omitted. If so, revise the statement appearing before the signatures to read: "The names of the proponents (business or residence addresses are on file with the elections official) are as follows."
3. 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.)

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

Each of the undersigned states for himself/herself that he or she is a registered and qualified voter *(insert Supervisorial District if applicable)* of the City and County of San Francisco, California.

1.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	1" Column CAEC §11043 (c)
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY ZIP	
2.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY ZIP	
3.	PRINT YOUR NAME	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY ZIP	

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

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

I _____ declare:
(Print Name)

1. My residence address is _____ in the City and County of San Francisco, California and I am a registered voter in *(insert Supervisorial District if applicable)*.
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 a genuine signature of the person whose name it purports to be; and
4. The appended signatures were obtained between the dates of _____ and _____
(Starting Date)
_____, inclusive.
(Ending Date)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____ California.
(Date) (City or Community Where Signed)

Signature

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