



# **Election Officials Manual**

## **Chapter 19: The Recall Process**

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# I. Introduction

This chapter explains the process used to recall officeholders in Michigan. Questions about the content of this chapter should be directed to Elections@Michigan.gov.

## II. Public officials subject to recall

All elected officers in Michigan, except for judges, may be subject to recall by the voters of their districts. An officer who is the subject of a recall election may continue to perform the duties of their office until the result of the recall election is certified.

A recall may be sponsored by an individual or a group. The individual or group sponsoring the recall is referred to as the recall sponsor and is responsible for drafting the recall petition language and appearing at public meetings as described in this chapter.

A recall is initiated when the recall sponsor gathers signatures on a recall petition and files that petition with the appropriate filing official. When a recall petition is filed against a city or township clerk (or any other local public official with responsibilities associated with the administration of the recall election), the clerk of the county containing the city or township should appoint an impartial public officer with election administration experience to administer the recall election.

A recall petition cannot be initiated or circulated against an official during a “safe haven” period at the beginning and end of the officeholder’s term. If the official’s term of office is two years or less, a recall petition cannot be filed against the official during the first six months or last six months of their term. If the official’s term of office is more than two years, a recall petition cannot be filed against the official during the first or last year of their term.

Additionally, if a recall election is held and the officeholder’s recall fails, no additional recall petitions may be filed against the officeholder for the remainder of the term during which the officeholder’s recall was sought.

A recall petition may seek the recall of only one officeholder. A person wishing to seek the recall of multiple officeholders must submit a separate petition for each officeholder whose recall is sought.



## **III. Clarity and factual review**

Before a recall petition may be circulated, the petition must be reviewed to determine if the reasons for recall are factual and sufficiently clear. The body tasked with carrying out this review depends on the office held by the public official whose recall is sought. If the recall targets a state or county level official, the recall petition's language must be reviewed by the Board of State Canvassers. If the recall targets a city, township, or other local office, the recall petition's language must be reviewed by the County Election Commission of the county in which the official resides.

### **Filing timelines for clarity and factual review**

A recall petition cannot be submitted for clarity and factual review during the safe haven period at the beginning and end of an officeholder's term, as explained in the previous section.

### **Filing receipt**

The filing official who accepts recall petition language submitted for clarity and factual review by the recall sponsor should issue the sponsor a receipt showing the date of the filing and the name, address, phone number, and email address of the person making the filing. The filing official should retain a copy of this receipt for their records.

### **Notifying the officeholder whose recall is sought**

The filing official must notify the officeholder whose recall is sought of the recall petition language filing within three business days of the recall petition language being filed. The notification must include the recall petition language, the date on which the language was filed, and the date, time, and location of the meeting at which the Board of State Canvassers or the County Election Commission will review the proposed recall petition language.

The filing official should also notify the recall sponsor of the meeting date, time, and location at the same time the filing official notifies the officeholder whose recall is sought of the meeting.



## **Meeting of public body to consider recall petition language**

The Board of State Canvassers, or the appropriate county election commission that will review the proposed recall petition language, must meet between the 10<sup>th</sup> and 20<sup>th</sup> calendar days after the recall petition language is filed with the filing official to conduct a clarity and factual review of the language. Notice of this meeting must be publicly posted at least 18 hours prior to the meeting. The meeting must comply with the Michigan Open Meetings Act.

Upon request, the recall sponsor and the officeholder whose recall is sought must both be permitted to testify at the clarity and factual review meeting.

If the appropriate public body does not meet to consider the clarity and factual nature of proposed recall petition language within 20 calendar days of the filing official's receipt of the language, the recall petition language is considered factual and sufficiently clear. The public body responsible for holding the clarity and factual meeting may not use this 20-day default approval provision to avoid holding a meeting to consider the language, even if the public body believes it will approve the language, because a failure to hold a meeting on the proposed language deprives the officeholder whose recall is sought an opportunity to dispute whether the proposed language is factual and sufficiently clear.

## **Determining whether the recall petition language is factual and sufficiently clear**

The public body considering the proposed recall petition language must make two determinations.

### *Factual Review*

First, the body must decide whether the reason for which the officeholder's recall is sought, as stated in the petition language, is factual. The reason for recall must also be based on the officeholder's conduct during their term of office.

### *Clarity Review*

Second, the public body must determine whether the language stating that reason for recall is sufficiently clear. The standard for clarity is whether both



voters and the officeholder whose recall is being considered can, upon review of the recall petition language, identify the basis for the recall.

### *Recall petition language approval*

If the public body tasked with reviewing the recall petition language determines that the proposed language is factual and sufficiently clear, the public body must approve the recall petition language. If the body determines that part or all of the proposed language is either not factual or insufficiently clear, the public body must reject the recall petition language.

The public body's evaluation is limited to the factual nature and clarity of the proposed recall petition language. Neither the public body nor its members should base their decisions on whether they agree with the content of the proposed language, and an approval or rejection of the language during clarity and factual review is not a statement by the public body or members of the public body on the merits of the substance of the language.

After the meeting, the members of the Commission must provide a copy of their determination on the clarity and factual nature of the recall language to the sponsor and the officer whose recall is sought. If the Commission approves the recall language, a copy of the approved language must be forwarded to the filing official who will later receive the signed recall petition sheets.

### *Curing deficiencies in recall petition language*

While the body may indicate to the recall sponsors what portion of the language is not factual or insufficiently clear, and how the sponsor might cure those deficiencies, the body may not accept revised recall petition language during the meeting at which the filed recall petition language is considered. Instead, the recall sponsor must file new proposed recall petition language with the filing official to trigger a new meeting, as described earlier in this chapter.

## **Appeal of clarity and factual determination**

A county election commission's determination on the clarity and factual nature of proposed recall petition language may be appealed by either the recall sponsor or the officeholder whose recall is sought to the Circuit Court of the county where the election commission sits. The Board of State Canvassers' determination may be appealed by either the recall sponsor or the officeholder whose recall is sought to the Court of Appeals. In either



case, the appeal must be filed within 10 calendar days of the public body's determination.

If the election commission or Board of State Canvassers' determination is appealed, recall petition sheets bearing the disputed recall petition language may not be circulated until either the court determines that the language is sufficiently clear and factual or 40 calendar days after the date on which the appeal was filed, whichever occurs first. If the court determines that the recall petition language is either insufficiently clear or not factual, recall petition sheets bearing that language may not be circulated.

If recall petition language is considered factual and sufficiently clear because the County Election Commission or Board of State Canvassers failed to meet within 20 calendar days of the filing official's receipt of the proposed recall petition language, the clarity or factual nature of the petition may be appealed to the appropriate court 21 to 30 days after the filing official received the proposed language.

### **180-day limitation on recall petition language**

Recall petition sheets bearing recall petition language which has been determined factual and sufficiently clear may be circulated for 180 days following the approval of the language by the appropriate public body. If the determination of a county election commission/the Board of State Canvassers is appealed to the Circuit Court/Court of Appeals (as applicable), recall petition sheets bearing the language may be circulated for 180 days following the Circuit Court/Court of Appeals' approval of the language or starting 40 days after the appeal was filed, whichever occurs sooner.

## **IV. Preparation and circulation of recall petition**

After recall petition language has been approved, the recall sponsors may begin collecting signatures on recall petition sheets.

### **Recall petition sheet form**

Recall petition sheets must conform to the specifications prescribed by the Secretary of State. There are two types of recall petition sheets. One form is designed for the recall of state, county, city, township, and other local officers. The other is designed for the recall of village officers. The County





Clerk is required to supply a reasonable number of recall petition sheets to the recall sponsor on request.

The recall petition language must be printed on every recall petition sheet exactly as the language was approved by the appropriate public body.

## **Circulating recall petition sheets**

Recall petition sheets should be circulated in the jurisdiction and, if applicable, the district that elected the officeholder whose recall is sought. Persons circulating recall petition sheets must be at least 18 years of age and a citizen of the United States. Circulators of a recall petition sheets do not need to be registered to vote in Michigan or any other state.

Before a recall petition sheet can be circulated, the circulator must complete the heading of each petition sheet by filling in the county and city or township where the sheet will be circulated or the village where the sheet will be circulated. The sheet may not be circulated outside of the county, city, township or village written in the heading. Unlike other petition types, recall petition sheets cannot not be circulated on a countywide basis. The circulator of the recall petition sheet must also include name of the officeholder whose recall is sought, the title of the office the officeholder occupies, and the office district, if applicable, in the header of the petition sheet.

A circulator may not leave a recall petition sheet unattended in a public place. The circulator must personally witness every signature made on the petition sheet. A signature may not be affixed to the petition sheet out of the presence of the circulator.

After circulation of the recall petition sheet is complete and the circulator does not intend to gather any more signatures on that sheet, the circulator must complete the *Circulator's Certificate* at the bottom of the petition sheet. Any signature on the petition sheet dated after the date of the signature on the *Circulator's Certificate* is invalid.

## **Recall petition sheet signatories**

Signers of recall petition sheets must be registered to vote in the electoral district of the official whose recall is sought. In addition to signing the sheet, each signatory must list their address, ZIP code, and the date of signing. If the recall petition is circulated within a city or school district that crosses county lines, the signatories may only sign petition sheets where the name of signatory's county of residence appears on the sheet header.



No person may sign a petition sheet on behalf of another person, including their spouse, immediate family member, or member of their household.

## **Number of signatures required**

The number of signatures needed to initiate a recall election is 25% of the number of votes cast for *all* gubernatorial candidates in the last gubernatorial election in the officeholder's electoral district. The County Clerk must report the minimum number of valid signatures needed on the petition to any person at the person's request. The figure must be calculated and delivered to the requestor within five days after the County Clerk's receipt of the request. If the fifth day falls on a Saturday, Sunday or holiday, the County Clerk has until the following business day to honor the request.

## **60-day requirement for signature validity**

Signatures affixed to a recall petition sheet more than 60 days before the petition is filed with the filing official are invalid.

# **V. Acceptance of recall petition**

After gathering enough signatures to initiate a recall election, recall petition sponsors must file the petition for review by the proper filing official.

## **Determining the proper filing official**

The filing official authorized to accept a recall election filing depends on the office held by the officeholder against whom recall is sought.

If the recall petition seeks the recall of a county commissioner or a city, township, village, or school district officer, the petition is filed with the applicable County Clerk for the jurisdiction in which the officer serves. If the officeholder holds office in a jurisdiction or district that spans county lines, the filing official is the County Clerk of the county in which the plurality of the jurisdiction or district's voters reside.

If the recall petition seeks the recall of a State Senator, a State Representative, an elected statewide officeholder other than the Secretary of State, or a countywide officer other than a county commissioner, the recall petition is filed with the Bureau of Elections.

If the recall petition seeks the recall of the Secretary of State, the recall petition is filed with the Governor.



## **Notification of officer**

No later than three business days after receipt of a recall petition filing, the filing official must notify the officeholder whose recall is sought. The written notice must include the date of filing, information on the rights of the officeholder to examine the recall petition and purchase copies of the recall petition sheets if desired, information on the officeholder's right to challenge signatures on the recall petition, and the deadline for filing any signature challenges.

## **Prohibition on supplemental filings**

All recall petition sheets must be filed at the same time. Supplemental filings are not permitted for recall petitions.

# **VI. Validating recall petitions**

The filing official must examine the recall petition to determine if enough valid signatures have been filed to trigger a recall election.

## **Preliminary inspection**

The filing official has seven calendar days from the date the recall petition is filed to examine the petition and determine if the petition is in the proper form and the number of signatures contained on the petition sheets.

### *Invalidation of petition sheets*

The filing official should invalidate a recall petition sheet, and every signature affixed to that sheet, if any of the following conditions are met:

- The form of the petition sheet is improper, or the recall petition language printed on the sheet does not exactly match the language approved by the relevant public body after a clarity and factual hearing.
- The *Circulator's Certificate* is blank, incomplete, or improperly completed. A *Circulator's Certificate* that does not include a ZIP code or contains an improper ZIP code is acceptable.
- The petition sheet's header is blank, incomplete, or improperly completed.



## *Invalidation of individual signatures*

The filing official should invalidate an individual signature affixed to a recall petition sheet if any of the following conditions are met:

- The signatory did not write their complete address or the date of signing on the petition sheet. A signature which does not include a ZIP code, or with an incorrect ZIP code, should not be invalidated because of the missing or incorrect ZIP code.
- The signatory dated the signature after the date appearing on the *Circulator's Certificate*.
- The signatory dated the signature before the period during recall petition sheets could be circulated.
- The signature was obtained more than 60 days before the date on which the recall petition was filed.

The invalidation of an individual signature affixed to a recall petition sheet does not affect the validity of other signatures affixed to that sheet. A recall petition sheet may contain multiple valid and multiple invalid signatures.

## *Completion of the preliminary inspection*

If after completing the preliminary inspection of the recall petition, the filing official determines that the recall petition lacks the minimum number of valid signatures necessary to initiate a recall election, the filing official must notify the recall sponsor in writing of the insufficiency of the petition. A copy of the notice should be sent to the officer whose recall was sought.

If after completing the preliminary inspection of the recall petition, the filing official determines that the recall petition may contain the minimum number of valid signatures necessary to initiate a recall election, the filing official must begin checking the voter registration of the signatories of the recall petition, as described in the following section.

## **Voter registration checks**

Within 15 days of the receiving the recall petition filing, the filing official must verify the voter registration of status of potentially valid signatures affixed to the recall petition. A signatory's voter registration is valid for the purpose of signing a recall petition sheet if the voter was registered to vote in the proper jurisdiction and, if applicable, district on the date of signing. The voter registration check should be carried out using the Qualified Voter



File (QVF). If the filing official determines that a voter was registered in the correct jurisdiction and, if applicable, district on the date the voter signed the petition, the official should mark the voter's signature with a check mark. If the filing official determines that a voter was not registered in the correct jurisdiction or, if applicable, district on the date the voter signed the petition, the official should mark the voter's signature with an "NR."

After completing the voter registration verification for each petition sheet, the filing official should complete the *Clerk's Certificate* on the reverse side of the sheet.

The voter registration of a signatory whose signature was invalidated during the preliminary review of the recall petition need not be verified.

## **Assistance of city and township clerks**

If the filing official is a county clerk, the County Clerk may request or require the clerks of any city or townships contained in the jurisdiction and, if applicable, the district where the recall is sought, to complete registration checks for recall petition sheets where the city or township clerk's jurisdiction is written in the sheet's header. The County Clerk may likewise request or require the assistance of such city or township clerks when processing any signature challenges filed by the officeholder whose recall is sought.

# **VII. Signature challenges**

The officeholder whose recall is sought may inspect the recall petition and the voter registration records as soon as the petition is filed. The officeholder whose recall is sought must also have at least eight calendar days after the local clerks complete the initial validity and voter registration checks to review the clerks' findings and file challenges if desired.

The officeholder whose recall is sought may challenge the authenticity of a signature affixed to the recall petition or the registration of a voter whose signature appears on the recall petition. Challenges must be submitted in writing within 30 calendar days after the date on which the petition was filed with the filing official. The officeholder's challenge must contain specific reference to the signature or signatures being challenged.

Upon receiving a written signature challenge, the filing official must evaluate the validity of each challenge. If the filing official determines that a signature



affixed to the petition does not match the voter's signature on file, or if the filing official determines that a person whose signature appears on the petition was not registered in the appropriate jurisdiction, and, if applicable, district on the date of signing, the filing official should invalidate that signature.

## **VIII. Final recall petition review by County Clerk**

After the filing official has completed the initial validity and registration checks and processed any challenges submitted by the officeholder whose recall is sought, the filing official must review the recall petition a final time to determine if the petition contains the minimum number of valid signatures needed to initiate a recall election. The filing official's final review must be completed no later than the 35 days after the recall petition was filed with that official.

If the recall petition does not have the minimum number of valid signatures required, the filing official notifies the recall sponsor and the officeholder whose recall is sought of the petition's insufficiency. A copy of this notice should be retained in the filing official's records.

If the recall petition contains valid signatures equal to or greater than the number of valid signatures required to trigger a recall election, the filing official must call the recall election. The recall election must occur on the first regular May or November election date that falls at least 95 days after the date on which the recall petition was filed.

## **IX. Recall election candidates**

The recall election operates as a normal election: The officeholder whose recall is sought appears on the ballot with all other candidates seeking to fill the officeholder's office, and voters vote for the candidate they would prefer fill the office for the remainder of the term. The candidate who receives the most votes in the recall election becomes the officeholder and finishes the remainder of the officeholder's term. A voter who does not wish the officeholder to be recalled should cast a vote for the officeholder during the recall election. The officeholder is automatically a candidate in the recall election unless the officeholder withdraws their candidacy from the recall election within 10 calendar days of the recall petition's filing.



If the recall election involves a partisan office, nominations for the recall election are made by the county political party committee specified by MCL 168.973a. A primary election is not held. The incumbent officeholder is the nominee of the political party on whose ticket the candidate was originally elected to office. If the incumbent officeholder declines to be a candidate at the recall election, the incumbent officeholder's political party must also nominate a candidate for that office. The party nominations must be filed with the filing official by 5 p.m. on the 10th calendar day after the recall election is called.

If the recall election involves a nonpartisan office, candidates seeking election in the recall election must file a nonpartisan nominating petition containing at least 10 percent of the required number of signatures for the electoral district or a \$100 filing fee. Nonpartisan petitions or a filing fee must be filed by 4 p.m. on the 10th calendar day after the recall election is called.

A candidate without political party affiliation who wishes to seek a partisan office during a recall election may appear on the ballot by filing a qualifying petition. The petition must be filed with the appropriate filing official by 5 p.m. on the 10th calendar day after the recall election is called. The petition must contain at least 10% of the number of signatures required to gain access to the ballot for the office in a normal election under MCL 168.544f.

## **X. Preparation and production of recall ballots**

The County Election Commission of each county where the recall election will be conducted is responsible for the production of ballots for the recall election. The counties, cities and townships involved in the conduct of the recall election must bear the costs of the election. The costs are not subject to reimbursement by the state.

## **XI. Canvass and certification of recall election**

The filing official who accepted the recall petition is responsible for canvassing and certifying a recall election.

