



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Interested Persons

FROM: Amanda King, Senior Research Analyst, 303-866-4332
Lauren Morgan, Constituent Services Analyst, 303-866-2051

SUBJECT: The Colorado Recall Process

Summary

A recall is a process that allows voters to remove and replace an elected official before the official's term ends. According to the [National Conference of State Legislatures](#), Colorado is one of 19 states that allow for the recall of state and local elected officials.

While the recall process is similar for all elected officials, there are some differences in the process depending on the office held. This memorandum provides general information about Colorado's recall process. State laws on state, county, and school board recalls;¹ municipal recalls;² or special district recalls³ should be referenced for specific recall requirements.

Who Can Be Recalled?

Every state and local elected official in Colorado is subject to recall.⁴ U.S. Senators and U.S. Representatives elected in Colorado, as well as Colorado judges subject to retention elections, cannot be recalled. A recall petition may not be circulated until an elected official has been in office for at least six months; except that state legislators can be recalled any time after the fifth day of the legislative session. Recalls are not permitted for an elected official whose office is up for election within six months.

¹Part 1 of Article 12 of Title 1, C.R.S.

²Part 5 of Article 4 of Title 31, C.R.S.

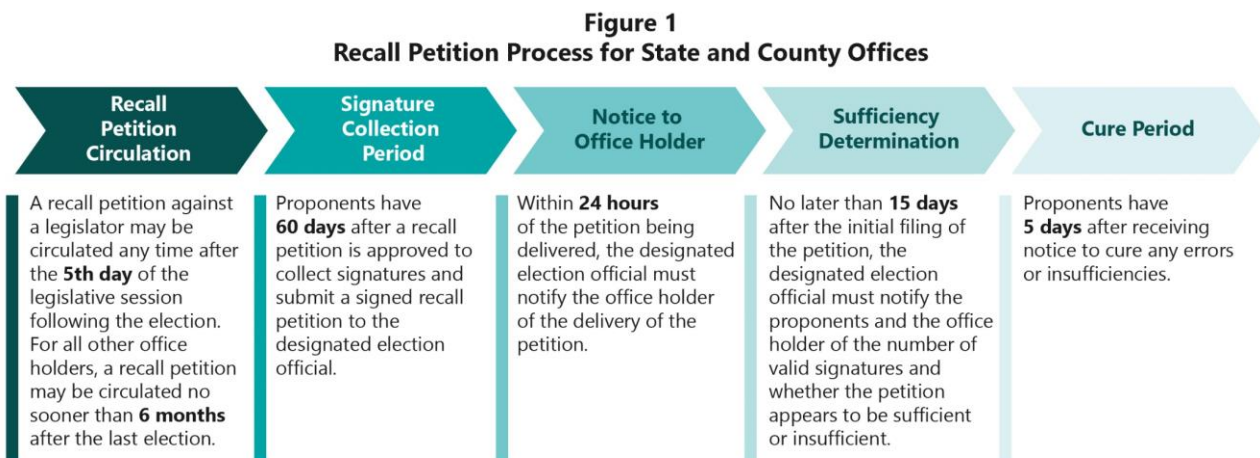
³Sections 32-1-906 to 32-1-915, C.R.S.

⁴Colo. Const. art. XXI.



Recall Petition Process

The first stage of a recall involves filing and circulating a recall petition. The following paragraphs provide details about the recall petition process. Figure 1 outlines the recall petition process for state and county recalls.



Source: Legislative Council Staff

Recall Petitions

To start the recall process of an elected official, the recall proponents must create and submit a recall petition to the appropriate designated election official (DEO), which could be the Secretary of State, county clerk and recorder, or municipal clerk, depending on the office subject to the recall. State law specifies the information that is listed on the recall petition. This information includes, but is not limited to:

- who the recall proponents are seeking to have recalled;
- the office that person holds;
- up to 200 words describing the reason for the recall; and
- the incumbent's statement justifying his or her course of conduct, if one is provided.

Once received, the DEO must approve or disapprove the recall petition form. If the recall petition form is not approved, the DEO must provide specific reasons for the disapproval.

Signature Collection

After a recall petition is approved, recall proponents have 60 days to collect signatures. The number of signatures necessary to trigger a recall election varies by office as follows:



- for state, county, and municipal officers, signatures equal to 25 percent of all votes cast for that office in the previous general election;
- for school district officers, signatures equal to 40 percent of ballots cast in the last election for that office; however, if there was no election at which the officer was elected, signatures must be collected from at least 10 percent of eligible voters residing in the district, except that no more than 15,000 signatures shall be required;⁵ and
- for special district directors, signatures from 40 percent of the eligible voters in the district at the time that the petition is approved for circulation, or 300 signatures, whichever is less.

After the 60-day signature gathering period has elapsed, the recall proponents must submit the signed recall petitions to the DEO for signature verification.

Petition circulators

Petition circulators for recall petitions are subject to the same rules that govern all petition circulators, including that they must be U.S. citizens who are at least 18 years of age. Petition circulators for state, county, or school board recall elections must wear a badge indicating whether they are a paid circulator or volunteer circulator. Each signature appearing on the petition must be made in the circulator's presence, but the circulator may not assist an elector who is physically unable to sign the petition in completing the information on the petition.

Signature verification process

State law outlines the timeframes the DEO has after receiving a recall petition to determine the number of valid signatures, and whether the petition appears to be sufficient or insufficient. If the recall proponents collect a sufficient number of signatures from eligible voters, the DEO must certify the sufficiency of the petition and schedule a recall election. If a recall petition is deemed to be insufficient, the DEO making this determination must notify the recall proponents. If the DEO verifies the petition as insufficient, he or she must provide the specific reasons to the recall proponents. The proponents can attempt to cure any errors and insufficiencies described in the notice within the timeframe outlined in state law. The DEO's determination can also be appealed through a protest process.

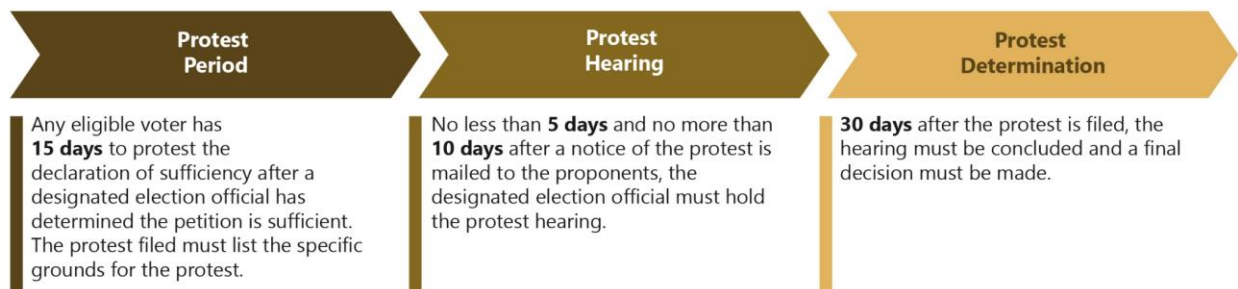
⁵Reasons for not holding an election could include a candidate running unopposed or that the number of candidates running is equal to the number of open seats for that elected office, in which case the election is cancelled and the candidates are certified to the office.



Protest Process

State law outlines a process for an eligible voter to protest the sufficiency of any verified recall petition. The protest process requires the submission of a written statement that includes the grounds for protest, which can include failure of the recall proponent or the petition circulator to meet requirements, or misleading petition signers. After a protest is filed, the DEO must conduct a hearing and make a final determination about the protest. A petition circulator must make themselves available for deposition and to provide testimony in the event of a protest. The timelines for the protest process depend on the elected official who is subject to the recall and are outlined in state law. Figure 2 outlines the protest process for state and county recalls.

Figure 2
Protest Process for State and County Recalls



Source: Legislative Council Staff

Recall Elections

After the recall petition is deemed sufficient and the protest period has expired, a recall election can be held. Recall elections are held in the same manner as general elections and require a notice to voters informing them of the upcoming election, the creation of an election plan by the DEO, and the use of voter service and polling centers. At the recall election, voters must decide whether to remove an elected official from office, and if so, which candidate will replace the elected official if the recall is successful. The elected official is removed from office and replaced by a successor if the majority of voters vote “yes” to recall the incumbent. The following paragraphs provide information about recall elections. Figure 3 outlines the recall election process for state and county recalls.



Figure 3
Election Process for State and County Recalls



Source: Legislative Council Staff

Recall Ballots

Recall ballots include a question about whether the elected official should be recalled. The ballot also must include the list of candidates to succeed the elected official if the recall is successful, as well as a blank space where a voter can write the name of a write-in candidate who has filed a valid affidavit. Additionally, the recall ballot must contain the statement from the recall proponents that appeared on the petition describing the reason for the recall. The elected official subject to the recall may also submit an official statement to be included on the ballot.

Successor nominations

A person wishing to succeed a recalled elected official can petition to be on the ballot. To appear on the successor ballot, for most recall elections, a candidate must collect the same number of signatures from eligible voters as required for that office, as outlined in state law. Successor candidates for a special district board utilize a self-nomination and acceptance form or letter.⁶ Alternatively, a successor candidate for a recall election can file an affidavit with the DEO to be considered as a write-in candidate. State law outlines the specific deadlines for filing petitions and affidavits for successor candidates depending on the level of office being sought. The elected official who is the subject of the recall may not be included on the ballot as a successor candidate.

Recall Election Date

Table 1 outlines how the recall election date for each type of recall election is determined. However, the Uniform Military and Overseas Voters Act requires that ballots and related

⁶Section 1-13.5-303, C.R.S.



materials be sent to military and overseas voters 45 days prior to the election, which may impact the date selected for a recall election.⁷

Table 1
Recall Election Dates

| Recall Election Type | Entity Who Sets Recall Election Date | Recall Election Timeframe |
|----------------------|--|--|
| State | Governor | No less than 30 days and no more than 60 days after the recall petition is filed and deemed sufficient and the protest period has passed, unless there is a general election occurring within 90 days of this period, then the recall election must be held as part of that election |
| County | County clerk and recorder | Same as state recall elections |
| School Board | County clerk and recorder of the county where the school district's administrative offices are located | Same as state recall elections |
| Municipal | Municipality's governing board | No less than 30 days and no more than 90 days after the recall petition is filed with the governing body, unless a regular election is to be held within 180 days of this period, then the recall election must be held as part of that election |
| Special District | Special district board | No less than 75 days and no more than 90 days after the special district board meeting at which the recall election date was selected |

Source: Sections 1-12-107, 31-4-503 (4), and 32-1-910 (4), C.R.S.

Resignations

If the elected official subject to recall resigns prior to the deadline for nominating successor candidates, the election must be cancelled, and the office is considered vacant and filled according to state law for that elected office, generally through the appointment of a successor. Information about how elected office vacancies are filled can be found in the [Legislative Council Staff memorandum on vacancies](#) in elected offices. If a resignation occurs after the nomination deadline, then the election must be held to elect a successor.

⁷Section 1-8.3-110, C.R.S.



Subsequent Recall Limitations

Petitions for a subsequent recall of an elected official who was previously subject to a recall election, but not removed from office, may not be filed in the same term, unless the recall proponents obtain more signatures than the prior recall election. The number of signatures necessary to trigger a subsequent recall election varies by office as follows:

- for state and county offices, signatures equal to 50 percent of all votes cast for that office in the previous general election;
- for school board members, signatures equal to one and a half times the number of required signatures from the first recall petition; and
- for special district board members, signatures of more than 50 percent of the district's eligible electors.

Recall Costs and Estimates

The county clerk or local government conducting the recall election pays the recall election costs. Any political subdivision, such as a municipality or school district, that is relying on the county clerk to conduct a recall election must reimburse the county clerk for reasonable expenses incurred.

Before recalling certain elected officials, such as statewide elected officials, legislators, and district attorneys, the recall proponents must notify the DEO of the intent to file a recall petition form. The DEO must then provide a written cost estimate of conducting the recall election. The cost estimate for conducting the recall must appear on the recall petition. The cost estimate requirement is not in place for municipal or special district recall elections.

Recall Election Reimbursements

If the elected official subject to a recall election is not recalled, he or she may be reimbursed for authorized expenses related to the recall election. State law outlines the reimbursement rates, which is based on the number of voters. Authorized expenses may include money spent on campaign literature, advertising, and maintaining a campaign headquarters. Unauthorized expenses include court challenges not pertaining to the sufficiency of the recall petition, personal expenses such as meals and lodging, and campaign staff and associated costs.



In order to receive reimbursement, the elected official subject to recall must submit a request for reimbursement for review and approval as outlined in state law.⁸

⁸Sections 1-12-120, 31-4-504.5, and 32-1-912, C.R.S.