

CHAPTER 15: RECALL ELECTIONS

INITIATING A RECALL

Recall proponents may initiate the recall of an elected official by circulating a petition and collecting signatures from eligible electors of the political subdivision. [Section 1-12-101, C.R.S.]

Every elected officer at the state or local level in Colorado is subject to recall from office. Members of Colorado's congressional delegation (House and Senate) are not subject to recall. Judges are also not subject to recall.

At the state and county levels, the elected officer must hold office for at least 6 months before a recall petition may be circulated or filed. The exception to this is for general assembly members, who may be recalled beginning the 5th day after the general assembly convenes.

[Section 1-12-102, C.R.S.]

The number of signatures proponents must collect is based on the type of office:

State and county officers	Signatures equal to 25% of all votes cast for that office in the previous general election.
School districts	Signatures equal to 40% of ballots cast in the last election for that office. (If there was no election, signatures from 10% of electors residing in the district once petition is approved for circulation.)
Other non-partisan offices	The lesser of 300 signatures or signatures from 40% of the eligible electors in the district once the petition is approved for circulation.

[Article XXI, Section 1, Colorado Constitution; Sections 1-12-104 through 1-12-106, C.R.S.]

For all state recall elections the Secretary of State approves all petitions, and the county serves as the designated election official (DEO) who conducts the election. For all county offices and school district offices subject to recall, the county serves as the DEO who approves all petitions and conducts the election. [Section 1-12-107, C.R.S.]

RECALL PETITION

The DEO must approve the proponents' petition format before they may begin circulating. For specific petition-content requirements, review section 1-12-108, C.R.S. The DEO should provide proponents with the Secretary of State created fillable petition format template, which meets all current legal requirements. The petition format is available under the approved forms section of Clerk's Corner.

The petition must contain a general statement, of 200 words or less, stating the grounds on which the recall is sought. Proponents draft the statement, which cannot include any profane or false statements. [Section 1-12-103, C.R.S.]

Every person who circulates the petition must be:

- A Colorado resident;
- A U.S. citizen; and
- At least 18 years old.

[Section 1-12-108(6)(a), C.R.S.]

Only eligible electors may sign the petition. An eligible elector in this case is someone who is eligible to vote in the recall election if there is one. [Section 1-12-108(5), C.R.S.]

Once proponents file the petition, the DEO must review all petition information and verify it against SCORE. Note that this is not signature verification. The DEO compares individual entries to the registration records in SCORE to verify that each signer was registered at the address provided on the petition at the time they signed the petition.

If the DEO finds the petition insufficient, the proponents have 15 days to collect more signatures, or cure deficiencies, and resubmit the petition. Deficiencies that the proponents may cure include:

- Entries that the DEO rejected because the signer's information didn't match in SCORE (Note: proponents should use a fresh petition and collect the signer's information again, rather than crossing out the bad information on the original entry);
- Improperly completed circulator affidavits: If the DEO rejects an entire section because of the circulator affidavit, the proponents may cure by having the circulator complete a new affidavit in the presence of a notary.

If the DEO finds the petition sufficient, any eligible elector may protest the determination. For the full protest procedure, refer to section 1-12-108(9), C.R.S. The DEO may not proceed with any other aspects of the recall until the protest period has passed and all protests have been fully adjudicated.

Any person who has signed a recall petition may request in writing that his or her name be removed from the petition. A signer may do this until three days after the petition has been filed.

If the petition remains sufficient after the protest period, the incumbent may resign within a certain period of time to prevent the recall election from moving forward. For resignation deadlines, review section 1-12-110, C.R.S., and article XXI, section 3, Colorado Constitution.

SUCCESSOR CANDIDATES

In addition to the recall question, the ballot will also contain the names of individuals who have qualified as candidates to succeed the incumbent if the recall is successful. Candidates gain ballot access through petitions in the same manner as in other elections. For candidate-petition requirements, review the following statutes:

- Section 1-4-801, C.R.S. (major party candidates);
- Section 1-4-802, C.R.S. (minor party and unaffiliated candidates);
- Section 1-4-803, C.R.S. (school board candidates); and
- Sections 1-4-901 through 1-4-912, C.R.S. (petition content and review requirements).

The DEO should provide candidates with the candidate-appropriate Secretary of State-created fillable petition format template, which meets all current legal requirements. The successor-candidate petition formats are available under the approved forms section of Clerk's Corner.

RECALL ELECTION

If the petition remains sufficient after the protest period, the DEO must set the "date for holding the election" no sooner than 30 days and no later than 60 days from the date of final sufficiency: meaning the DEO has declared the petition sufficient, and the protest period has passed or all protests have been fully adjudicated.

- Note the term "date for holding the election" (defined in section 1-12-100.5(3.5), C.R.S.) does not mean Election Day. It is actually 22 days before Election Day, which is the first day that the DEO makes ballots available at the Voter Service and Polling Center (VSPC).
- For more information on the "date for holding the election," review the sample recall timeline on Clerk's Corner or contact the Secretary of State's office.

For election deadlines, including when to open VSPCs and when to mail ballots, review section 1-12-114, C.R.S., and the sample recall timeline on Clerk's Corner.

RECALL TIMELINE

Because the timeframe for setting and holding a recall election is very short, it is important for the DEO to establish and maintain a timeline of important dates and deadlines early in the process. The Secretary of State has created a sample timeline, which is available on Clerk's Corner. Your deadlines may change as the process moves forward, depending on a variety of factors including potential challenges to sufficiency or insufficiency.

TRAININGS AND OTHER RESOURCES

The following approved forms are available on Clerk's Corner:

- Fillable recall petition format
- Fillable successor candidate petitions for:
 - Major party candidates
 - Minor party candidates
 - Unaffiliated candidates
 - Nonpartisan candidates
- Sample circulator affidavit cure form

The following policy/legal/SCORE resources are available on Clerk's Corner:

- Sample recall timeline
- Petition verification user guide

BEST PRACTICES

Recall petition format:

The recall petition requires a 200-word statement of reasons why the incumbent should be recalled. Although it may not have profane or false statements, under statute and constitution, the statement is not subject to review. Thus, aside from ensuring the statement meets the 200-word limit, the DEO should consult the county attorney before taking any other action regarding the content of the statement.

In addition, although there is a specific deadline in the statute for approving or rejecting a petition format, the DEO should work with proponents over email to complete the petition format. This may require a back-and-forth editing process with the proponents.

Date for holding the election:

Although this date is not actual Election Day, the DEO should consider what Election Day will be when setting the “date for holding the election” to ensure that actual Election Day falls on a Tuesday. Because the “date for holding the election” is 22 days before actual Election Day, the DEO should set it for a Monday—this will ensure that Election Day falls on a Tuesday.

Another important date to keep in mind is the due date for successor candidate petitions. Under the statute, they are due 15 days before the “date for holding the election.” Because that date is 22 days earlier than actual Election Day, candidate petitions are due no later than 37 (22 + 15) days before actual Election Day.

Write-in line on the ballot:

Write-in candidates may submit an affidavit to be a write-in candidate up until 15 days before the actual Election Day. Because they will have printed your ballots—and likely mailed them—before this deadline, DEOs should always include a write-in line when designing the ballot, even if there are no write-in candidates at the time of printing.

Deadline to transmit military and overseas ballots:

The 45-day ballot-transmission deadline for military and overseas voters is impossible based on the recall statute’s other deadlines, such as that for successor candidates. Because they will not be able to meet the 45-day deadline, DEOs should transmit military and overseas ballots as soon possible once ballots are available.