

# School District Governing Board Member Recall Statutes & Timeline

(Updated April 10, 2020)

## **19-201. Officers subject to recall; number of petitioners**

A. Every public officer holding an elective office, either by election, appointment or retention, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to that office. Such electoral district may include the whole state. A number of qualified electors equaling twenty-five percent of the number of votes cast at the last preceding general election for all the candidates for the office held by the officer, even if the officer was not elected at that election, divided by the number of offices that were being filled at that election, by recall petition, may demand the officer's recall.

B. In the case of a public officer holding office in a newly created division or district of an elective office, either by election or appointment, a number of qualified electors equaling twenty-five per cent of the number of votes cast at the last preceding general election for all those who were candidates for other divisions or districts of the same office held by the officer in that county or city divided by the number of offices that were being filled at that election, by recall petition, may demand the officer's recall.

C. If the elective officer to be recalled was appointed to the office or was deemed elected after an election was canceled due to the absence of opposing candidates as provided in section 15-424, 15-1442, 16-822, 48-802, 48-1012, 48-1208, 48-1404, 48-1908, 48-2010, 48-2107 or 48-2208, the recall petition must be signed by the number of qualified electors that is equal to at least ten per cent of the number of active registered voters in the jurisdiction or district represented by that elective officer as determined on the date of the last general election.

### **19-201.01. Legislative finding and intent; strict compliance**

The legislature recognizes that recall overturns the determination of the qualified electors and therefore finds and determines that strict compliance with the constitutional and statutory requirements for recall and in the application and enforcement of those requirements provides the surest method for safeguarding the integrity and accuracy of the recall process. Therefore, the legislature finds and declares its intent that the constitutional and statutory requirements for recall be strictly construed and that persons using the recall process strictly comply with those constitutional and statutory requirements.

### **19-202. Recall petition; limitations; subsequent petition**

A. A recall petition shall not be circulated against any officer until the officer has held office for six months, except that a petition may be filed against a member of the legislature at any time after five days from the beginning of the first session after the member's election. The commencement of a subsequent term in the same office does not renew the six-month period delaying the circulation of a recall petition.

B. After one recall petition and election, no further recall petition shall be filed against the same officer during the term for which the officer was elected unless the petitioners signing the petition first, at the time of application for the subsequent recall petition, pay into the public treasury from which such election expenses were paid all expenses of the preceding election.

#### **19-202.01. Application for recall petition**

A. A person or organization intending to file a recall petition, before causing the petition to be printed and circulated, shall submit an application setting forth the following:

1. The person's name and address or, if an organization, its name and address and the names and titles of its officers.
2. The person or organization's intention to circulate and submit a recall petition.
3. The text of the general statement required by section 19-203 and a request for issuance of an official number to be printed on the signature sheets of the petition.

B. The application and petition shall be submitted as a single document to the office of secretary of state if for recall of a state officer, including a member of the state legislature, or a member of Congress, and with the county officer in charge of elections if for a county or district officer or superior court judge, with the city or town clerk if for a city or town officer and with the county school superintendent if for a governing board member of a school district.

C. On receipt of the application and petition, the receiving officer shall assign a number to the petition that shall appear in the lower right-hand corner on each side of each signature sheet, and issue that number to the applicant. A record shall be maintained by the receiving officer of each application received, of the date of its receipt and of the number assigned and issued to the applicant.

D. When the application is received by the filing officer and marked by the filing officer with an official date and time of receipt, the time-and-date-marked application, including the general statement required by section 19-203, constitutes the official copy of the text of the recall and shall be used in all instances as the text of the recall. For any subsequent change in the text of the recall by the applicant, including any change in the general statement required by section 19-203, the applicant shall file a new application, shall receive a new official serial number and shall use as the text of the recall the time-and-date-marked text that accompanied the new application, and any signatures that are obtained on the prior recall petition are invalid for the new recall petition.

### **19-203. Recall petition; contents; submission for verification; nonacceptance**

A. A recall petition shall contain a general statement of not more than two hundred words stating the grounds of the demand for the recall. The petition shall be submitted for verification of signatures to one of the following:

1. The office of the secretary of state if for a state officer, including a member of the legislature or a member of Congress.
2. The county officer in charge of elections if for a county or district officer or superior court judge.
3. The city or town clerk if for a city or town officer and with the county school superintendent if for a governing board member of a school district.

B. No recall petition is considered filed for purposes of this chapter until the verification process is complete and the petition is filed pursuant to section 19-208.03, subsection A, paragraph 1.

C. A recall petition shall not be accepted for verification if more than one hundred twenty days have passed since the date of submission of the application for recall petition, as prescribed by section 19-202.01.

D. The filing officer's time-and-date-marked copy of the application, including the general statement of the grounds for recall, constitutes the full and correct copy of the recall text and is the only valid copy for circulation for signatures. Signatures that are collected with any copy of the recall text that is not a facsimile of the time-and-date-marked copy with the complete text that is identical to the time-and-date-marked copy issued by the filing officer are invalid.

### **19-204. Form of petition**

A. The caption and body of a recall petition shall be substantially as follows: Recall Petition

We, the qualified electors of the electoral district from which (name and title of office) was elected, demand his recall. The grounds of this demand for recall are as follows: (State in two hundred words or less the grounds of the demand)

B. Each petition sheet shall have printed on the top of each sheet the following: "It is unlawful to sign this petition before it has a serial number."

C. The following shall be printed on each petition sheet in capital letters in at least twelve point bold-faced type in the upper right-hand corner of the face of the petition sheet and below the statement prescribed in subsection B of this section: "NAME paid circulator" "NAME volunteer".

D. A circulator of a recall petition shall state whether he is a paid circulator or volunteer by checking the appropriate line on the petition form before circulating the petition for signatures.

E. The remaining portion of the petition shall be as prescribed for initiative and referendum.

**19-205. Signatures and verification**

A. Every qualified elector signing a petition for a recall election shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification on the reverse side of the signature sheet. At the time of signing, the qualified elector shall sign and print his first and last name and the elector so signing shall write, in the appropriate spaces following the signature, his residence address, giving street and number or, if the elector has no street address, a description of his residence location, and the date on which he signed the petition.

B. The person before whom the signatures were written on the signature sheet shall in an affidavit subscribed and sworn to by him before a notary public verify that each of the names on the sheet was signed in his presence on the date indicated, and that in his belief each signer was a qualified elector of the election district on the date indicated in which such recall election will be conducted. All signatures of petitioners on a signature sheet shall be those of qualified electors who are registered to vote in the same county. However, if signatures from more than one county appear on the same signature sheet, only the valid signatures from the same county which are most numerous on the signature sheet shall be counted. In the absence of a legible signature, the name as it is printed shall be the name used to determine the validity of the signature.

C. The affidavit shall be in the form prescribed for initiative and referendum. In addition it shall also require a statement by the circulator that the circulator believes that the circulator is qualified to register to vote and all signers thereof are qualified to vote in the recall election.

**19-205.02. Prohibition on circulating of petitions by certain persons**

No county recorder or justice of the peace and no person other than a person who is qualified to register to vote pursuant to section 16-101 may circulate a recall petition, and all signatures verified by any such unqualified person are void and shall not be counted in determining the legal sufficiency of the petition.

**19-205.03. Prohibition on signing petition for profit; classification**

Any person who knowingly gives or receives money or any other thing of value for signing a recall petition, excluding payments made to a person for circulating such petition, is guilty of a class 1 misdemeanor.

**19-206. Coercion or other unlawful acts; classification**

A. A person who knowingly induces or compels any other person, either directly or indirectly or by menace or threat that he will or may be injured in his business, or discharged from employment, or that he will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his name to a recall petition, or, after signing or subscribing his name, to have his name taken therefrom, is guilty of a class 1 misdemeanor.

B. A person knowingly signing any name other than his own to a petition, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name, because of physical infirmity or knowingly signing his name more than once for the same recall issue, at one election, or who knowingly is not at the time of signing a qualified elector of this state is guilty of a class 1 misdemeanor.

**19-207. Notice to officer; statement of defense**

Upon filing the petition as prescribed by section 19-208.03, subsection A, paragraph 1, the officer with whom it is filed shall within forty-eight hours, excluding Saturdays, Sundays or other legal holidays, give written notice to the person against whom it is filed. The notice shall state that a recall petition has been filed, shall set forth the grounds thereof, and shall notify the person to whom it is addressed that the person has the right to prepare and have printed on the ballot a statement containing not more than two hundred words defending the person's official conduct. If the person fails to deliver the defensive statement to the officer giving notice within ten days thereafter, the right to have a statement printed on the ballot shall be considered waived.

**19-208. Resignation of person**

If a person against whom a recall petition is filed desires to resign, the person may do so by filing a written tender thereof with the officer with whom the petition demanding the person's recall is filed within five days, excluding Saturdays, Sundays

and other legal holidays, after the filing of the petition as prescribed by section 19-208.03. In such event the person's resignation shall be accepted and the vacancy shall be filled as provided by law.

#### **19-208.01. Certification of number of signatures**

A. Within ten days after submission of a recall petition for verification of signatures pursuant to section 19-203, the receiving officer shall perform the steps prescribed in section 19-121.01, subsection A. If the total number of signatures eligible for verification equals or exceeds the minimum number required by the Arizona Constitution the receiving officer shall reproduce a facsimile of the front of each signature sheet on which any signature eligible for verification appears. The receiving officer shall transmit promptly to each county recorder facsimile sheets on which a signature of any individual claiming to be a qualified elector of that county appears. The receiving officer shall also certify the number of sheets and signatures on the sheets that are being transmitted and retain a record of such certification in his office. Such receiving officer shall obtain a dated, signed receipt from the county recorder for copies of the original signature sheets transmitted under this section.

B. If the number of signatures on the sheets submitted to the receiving officer does not equal the minimum number required by the constitution, he shall so notify the person or organization submitting them and shall return the sheets to the persons or organization.

#### **19-208.02. Certification by county recorder**

A. Within sixty days after receipt of the signature sheets from the receiving officer, the county recorder shall determine the number of signatures or affidavits of individuals whose names were transmitted that must be disqualified for any of the reasons set forth in section 19-121.02, subsection A, and the county recorder shall certify such number to the receiving officer in the form prescribed by the secretary of state.

B. At the time of such certification, the county recorder shall:

1. Return the original signature sheets to the receiving officer, obtaining a dated, signed receipt therefor.
2. Send notice of the results of certification by mail to the person or organization that submitted the recall petitions and to the secretary of state.

#### **19-208.03. Disposition of petition; date of filing**

A. Within five days, excluding Saturday, Sunday and legal holidays, after the county recorders have certified the number of qualified signatures to a petition, or sooner if a sufficient number of signatures have been certified to qualify for placement of the recall on the ballot, the receiving officer shall total the number of signatures certified, and:

1. If the number equals or exceeds the minimum number required by the Constitution, he shall forthwith officially file the petition, notify the governor and each county recorder affected, stating that no more signatures need be checked, and the recall shall be placed on the ballot in the manner provided by law.
2. If the number is insufficient to qualify for calling a recall election the receiving officer shall follow the procedure prescribed by section 19-208.01, subsection B.

B. The date of filing the petition as provided for in subsection A, paragraph 1, of this section is the date of filing referred to in sections 19-207, 19-208 and 19-209.

#### **19-208.04. Judicial review of actions by county recorder**

A. If the county recorder fails to comply with the provisions of section 19-208.02, any elector may apply, within ten calendar days after such refusal, to the superior court for a writ of mandamus to compel him to do so. If the court finds that the county recorder has not complied with the provisions of section 19-208.02, the court shall issue an order for the county recorder to comply.

B. If an elector wishes to challenge the number of signatures certified by the county recorder under the provisions of section 19-208.02, he shall, within ten calendar days after the receiving officer has notified the governor and the county recorders of the number of certified signatures received by him, commence an action in the superior court for a determination thereon.

The action shall be advanced on the calendar and heard and decided by the court as soon as possible. Either party may appeal to the supreme court within ten calendar days after judgment.

C. An action filed in the superior court under the provisions of this section against a county recorder shall be filed in the county of such county recorder, except that when any such action involves more than one county recorder such action shall be filed in Maricopa county.

**19-208.05. Special fund for reimbursement of county recorders**

A. Receiving officers shall establish a separate fund from which county recorders shall be reimbursed for actual expenses incurred by county recorders for performance of duties under section 19-208.02, but not to exceed the rate of fifty cents per signature.

B. A county recorder who claims to be entitled to reimbursement under the provisions of this section shall submit a claim to the receiving officer.

C. The special fund established pursuant to this section shall be exempt from the provisions of section 35-190, relating to lapsing of appropriations.

**19-209. Order for special recall election**

A. If the officer against whom a petition is filed does not resign within five days, excluding Saturdays, Sundays and other legal holidays, after the filing as determined pursuant to section 19-208.03, the order calling a special recall election shall be issued within fifteen days and shall be ordered to be held on the next following consolidated election date pursuant to section 16-204 that is ninety days or more after the order calling the election.

B. A recall election shall be called:

1. If for a state office, including a member of the legislature, by the governor.
2. If for a county officer, or judge or other officer of the superior court in a county, by the board of supervisors of that county.
3. If for a city or town officer, by the legislative body of the city or town.
4. If for a member of a school district governing board, by the county school superintendent of the county in which the school district is located.

C. If a recall petition is against an officer who is directed by this section to call the election it shall be called:

1. If for a state office, by the secretary of state.
2. If for a county office, by the clerk of the superior court.
3. If for a city or town office, by the city or town clerk.

**19-210. Reimbursement for county expenses in conducting special recall election**

The political subdivision or district in which a public officer subject to recall serves shall reimburse the county for all expenses incurred in conducting the special recall election.

**19-212. Nomination petition; form; filing**

A. Unless the officer otherwise requests in writing, the name of the officer against whom a recall petition is filed shall be placed as a candidate on the official ballot without nomination. Other candidates for the office may be nominated to be voted upon at the election and shall be placed upon the official recall ballot after filing a nomination petition that is signed by a number of qualified electors that is equal to at least two per cent of the total votes cast for all candidates for that office at the last election for that office. Nomination petition signers shall be qualified electors of the electoral district of the officer against whom the recall petition is filed.

B. If the officer against whom a recall petition is filed was appointed to the office or was deemed elected after an election was canceled due to the absence of opposing candidates as provided in section 15-424, 48-802, 48-1012, 48-1208, 48-1404,

48-1908, 48-2010, 48-2107 or 48-2208, other candidates for the office to be voted on in the recall election shall be placed on the official recall ballot after filing a nomination petition that is signed by the number of qualified electors that is equal to at least one-half of one per cent of the number of active registered voters in the jurisdiction or district represented by that elective officer as determined on the date of the last general election with no less than five signatures. Nomination petition signers shall be qualified electors of the electoral district of the officer against whom the recall petition is filed.

C. The title and body of the nomination petition shall be substantially in the following form:

Nomination Petition--Recall Election

We, the undersigned electors, qualified to vote in the recall election mentioned herein, residents of the precinct indicated by the residence addresses given, and residents of the county of COUNTY NAME, state of Arizona, hereby nominate NAME, who resides at ADDRESS, in the county of COUNTY NAME to be a candidate in the recall election for the office of OFFICE NAME to be held on DATE, and we further declare that we have not signed and will not sign any nomination paper for any other person for such office.

The remainder of the petition shall be substantially in the form prescribed in section 16-315.

D. If recall petitions have been filed against more than one member of a multimember public body whose members serve at large, the nomination petition and paper of the other candidates shall state which member they oppose.

E. To each nomination petition shall be appended a certificate by a person who is qualified to register to vote pursuant to section 16-101 stating that to the best of his knowledge and belief all the signers of the nomination petition are qualified electors of the precinct which they give as their residence.

F. Such nomination petition shall be filed not more than ninety days nor less than sixty days prior to the date of the recall election.

#### **19-213. Form and contents of ballot**

On the ballots for the election shall be printed the reasons as set forth in the petition for demanding the officer's recall, and, in not more than two hundred words, the officer's justification of his conduct in office. There shall be no party designation upon the recall ballot. The form of the ballot shall conform as nearly as practicable to the ballot prescribed for general elections.

#### **19-214. Recall election board; consolidation of precincts**

A. A recall election board shall consist of one inspector and two judges who, together with two clerks, shall be appointed for each precinct if for a state or county election and shall be paid in the same manner as election boards.

B. If for a city or town election, the recall election board shall be appointed by the clerk of the city or town and shall be paid in the same manner as city or town election boards.

C. If for a trustee of a school district, the recall election board shall be appointed by the county school superintendent, and shall be paid from school district funds in the same manner as election boards for state or county elections.

D. Two or more precincts may be consolidated for purposes of voting if determined practicable and reasonable by the appointing authority.

#### **19-215. General election laws applicable**

The powers and duties conferred or imposed by law upon boards of election, registration officers, canvassing boards and other public officials who conduct general elections, are conferred and imposed upon similar officers conducting recall elections under the provisions of this article together with the penalties prescribed for the breach thereof.

#### **19-216. Election results**

A. The candidate receiving the largest number of votes shall be declared elected for the remainder of the term and shall begin serving the remainder of the term on his qualification for the office and on completion of the canvass. Unless the incumbent receives the largest number of votes he shall be deemed removed from office upon qualification of his successor.

If the incumbent's successor does not qualify within five days after the results of the election have been declared, the office shall be vacant, and may be filled as provided by law.

B. The incumbent shall continue to perform the duties of his office until the completion of the canvass of the election returns.

**19-217. Recall petition; changes; applicability**

Notwithstanding any other law, any change in the law or procedure adopted by a governing body with respect to circulation or filing of recall petitions after a recall petition application is submitted pursuant to section 19-202.01 for a state officer, a member of Congress, a county or district officer, a superior court judge, a city or town officer or a member of a school district governing board does not apply to the recall petition.

# Recall Process Summary & Timeline

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- The petitioners submit the petition and application.
- The petitioners have 120 days to gather signatures. They then submit the signatures to MCSS.
- MCSS has 10 days to verify signatures according to ARS 19-121.01 standards.
  - If it has enough signatures, MCSS transmits them to the county recorder.
  - If it does not have enough signatures, MCSS contacts the petitioner to notify them of failure if the minimum number of signatures.
- The county recorder has 60 days to certify the signatures according to ARS 19-121.02 standards and to send the results to MCSS.
  - If the county recorder doesn't comply with 19-208.02 provisions, anyone may apply for a writ of mandamus from the superior court within 10 days of the failure or refusal.
  - An elector wishing to challenge the county recorder's results must commence action in the superior court within 10 calendar days of the MCSS' receipt of the county recorder's results.
    - Either party may appeal to the supreme court within 10 calendar days after judgment.
- After receipt of the county recorder's response, MCSS has 5 days (excluding weekends and holidays) to total the number of certified signatures from the county recorder.
  - MCSS must either officially file the petition OR notify the petitioner(s) of its failure.
  - If the petition is filed, MCSS must notify the governor and affected county recorder, and the recall will be placed on the ballot.
- Once a petition is filed, MCSS has 48 hours (excluding weekends & holidays) to provide written notice to the person against whom the petition is filed.
- In reaction to
- After receiving written notice, the person against whom the petition is filed has 10 days (excluding weekends & holidays) to submit a defensive statement. If they don't submit the statement, they waive their right to have the statement printed on the ballot.
- If the person against whom the petition is filed chooses to resign, they have 5 days to submit their resignation (excluding weekends & holidays).
- If the person against whom a recall petition is filed does not resign within the 5 days, a special recall election order will be issued within 15 days. The special recall election will be held on the next election date that is at least 90 days after the order is issued.
- The name of the officer against whom a recall petition is filed will be added to the official ballot without nomination unless they request otherwise.
- Other candidates can be nominated to get on the ballot.
  - This requires a nomination petition signed by at least 2% of qualified electors located within the same electoral district as the officer against whom the petition is filed.
  - If the officer against whom the petition is filed was appointed or won by default of no opposition, then this requires a nomination petition signed by at least 0.5% of qualified electors located within the district represented by the officer.
  - At least five signatures are required on a nomination petition.
- If the successor does not qualify within five days after the results of the election have been declared, the office will be vacant, and MCSS can appoint a new board member.