

The logo for the City Clerks Association of California (CCAC) features the letters 'CCAC' in a bold, sans-serif font. The 'C's are a darker blue, and the 'A' is a lighter blue.

CITY CLERKS ASSOCIATION OF CALIFORNIA

WHEN DISCOURSE FAILS



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AND INITIATIVES AND RECALLS ARE ON THE HORIZON

Civil Discourse

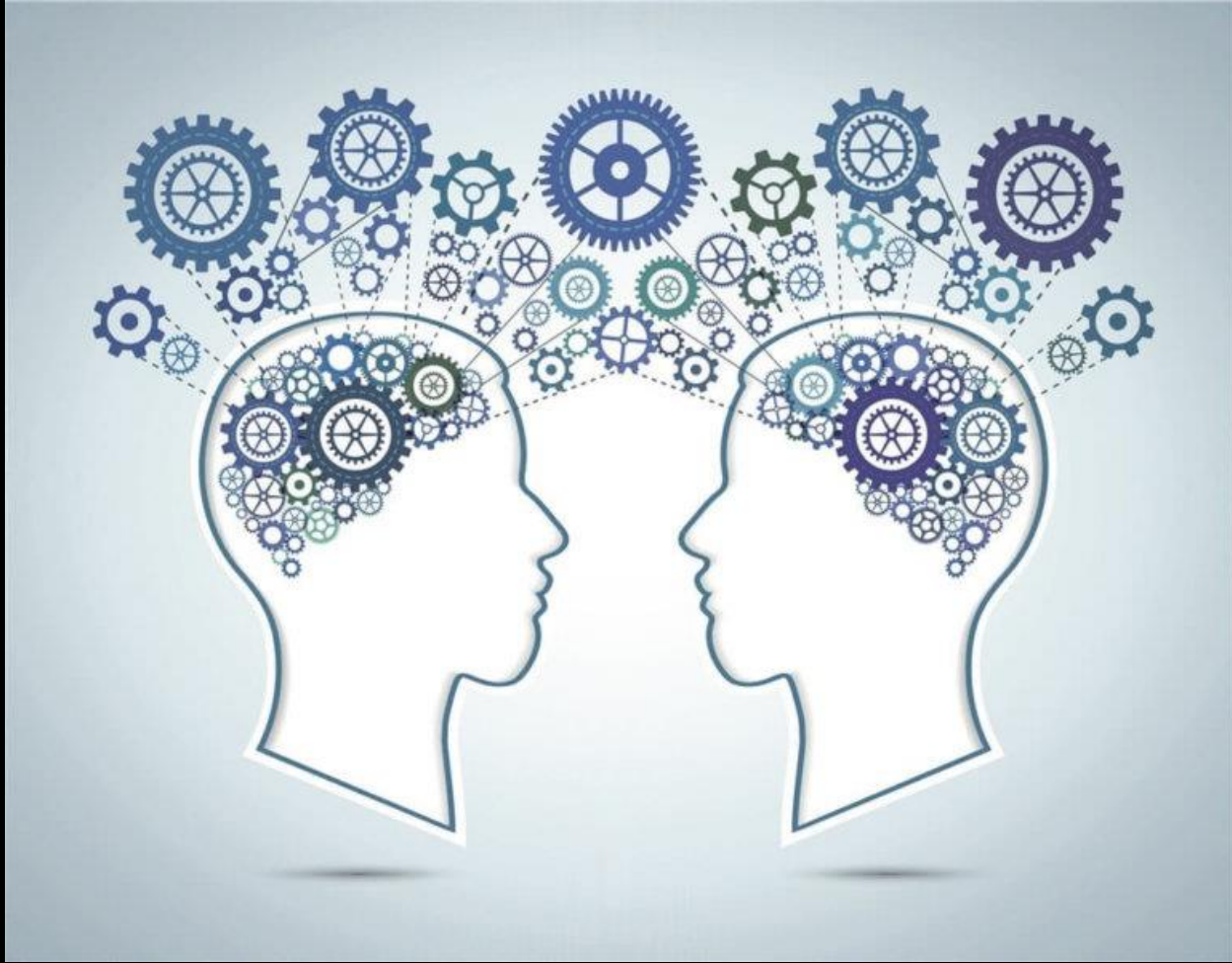
Recalls

Initiatives



INTRODUCTION

In the era of unprecedented election challenges, municipal clerks are obligated to exhaust all means of communication to maintain public trust. These efforts include encouraging civil discourse and facilitating access to timely and relevant information. In this session, attendees will learn how to productively engage internal and external stakeholders to lower the temperature in the room, as well as the technicalities of how to conduct a recall or initiative in a community when the temperature remains a little too hot to handle.



CIVIL DISCOURSE



In a recent survey, more than

54%

*of local governments are experiencing an increase in **incivility**, **divisiveness**, **misconduct** & **bad behavior** in public meetings.*

warinUkraine

drought masks

insurrection

socialmedia socialunrest

pandemic crt

nationalpoliticalpolarization edsji social

schoolshootings unrest

georgefloydmurder monkeypox **economy**

isolation policereform

zoomfatigue

proudboyz

**BLACK
LIVES
MATTER**



INTERPERSONAL STRATEGIES

HOW TO LEAD WITH CIVILITY IN MIND

Embrace diverse points of view

Commit to civil discourse

Practice active listening

Disagree respectfully

Separate the 'people' from the 'problem'; never attack the people

Prioritize relationships

Focus on building trust

Strive to find shared values & common ground

“

Change happens by listening and then starting a dialogue with the people who are doing something you don't believe is right.

JANE GOODALL

”

COMMUNICATIONS TOOLS FOR BRIDGING THE DIVIDE

Be attentive

Ask clarifying questions

Let people know you are listening

Focus on interests, not positions

Identify options for mutual gain

Insist on using objective criteria

OUR BEHAVIOR CAN SET THE TONE FOR CIVIL DISCOURSE

Be sure to encourage your leadership to...

Respect and support **good governance and engagement** models that include members of the public in decision-making

Promote and encourage **public participation**

Value **public input** as part of the decision-making process

Show respect to staff, officials and the public; use affirming words & engaging body language

Be **informed** about issues being discussed and come with an **open mind**

Demonstrate appreciation for **varied opinions**

Behave in a civil manner and **act with decorum**

ORGANIZATIONAL STRATEGIES

POLICIES TO CONSIDER

**Codes of
Conduct**

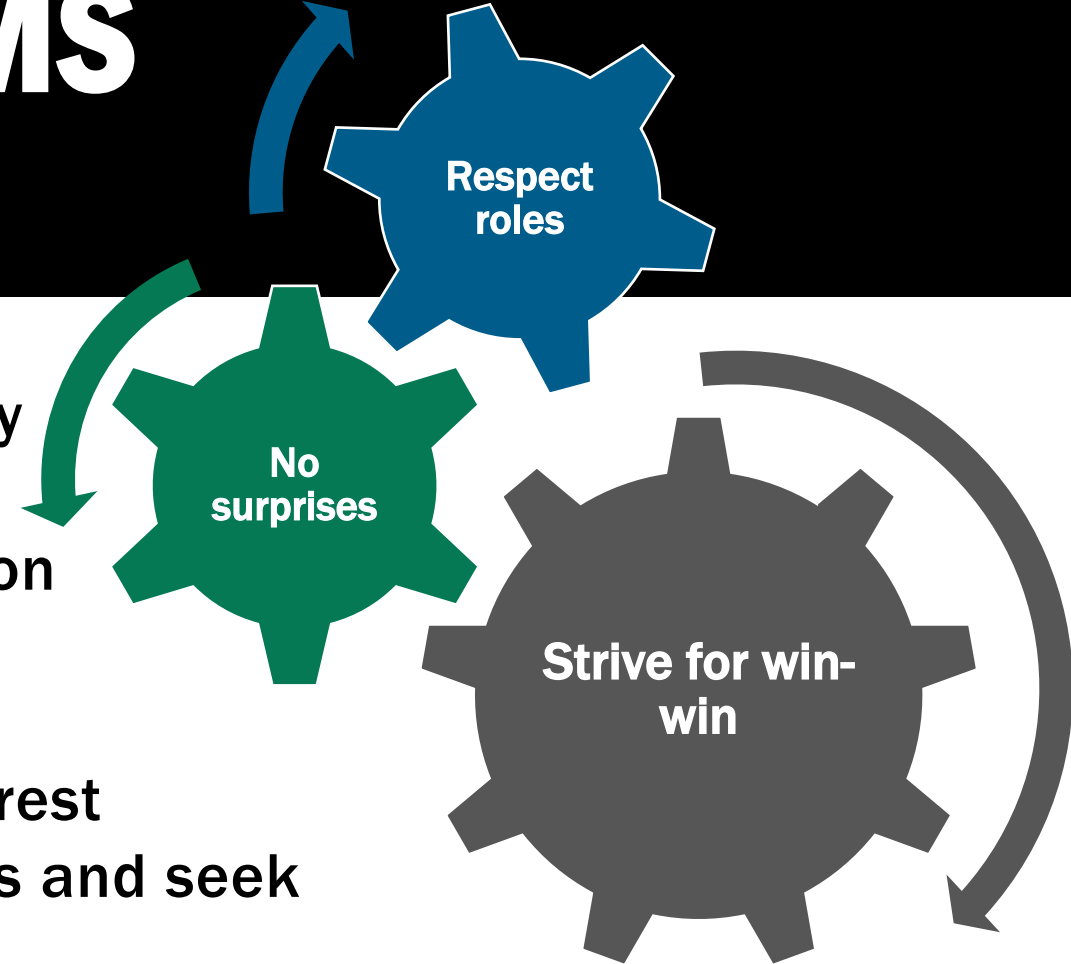
**Ethics
Codes**

**Civility
Policies**

**Group
Norms**

SAMPLE GROUP NORMS

- Work together, modeling teamwork and civility for our community
- Demonstrate honesty & integrity in every action
- Share information & avoid surprises
- Disagree agreeably & professionally
- Work for the common good, not personal interest
- Strive for win-win – work toward for consensus and seek common ground
- Honor “discussion” before “decisions” – reserve formal motions until initial discussions have taken place



STRATEGIES FOR PROMOTING CIVILITY IN PUBLIC MEETINGS

Establish process in advance

Manage expectations with the public by explaining opportunities to engage and the limitations of responses

Make sure your chair understands meeting process and options

Use scripts as appropriate

Take a break when things get heated. Ejection is a last resort

Explore public comment options

TIPS TO PROMOTE CIVILITY IN PUBLIC WORKSHOPS

Be strategic about meeting design & facilitation

Establish facilitation & governance process in advance

Make sure staff and officials understand key roles & responsibilities

Rehearse and draft scripts for challenging topics & scenarios

Define conduct expectations and ground rules for all participants

Understand public comment options, timing, etc.

Remember to consider language access

GENERAL MEETING FACILITATION TIPS

Manage expectations (e.g. explain process, meeting design and timelines)

Outline conduct expectations (e.g. appropriate vs. inappropriate behavior, consequences, etc.)

Formalize/codify ground rules for applause, heckling, etc.

Publicly clarify roles and responsibilities of staff vs. electeds

Assure people they will be allowed to speak; if appropriate, have staff available to meet offline with upset public member(s)

Offer multiple formats for comment (written, verbal, etc.)

Have a clearly defined and rehearsed/scripted plan for dealing with continued disruptive behavior up to and including removal if required.

Take breaks as needed to reset

For Public Workshops: Also consider using an outside facilitator

MANAGING PUBLIC COMMENT

Tips

Set **parameters** for how officials engage during public comment – understand in advance what they can and cannot say

Clearly define how public comment will be managed and state it at the beginning of the meeting

Publicly explain the **transparency** reasons for public comments, especially with regard to what can and cannot be responded to

Be **consistent** with commenter speaking times and applause, etc.

Allow groups to speak as one **using a designated speaker**

Diffuse angry speakers using active listening techniques

WHAT IS THE DEFINITION OF 'DISRUPTIVE BEHAVIOR?'

- Any meeting **willfully interrupted** by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, thus preventing the body from being able to conduct agency business.
- When considering clearing the room, an important point to bear in mind is that mere disruption, including heckling, booing and applauding is **NOT** enough to clear the room. **The meeting must be disrupted by such conduct, AND the disruption must be so pervasive that removal of those creating the disruption is insufficient to regain order.**

City Attorneys Department, League of California Cities

David Fleishman, City Attorney, Pacific Grove

CREATING YOUR ENFORCEMENT PLAN

Plan ahead

Make certain you understand the legal considerations

Coordinate with your **Attorney and Law Enforcement**

Clearly state **consequence** for non-compliance/enforcement

Communicate and discuss the plan with the entire elected body

Communicate the adopted plan with staff

Clearly **define the roles** of staff vs. electeds vs. chair

Understand the role of Law Enforcement and **how/when to engage them**

Develop scripts in advance

IMPLEMENTING YOUR ENFORCEMENT PLAN

How your electeds or council can take action

Don't be afraid to engage when the time comes, but use a scripted plan

State and restate consequences for non-adherence to expected behavior

Ejection is last resort; refer disruptor to on-site staff if appropriate

Utilize Law Enforcement/Security to clear the room

Remove the non-compliant member of the public (*temporarily or remainder of the meeting*)

Take a break if needed

Adjourn if all else fails

Debrief with staff and law enforcement after the meeting

Consistency is Key!

RECALLS

California Elections Code Section 11000 et seq.

Method by which voters can remove an elected official from office

RECALLS

- **General Provisions**
- **Statistics**
- **Process**
- **Election**

2021 Recall Election



Get ready to vote September 14, 2021

What's on the ballot?

There will be two questions to vote on:

1. Do you want to recall the governor?
2. If the governor is recalled, who do you want to replace him?

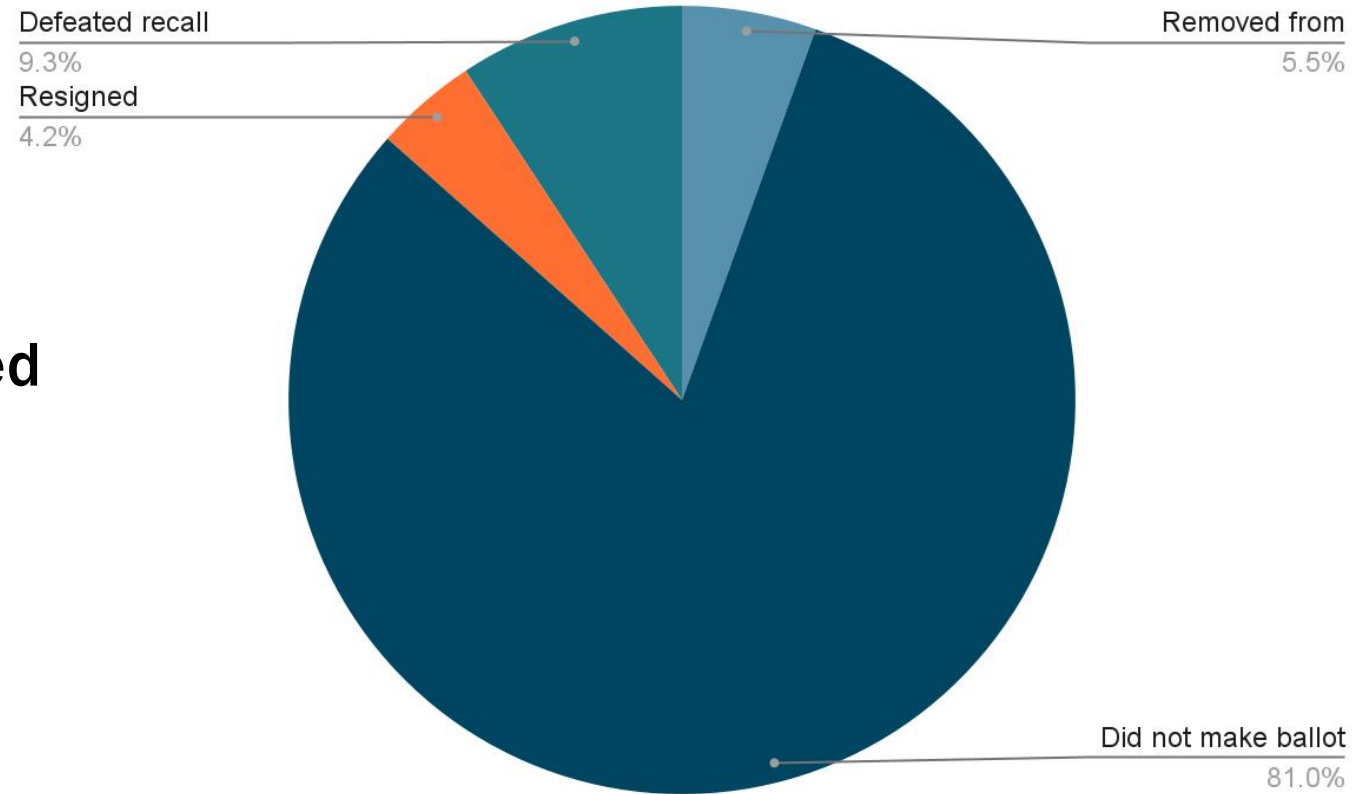
If more than 50% of voters say "no" to the first question, the governor remains in office. If more than 50% of voters say "yes" to the first question, the person who gets the most votes on the second question becomes the governor.

RECALLS – General Provisions

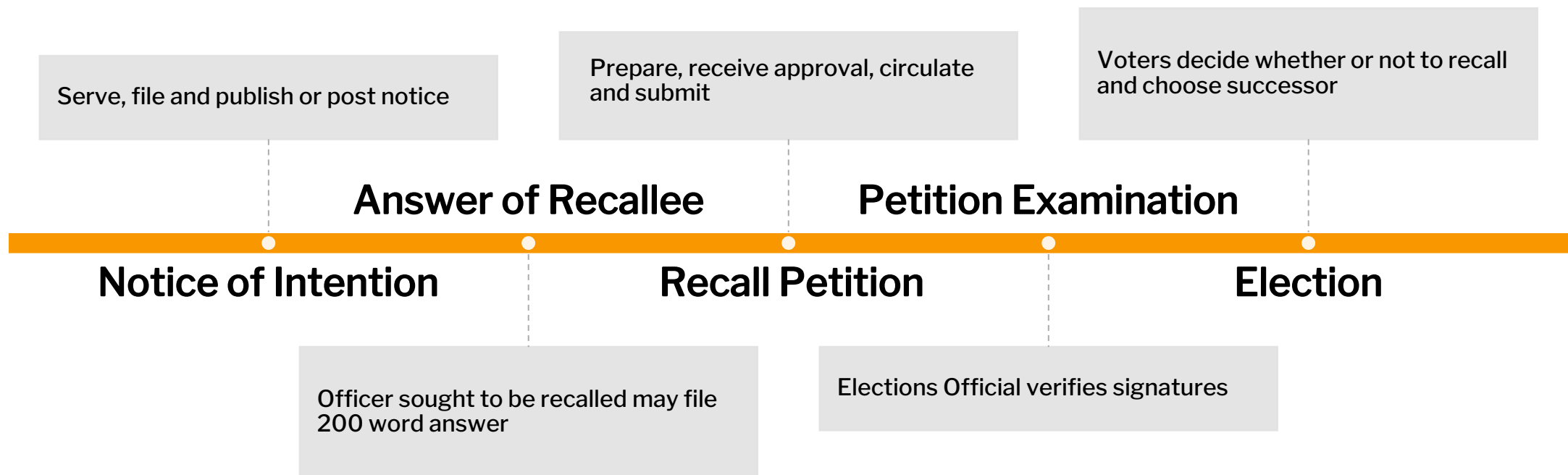
- Who** Proponents initiate recall process
Elections Code (EC) 11000 et seq.
- What** Power of the Voters to remove an elective officer
California Constitution, Article II, Sections 13-19
- When** After serving 90 days and not in the last six months of term
EC 11007
- Why** No specific grounds are required

RECALLS – Statistics

- In 2021 - 545 recall efforts in the US
- School Board Members (237) followed by Council Members (155)
- 131 officials in California



RECALLS – PROCESS



NOTICE OF INTENTION

- Prepare notice in compliance with California law - EC 11020
- Serve officer sought to be recalled and file with Elections Official - EC 11021
- Publish in newspaper - EC 11022
- Cost born by proponent

ANSWER OF RECALLEE

- Officer sought to be recalled may file answer - EC 11023
- No more than 200 words
- Serve a copy on proponents

The grounds asserted for recall aren't true! I stand on my public record. I urge you to view the Council meetings on the City's website and see my record for yourself.

PETITION

- Prepare petition in compliance with State law (SOS format)
EC 11040 - 11043.5
- Receive approval from Elections Official - EC 11042(d)
- Determine signature requirement - EC 11221
- Circulate petition
- Filing Deadline - EC 11220
- Examination by Elections Official - EC 11222

RECALLS - ELECTION

- Governing body calls election - EC 11240
- If body fails to act, County elections official orders election EC 11241
- Election held between 88-125 days from date of order EC 11242
- Recall Election Ballot - EC 11320 et seq.

RECALLS - ELECTION

- **Vote Yes or No on recall - EC 11323**
- **Nomination of candidate to succeed recalled officer - EC 11381**
- **Majority required for recall - EC 11384**
- **Candidate receiving highest votes fills the unexpired term
EC 11385**
- **Election cost is born by City**

INITIATIVES

MUNICIPAL INITIATIVES (EC 9200)

Stages of Petition Process

Inquiry

Preparation

Circulation

Submittal

Verification

Certification

Municipal Initiatives

Initiative - A proposed ordinance submitted to the legislative body *by citizens' petition* submitted to the elections official of the legislative body.

Charter Amendment - A proposed measure to add, amend or repeal provisions of the charter initiated *by citizens' petition* submitted to the elections official of the legislative body.

INITIATIVES – STARTS WITH

File Notice of Intention to be accompanied by: *(EC 9202)*:

1. Written text of initiative
2. Written statement not to exceed 500 words setting forth reasons of proposed petition.
3. Signed by at least 1 but not more than 3 proponents.
4. Acknowledgement of Proponents *(EC 18650)*
5. Filing fee established by legislative body not to exceed \$200

INITIATIVES – BALLOT TITLE & SUMMARY

Elections Official immediately delivers Notice to City Attorney (EC 9203 & 9204)

15 days for City Attorney to prepare and return Ballot Title & Summary (500 words or less)

- **Summary known as “Impartial Statement” and describes the purpose of the measure.**

Elections Official to deliver copy of Title and Summary to Proponents

INITIATIVES - PUBLICATION

Prior to circulation of the petition, Proponents shall (*EC 9205 & 9206*)

Publish Notice of Intention, Ballot Title and Summary of the Proposed Measure (does not have to include the text of the proposed measure)

File proof of publication with Elections Official (*EC 9206*)

Ensure provisions of EC 9206 are met

INITIATIVES – THE PETITION & CIRCULATION!

Proponents may begin circulation after publication or posting of title and summary prepared by City Attorney

No review required of the petition before circulation

Must be filed within 180 days from date of receipt of title and summary from Elections Official

Petition may be circulated in sections

Each section must comply fully with the Code (EC 100, 101, 9201, 9203, 9204, 9207 & 9209)

RECEIPT OF PETITIONS

All sections must be filed at one time with Elections Official during normal business hours (*EC 9208*)

Elections Official shall accept petitions for prima facie check to determine sufficient number of signatures..... (*EC 9210 & 9215*)

- **10%** of the voters of the city of last report of registration by the county elections official to SOS at time notice was published!

RECEIPT OF PETITIONS – DAWN'S BEST PRACTICES

BE PREPARED!

If you consolidate your election, talk with your Registrar of Voters ahead of time to determine:

- How to address omissions & signers outside of jurisdiction
- What to do if Affidavit of Circulator is missing or incomplete.
- What to do with written requests for signature withdrawal from the petition.
- Transition arrangements to ROV for signature verification

RECEIPT OF PETITIONS – DAWN'S BEST PRACTICES

Encourage proponents to get on your calendar to file petitions so you are ready to go!

Remind proponents all sections of petition must be filed at same time.

Ask proponents to arrange petition sections together in batches by total number of signatures. Makes your job easier for prima facie count!

RECEIPT OF PETITIONS – DAWN'S BEST PRACTICES

Have your forms ready ahead of time:

- -Receipt for Petition
- -Raw signature count (petition tally sheet)
- -Certificates of Acceptance or Insufficiency ready to issue following prima facie count

Obtain latest report to SOS re # of registered voters on publication date of the notice of intention (EC 9210)

Practice process with staff/deputize staff assisting with the Prima Facie count

RECEIPT OF PETITIONS – DAWN'S BEST PRACTICES

Pick the room and have it ready

Allow proponents and media to view process

Take your time with prima facie count

Give proponent a copy of GC Section 84305 (Mass Mailing Regulations)

**Review to ensure petition conforms with EC 100, 104, 107, 9203, 9207 9209, 9022) –
talk with your City Attorney if in doubt!**

FILING PETITION (EC 9210)

Two Options based on Prima Facie Check:

- 1. File petition** if signatures equals or is in excess of the minimum number of signatures required; or
- 2. Rejected** - no further action if number of signatures does not equal or exceed minimum number of signatures required.
- 3. If the petition is not accepted for filing**, shall be returned to the proponents

CHECKING SIGNATURES & CERTIFICATION

ROV has **30 working** days to determine validity of signatures

You have options for the signature verification process: (1) check all signatures on the petition; or (2) do a random sampling **of 3% or 500 signatures**, whichever is greater (*EC 9211, 9114 & 9115*)

Based on the outcome of the random selection, this *may* add **an additional 30 working** days to the process

SUFFICIENT SIGNATURES – WHAT’S NEXT (*EC 9114, 9115 9212 & 9215*)

Elections Official to certify to City Council at the next regular meeting.

The City Council may do one of the following:

- 1. Adopt the ordinance without alteration at regular meeting when certification is presented or within 10 days after presented.**
- 2. Submit the ordinance, without changes, to the voters pursuant to EC 1405.**
- 3. Order a report on its effect on municipal operations pursuant to EC 9212 & 9215)**

ORDINANCES/CHARTER AMENDMENTS APPROVED BY VOTERS....WHAT'S NEXT

Ordinances generally take effect ten days following the day the City Council adopts the resolution declaring the results of the election.

The *exception* is if the ordinance specifies the effective date (may also be called “operative” or “enactment” date).

Charter amendments do not take effect until accepted and filed by Secretary of State...remember to file with County Recorder!

RETENTION OF PETITIONS (EC 17200)

Signatures on petitions are NOT subject to review by the public with exception of the Proponents

Petitions retained for 8 months

- After certification of the results of the election or
- After final examination if not submitted to the voters.

KEY TO YOUR SUCCESS!

- **Planning and Good Communications!**
- **Calendar, Calendar, and double check your calendar!**
- **Consult with your City Attorney throughout this process!**
- **Know where to find your resources - Do your Homework!**
- **Never give legal advice**



RESOURCES

ILG RESOURCES

ILG L&G Resources:

- Customized Workshops & Trainings
- Sample Codes of Conduct & Civility Policies
- Good Governance Checklist

ILG Public Engagement Resources:

- TIERS Public Engagement Framework and Training
- Preparing for Successful Public Meetings: Checklist for Before, During and After
- Increasing Outreach – Language Access, Partnering with CBOs, and more

Find out more - www.ca-ilg.org

RECALL RESOURCES

- [Procedures for Recalling State and Local Officials Prepared by the Office of the Secretary of State - Revised 2020](#)
- [Los Angeles County - 2022 A Guide to Recall](#)
- [California Fair Political Practices Commission Frequently Asked Questions: Recall Elections](#)
- California Elections Code
- City Attorney

INITIATIVE RESOURCES

- California Secretary of state – How to Qualify An Initiative & Recall Process at the Local Level
www.sos.ca.gov
- Your County Registrar of Voters - Solano County's Procedures for County, Municipal & District Initiatives & Recall Guide as an example
https://www.solanocounty.com/depts/rov/how_to.asp
- MCA Direct – California Municipal Election Handbook for California City Clerks
<https://www.mcadirect.org/municipal-elections>

THANK YOU!



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