

## RECALL OF LOCAL ELECTION OFFICERS – Summary of Key Points and Timeframes

July 2013

Recalls filed at the County level include:

- County Commissioner
- City, Village or Township Officer
- School Board Member
- Elective District Library Board Member
- Elective Metropolitan District Member

**\*NOTE:** Due to legislation that was enacted in 2012, there are several new requirements that affect the overall timeframes in the recall process. In particular:

- Recall petition language may not be submitted for approval during an officeholder's first and last six months of office;
- Recall petitions may not be circulated while an appeal is pending;
- Signed/circulated recall petitions may not be filed during the first six months or last six months of the officer's term of office, if the term of office is two years or less; or during the first or last year of the officer's term of office, if the term of office is greater than two years;
- Recall petition signatures dated more than 60 days before the filing are invalid.

Translating these timeframes into an overall plan will pose challenges for recall petition sponsors, and for County Clerks that must administer the recall process and recall elections. County Clerks should exercise caution in advising recall petition sponsors on these timeframes and processes. Call the Bureau of Elections (800-292-5973) if you need assistance. The step-by-step flows represented in this document (see Steps 1-4 which begin on page 2) highlight the required timeframes throughout the process. Below is a high-level summary of the relevant timeframes now involved in the major steps of the recall process.

### OVERALL MANDATED RECALL TIMEFRAMES

Recall Process Step	Required Timeframe *
Petition language submitted for approval	<b>NOT</b> allowed during <b>first or last 6 months</b> of term
Clarity/Factual hearing held	Between <b>10 and 20 days</b> after petition language submitted
Appeal of Clarity/Factual Determination	To Circuit Court, within <b>10 days</b> of clarity/factual hearing determination (no circulation during appeal)
Circuit Court – final determination on appeal	Within <b>40 days</b> of appeal
Recall language valid	Up until <b>180 days</b> after approval of language (By County Election Commission or Circuit Court)
Signatures valid	<b>60 days</b>
Recall petition filed (signed/circulated petitions)	Officer with 2-Year Term or less: <b>NOT</b> allowed during <b>first or last 6 months</b> of term Officer with greater than 2-Year Term: <b>NOT</b> allowed during <b>first or last year</b> of term
Determination of Petition's Sufficiency/Insufficiency	<b>35 days</b> from date of filing
Recall Election	At least <b>95 days</b> after recall petition <b>filing</b> AND held on the next regular <b>May or November</b> election date (whichever occurs first)

**\*NOTE:** Be particularly careful when advising sponsors of the recall deadlines involving candidates with longer terms of office. Managing these deadlines is a complicated and confusing process. A sponsor that wishes to recall an officer with a four-year term of office as soon as legally possible (by submitting language for approval at 6 months), runs

risks with respect to the expiration of the approved timeframe for the petition language (180 days, or approximately 6 months), restrictions on filing signed/circulated petitions (must be in office for at least 1 year), and valid timeframes for collecting signatures (signatures must be collected within 60 days of filing signed/circulated petitions).

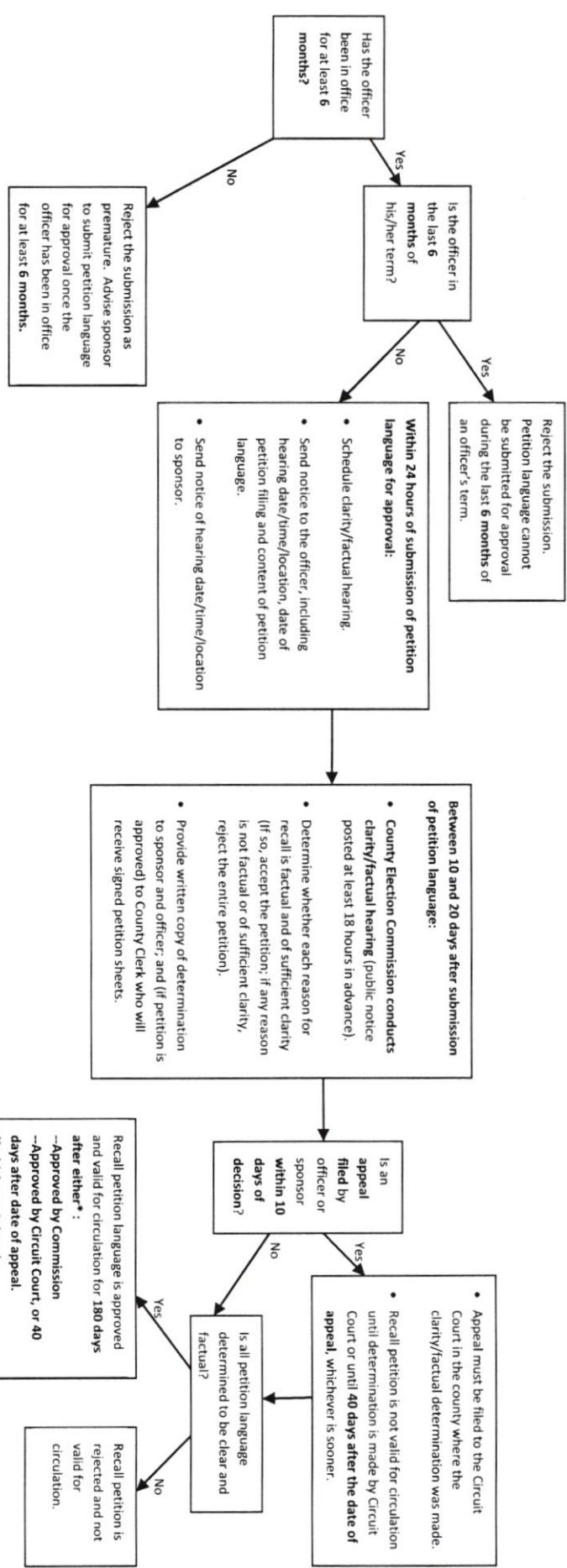
**Step 1: Submission of Recall Petition Language; Conducting the Clarity/Factual Hearing**

\*Petition language is submitted to the County Clerk in the county **where the officer resides**, before the recall petition may be circulated.

\*Petition sponsor must be registered to vote in the electoral district represented by the officer.

\*Petition language (reasons for recall) must be submitted on approved recall petition form (city/township form). This form is used for all recall candidates, including school board members (the heading must identify the office of school board member).

\*Each reason for recall must be factual and clear, and must be based on the officer's conduct during his/her current term of office.



## Step 2: Preparation and Circulation of Recall Petitions

\*If the County Election Commission approves a recall petition for clarity/factuality and the 10-day appeal period has elapsed; OR any appeal to the Circuit Court has concluded (or 40 days has elapsed since the filing of the appeal), the petition sponsors are free to circulate their petition.

\*Signatures on a recall petition dated more than **60 days** before the filing of the petition are **invalid**.

PETITION FORM	CIRCULATING RECALL PETITIONS	SIGNERS OF RECALL PETITIONS	REQUIRED NUMBER OF SIGNATURES:
<ul style="list-style-type: none"> <li>Recall petitions must conform to the specifications prescribed by the Secretary of State.</li> <li>The county clerk is required to supply a blank recall petition form-upon request. Reproductions of these forms must be two-sided.</li> <li>A separate petition must be circulated for each officer who is being recalled.</li> <li>The reasons for the recall printed on the recall petition must be exactly the same as the reasons approved by the County Election Commission (or the Circuit Court, if an appeal was filed).</li> </ul>	<ul style="list-style-type: none"> <li>Recall petitions are circulated within the district represented by the officer whose recall is sought.</li> <li>A circulator of a recall petition does <u>not</u> have to be registered to vote and need not reside in the electoral district.</li> <li>Before a recall petition can be circulated, the circulator must complete the "heading" of each petition sheet by filling in: <ul style="list-style-type: none"> <li>-- The county and city or township where the sheet will be circulated</li> <li>-- The name of the officer whose recall is sought</li> <li>-- The title of the office</li> <li>-- The office district (if appropriate)</li> <li>-- The exact reasons for recall approved by the County Election Commission or Circuit Court.</li> </ul> </li> <li>The sheet may not contain signatures of voters who live outside the city or township specified in the heading.</li> <li>Recall petitions shall not be circulated on a "countywide" petition form.</li> <li>A circulator shall <i>not</i> leave a recall petition unattended in a public place; all signatures must be signed in the presence of the circulator.</li> <li>After gathering the last signature, he/she intends to collect, the circulator must complete, sign and date the "circulator's certificate" on the petition sheet. Circulators must indicate their residence address and city or township of residence on the circulator's certificate. Signatures on a sheet which are dated after the date on the circulator's certificate are not valid.</li> </ul>	<ul style="list-style-type: none"> <li>Signers of recall petitions must be registered to vote in the electoral district of the official whose recall is sought.</li> <li>Each signer must list his or her: <ul style="list-style-type: none"> <li>-- Signature</li> <li>-- Address</li> <li>-- Date of signing</li> </ul> </li> <li>If the recall petition is circulated within a city or school district that crosses county lines, each signer must be instructed to sign on a petition sheet with the name of his or her county and jurisdiction of residence in the heading.</li> <li>All signatures must be signed in the presence of the circulator.</li> <li>A signer is not permitted to sign, date or enter the address for anyone else. For example - an individual may not sign for his or her spouse.</li> <li>A signer is not permitted to use ditto marks for address or date.</li> </ul>	<ul style="list-style-type: none"> <li>The number of signatures needed to trigger a recall election is <b>25%</b> of the votes cast in the <b>officer's district for all candidates for the office of Governor in the last gubernatorial general election.</b></li> <li>Upon written request, the County Clerk is required to supply the minimum number of valid signatures needed on the petition. The figure must be calculated and delivered to the requestor within <b>five days</b> 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.)</li> </ul>

### Step 3: Acceptance and Checking of Recall Petitions

\*After the sponsors of a recall effort have collected more than the required number of signatures on their petition, the petition filing takes place.

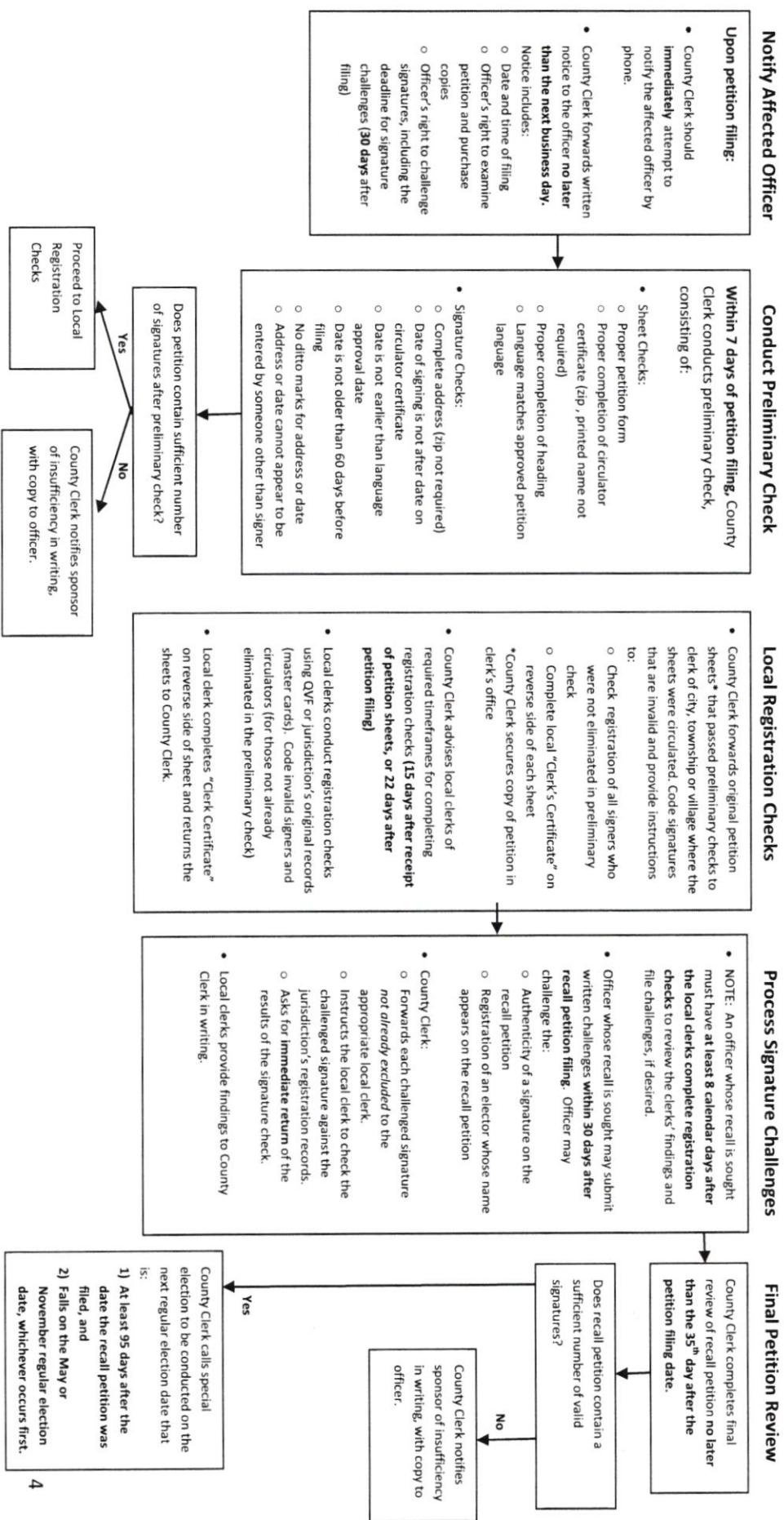
\*Petitions are filed with the County Clerk; if the officer's district encompasses more than one county, the petition is filed with the county with the greatest number of registered voters in the electoral district.

\*The petition must be complete when it is filed; the filer cannot submit additional petition sheets at a later hour or date.

\*Petitions must be filed within 180 days of language approval.

**REMINDER: A recall petition that has been circulated for signatures cannot be filed:**

- 1) During the first six months or last six months of the officer's term of office, if the term of office is **two years or less**
- 2) During the first or last year of the officer's term of office, if the term of office is **greater than two years**



#### **Step 4: The Recall Election**

Legislative changes took effect in late 2012 which essentially changed the concept of a recall election from a two-election process (if the recall was successful) to combining the concepts of a recall election and a special election to fill the possible resulting vacancy. That is, there is now a single recall election to fill the partial (remaining) term of office for the official subject to the recall, with the incumbent automatically made a candidate in the election unless he/she withdraws within **10 days** after the filing of the recall petition. There is one election and the candidate who receives the highest vote total is elected to serve the remainder of the unexpired term. There is no primary.

#### **When is the Recall Election?**

The County Clerk calls the special election to be conducted on the next regular election date that is:

- 1) At least 95 days after the date the recall petition was filed, and
- 2) Falls on the May or November regular election date, whichever occurs first

For example: a recall petition filed on April 1, 2014 which is determined to contain a sufficient number of valid signatures would trigger a November 4, 2014 recall election.

#### **Who are the Candidates?**

<p>The officer whose recall is sought is automatically listed as a candidate in the recall election, unless he/she withdraws <b>within 10 days of the filing of the recall petition</b> (note: <i>not</i> within 10 days of the determination of the recall petition's sufficiency)</p>	<p>If the incumbent withdraws:</p>
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**Partisan office:** Incumbent's political party shall nominate a candidate for office, in accordance with the procedures outlined on the next page.

**Nonpartisan office:** Candidates file a nonpartisan nominating petition containing at least 10% of the required number of signatures for the electoral district (MCL 168.544f or 168.303 [school board]), OR a \$100 filing fee. The filing deadline elapses at 4:00 p.m. on the **10<sup>th</sup> day following the issuance of the call for a recall election.**

**Partisan office:** For partisan offices, candidates are nominated by the appropriate political party unit as described on the next page. The filing deadline elapses at 5:00 p.m. on the **10<sup>th</sup> day following the issuance of the call for a recall election.**

Candidates without political party affiliation may file a qualifying petition with at least 10% of the number of signatures required under MCL 168.544f by 5:00 pm on the **10<sup>th</sup> day after the call for the recall election is issued.**

#### **Non-Incumbent**

**Nonpartisan office:** Candidates file a nonpartisan nominating petition containing at least 10% of the required number of signatures for the electoral district (MCL 168.544f or 168.303 [school board]), OR a \$100 filing fee. The filing deadline elapses at 4:00 p.m. on the **10<sup>th</sup> day following the issuance of the call for a recall election.**

## NOMINATION OF PARTISAN CANDIDATES FOR RECALL ELECTION (OTHER THAN INCUMBENT)

<p><b>COUNTY COMMISSIONER AND DISTRICT OFFICE WITHIN AN ELECTORAL DISTRICT OF A SINGLE COUNTY</b></p> <p>(Example: a citywide office such as <b>Mayor</b> in a city that conducts partisan elections)</p> <p>The political party's county executive committee nominates a candidate for the office.</p>	<p><b>DISTRICT OFFICE WITHIN AN ELECTORAL DISTRICT IN PART OF A SINGLE COUNTY</b></p> <p>(Example: a city office in a city that conducts partisan elections and lies in 2 or more counties)</p> <ul style="list-style-type: none"> <li>• If 3 or more members of the political party's county executive committee reside in the electoral district, those members shall nominate a candidate.</li> <li>• If 2 or fewer members of the political party's county executive committee reside in the electoral district, the political party's entire county executive committee shall nominate a candidate.</li> </ul>	<p><b>DISTRICT OFFICE THAT LIES IN 2 OR MORE COUNTIES</b></p> <p>(Example: an office elected by ward in a city that conducts partisan elections; an elective township office)</p> <p>Members of the political party's several county executive committees residing in those portions of the counties that are in the electoral district shall nominate a candidate.</p>	<p><b>WARD OR TOWNSHIP OFFICE</b></p> <p>(Example: an office elected by ward in a city that conducts partisan elections; an elective township office)</p> <ul style="list-style-type: none"> <li>• If 3 or more members of the political party's county executive committee reside in the ward or township, those members shall nominate a candidate.</li> <li>• If 2 or fewer members of the political party's county executive committee reside in the ward or township, the political party's entire county executive committee shall nominate a candidate.</li> </ul>
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**In what circumstances may the recall election be cancelled?**

- If the officer targeted for recall resigns from office at any point during the canvass of the recall petition, the canvass ceases and no recall election is held. The vacancy is filled in accordance with existing law.
- If the officer targeted for recall resigns from office after the call for a recall election has been issued, the recall election is cancelled. The vacancy is filled in accordance with existing law.

**Who is responsible for the preparation and production of ballots?**

- The County Election Commission of each county where the recall election will be conducted is responsible for the production of the ballots.
- In all cases, 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.

**Canvass and Certification of Recall Election**

- Special recall elections involving a county commissioner or any other local officer are canvassed and certified on the county level.
- Until the certification of the recall election results, the officer whose recall is sought continues to perform the duties of the office.
- The candidate receiving the highest number of votes in the recall election is elected for the remainder of the term.

**Additional Points:** –

- An officer who is recalled shall not be appointed to fill a vacancy in an elective office in the electoral district or governmental unit from which the recall was made, for the duration of the term of office that he or she ordinarily would have served.
- An officer targeted for recall who resigns after a recall petition has been filed shall not be appointed to fill a vacancy in elective office in that electoral district or governmental unit for the duration of the term of office that he or she resigned.
- After the filing of a recall petition that has been circulated AND after conducting a recall election, no further recall petition shall be filed against the same incumbent of that office during the remainder of the unexpired term.