



Recall

Information Packet

Jefferson County Clerk & Recorder

Revised 07/17/15

Jefferson County Clerk & Recorder Elections Division
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This information packet was prepared to serve the electors of Jefferson County as a guide concerning the recall election process. The material in this packet generally describes the procedures required, as a courtesy and convenience for citizens. It is not meant to be a substitute for the laws and rules governing this topic, or the advice of legal counsel. Also, be advised that legal provisions are subject to amendment from time to time, and the most recent versions should be consulted.

Please note that the information provided here is neither exclusive nor all-inclusive. It is the sole and entire responsibility of the persons seeking to initiate a recall election to comply with any and all applicable state and local laws, statutes, ordinances, rules and policies in order to place an initiated ordinance on the ballot.

You may research the state statutes online at the Colorado General Assembly web-page:

Colorado General Assembly Legal search

<http://www.lexisnexis.com/hottopics/colorado/>

There is a training guide for Petition entity representatives and circulators on the Secretary of State's web-site that we recommend you review at the following link:

Circulation of Initiative Petitions

<http://www.sos.state.co.us/pubs/elections/Initiatives/training/contents.html>

While some of the instruction applies to state-wide circulators there is beneficial information for any petition effort that is applicable under local government statute.

If you have questions about the process, please contact the Elections Division of the Jefferson County Clerk and Recorder's Office at 303-271-8111 or elections@votejeffco.com

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STEPS TO INITIATING A RECALL ELECTION

Step 1: Determine if the officers are eligible for recall

All elected officials are subject to recall after holding office for at least six months.

Step 2: Initiate Petition Process

Submit petition format to the Clerk and Recorder in accordance with C.R.S. 1-12-108(4). The Clerk and Recorder will approve or reject the petition as to form within 7 business days. The petition format must be approved prior to printing and circulation. Upon approval of the form of the petition, circulators have 60 days to gather signatures and submit the petitions.

- Carefully review the format requirements for the petitions.
- The Petition must contain a statement of 200 words or less stating the grounds on which the recall is sought. It may not include profane or false statements.
- Petition format requirements and an example are supplied in Appendix B.

Step 3: Petition Format

This format must be submitted to the Clerk and Recorder and approved prior to circulation for signatures. Include the following in your submission:

- File your format as a prototype of the petition as it will be circulated
- Must be bound with at least four staples at the top of each section and contain a light-weight card stock or heavy-weight paper backing
- Margins must be at least 0.5 inches in size to allow for petition processing and verification
- Format text must be in black ink only

GUIDELINES FOR CIRCULATORS AND SIGNERS

Please review all applicable laws and rules for circulators and direct your circulators appropriately. The points below are some general guidelines for circulators to follow but may not be all-inclusive.

TO SIGN A PETITION

- Read the warning at the top of the page.
- To sign a recall petition you must be a registered voter in the district.
 - No person may sign for another.
 - The petition circulator may not assist a signer.
 - If a signer is an elector with disabilities and needs assistance, a third party should provide that assistance. On the petition, immediately following the name of the elector with disabilities, the third party providing assistance shall sign his or her name and address, and state that such assistance was given to the elector.

HOW TO SIGN THE PETITION

- Print clearly.
- A signature line consists of two lines, both of which must be fully completed.
- Use black or blue ink. Do not use ditto marks to provide information on a signature line.
- A signer must use the residence address where he or she resides and is registered to vote.
- Do not use a post office box. Street name and number must be provided.
- For county abbreviations use the first four letters of the county name. i.e., JEFF
- The signer must complete all portions of a signature line.
- A signer must not place a zip code or birth date under "Date of Signing".
- Corrections: If a small correction is made, the signer should initial the change. If a larger correction is required, the signer should **completely** cross out the incorrect information and proceed to use the next two blank lines.

TO CIRCULATE A PETITION

- Read the warning at the top of each page.
- There can only be one circulator for each petition section.
- A petition section may not be left on a table unattended or passed among potential signers if the circulator is not accompanying the petition section.
- The circulator must witness every signature line as it is written.
- Do not take the petition section apart. If the original staples are removed the petition section will not count.
- Make sure that all the required information is complete before a signer leaves your presence.

WHAT TO DO WHEN THE CIRCULATOR HAS FINISHED COLLECTING SIGNATURES

- Every valid signature counts. Signatures on partially completed petition sections may count.
- A petition section must be properly notarized. Take the petition to a notary public, who will then notarize the affidavit. Do not sign or date your affidavit before you appear before the notary.
- No additional signatures may be collected after the affidavit has been notarized.

Step 4: Submit Petitions for Determination of Sufficiency

Upon the completion of circulation, petitioners must submit the petition sections together by the designated deadline. The Clerk and Recorder will have 15 business days to review the petitions for sufficiency.

The following are some reasons why a signature on a petition may be rejected:

- The signature is that of an unregistered person;
- The signer's address or other required information does not match his/her voter registration record;
- The signer did not provide the required information to sign a petition;
- The signature was dated after the circulator's affidavit was completed;

- The signature date is invalid;
- Assistance was provided but no statement of such assistance accompanies the signature or mark;
- The elector's writing is illegible; or
- The elector has already signed the petition (duplicate signature).

The following are some reasons why a petition section may be rejected:

Incomplete or invalid circulator's affidavit

- During the verification process, the circulator's affidavit will be checked for each petition section to ensure validity. A signed, notarized, and dated circulator affidavit must be attached to each petition section.
- Any petition section that lacks a valid and complete notarized affidavit will be rejected.

Incomplete or invalid notary clause

- The notary clause at the end of the affidavit will be checked for each petition section.
- The entire petition section will be rejected if:
 - Required information is missing;
 - The dates on the notary clause and circulator affidavit do not match; or
 - The notary is not a current/valid notary with an active commission on file with the office of the Secretary of State.

Disassembly of a petition section

- A disassembled petition section will be invalid. For example, if the circulator affidavit has been separated from the signature pages, the petition section will be rejected.

Circulator's absence in the event of a protest

- A petition circulator must be available to provide testimony in the event of a protest if the petition is challenged on the grounds of circulator fraud as defined in section 1-40-111(3)(a), C.R.S. If the circulator is not available, the petition section may be rejected.
- However, the petition section will not be rejected if the circulator is absent because he/she:
 - Has died;
 - Has become mentally incompetent; or
 - Has become medically incapacitated and physically unable to testify by any means whatsoever.

A statement of sufficiency or insufficiency shall be issued within 15 business days in accordance with C.R.S. 1-12-108 (8)(c)

Step 5: Protest and Hearing

Any registered elector residing within the district may file a protest within 15 days after a petition is declared sufficient. A copy of the protest will be mailed to the petition proponents and the protester with a notice fixing a time for a hearing. The hearing is to be scheduled not less than 5 nor more than 10 days after such notice is mailed. The Clerk and Recorder serves as the hearing officer.

Step 6: Setting Date of Recall Election

If the officer subject to recall does not resign within 5 days after the recall petition is declared sufficient and the protest period has past, the Clerk and Recorder will set the date for holding the election between 30 and 60 days.

- However, if a general election is to be held within 90 days after the petition is declared sufficient, the recall election will be held as part of that election. Additionally, circulators may wish to time petition submission to allow the recall election to be placed on Coordinated election ballots.
- "Date for holding the election" means the first day on which recall ballots are to be made available to eligible electors at VSPC locations and may be accepted for processing by a designated election official. C.R.S. 1-12-100.5(3.5)(a)(b)

Step 7: Nomination of Successor

Candidates Successor candidate nomination petitions may be circulated beginning the first date on which a protest may be filed and must be filed no later than 15 calendar days before the date of the election. The successor candidate petition must be signed by eligible voters within the district. The number of required signatures varies by the office.

- Successor candidate petitions will be verified within 48 hours.

Step 8: Campaign Finance Requirements

All recall petition proponents must file as an issue committee in accordance with state law at the Secretary of State's office. Information can be found for issue committee requirements at the Secretary of State website: [Issue Committees](http://www.sos.state.co.us/pubs/elections/CampaignFinance/committee/issue.html) (<http://www.sos.state.co.us/pubs/elections/CampaignFinance/committee/issue.html>) Successor candidates must file a candidate affidavit and form a candidate committee, if applicable, in accordance with state law, at the Secretary of State's office.

Step 9: Election and Campaign Costs

The district is required to reimburse the County Clerk for recall election expenses. If a county officer is subject to the recall, Jefferson County pays election costs. If the candidate subject to recall is *not* recalled, he or she must be repaid by the district for actual costs expended challenging the recall election. This amount cannot exceed \$10,000.

Step 10: Stay Informed

Please fill out the optional Proponent Contact Form included in the Attachments section of this Packet and return it to the Elections Division. Please keep your daytime phone number(s) and email address(es) current with the Elections Division.



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Contact Information Form

Once certified for the ballot, the following section will be posted on VoteJeffco.com as contact information for the general public.	
Candidate Name	Or: Recall Committee
Contact Name	
Phone Number	Email Address
Website	Facebook Page
----- Information for the Clerk & Recorders Office Only -----	
Contact Name	Daytime Phone Number
Title	Email Address
Alternate Contact Name	Daytime Phone Number
Title	Email Address

Appendix A

Sample petition formats can be found on the Jefferson County website:

<http://jeffco.us/elections/candidate-and-committee-filings/citizen-initiatives/>

Appendix B

The complete Colorado Revised Statutes can be found on the Colorado Secretary of State's website:

<https://www.sos.state.co.us/pubs/elections/LawsRules/files/Title1.pdf>

COLORADO REVISED STATUTES

* This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) and changes approved by the electorate at the November 2014 election *

TITLE 1. ELECTIONS GENERAL, PRIMARY, RECALL, AND CONGRESSIONAL VACANCY ELECTIONS ARTICLE 12. RECALL AND VACANCIES IN OFFICE

PART 1. RECALL FROM OFFICE

C.R.S. 1-12-100.5 (2014)

1-12-100.5. Definitions

As used in this part 1, and for purposes of article XXI of the state constitution, unless the context otherwise requires:

(1) "Approved as to form" means that the appropriate designated election official has reviewed the blank form of a petition and has approved the form as meeting the standards set forth in this article.

(2) "Circulated" means presented to an elector for the collection of a signature and other information required by this article.

(2.5) "Circulator" means a person who presents to other persons for possible signature a petition for recall as described in this article.

(3) "Committee" means the committee of signers described in [section 1-12-108 \(2\)](#).

(3.5) "Date for holding the election" means the first day on which recall ballots:

(a) Are to be made available to eligible electors at voter service and polling centers pursuant to the election plan approved under [section 1-12-114 \(1\) \(a\)](#); and

(b) May be accepted for processing by a designated election official.

(4) "Elected officer" means any person elected to public office or appointed to fill a vacancy in an elected position of public office.

(5) "Designated election official" means the secretary of state, a county clerk and recorder, or other election official as provided by article XXI of the state constitution.

(6) "Fails to qualify" means not satisfying the constitutional or statutory qualifications for office, whether by reason of age, citizenship, residency, or sufficient number of valid nomination petition signatures required by [section 1-12-117 \(3\)](#).

(7) "Fully adjudicated" means to have been decided by a final judgment by a court of competent jurisdiction and from which there can be no appeal.

(8) "Recall petition entity" means a person, as defined in [section 2-4-401, C.R.S.](#), that provides compensation to a circulator to circulate a recall petition.

HISTORY: Source: L. 2012: Entire section added, [\(HB 12-1293\), ch. 236, p. 1038, § 1](#), effective May 29. L. 2014: IP amended and (2.5), (3.5), (5), (6), (7), and (8) added, [\(SB 14-158\), ch. 170, p. 617, § 2](#), effective May 9.

1-12-101. Elected officers subject to recall

Every elected officer of this state or any political subdivision thereof is subject to recall from office at any time by the eligible electors entitled to vote for a successor to the incumbent. The recall of any state officer shall be governed by the recall of state officers procedure set forth in this article.

HISTORY: Source: L. 92: Entire article R&RE, p. 793, § 15, effective January 1, 1993.

1-12-102. Limitations

(1) No recall petition shall be circulated or filed against any elected officer until the officer has actually held office for at least six months following the last election; except that a recall petition may be filed against any member of the general assembly at any time after the fifth day following the convening and organizing of the general assembly after the election.

(2) After one recall petition and election, no further petition may be filed against the same state or county officer during the term for which the officer was elected, unless the petitioners signing the petition equal fifty percent of the votes cast at the last preceding general election for all of the candidates for the office held by the officer.

(3) After one recall petition and election, no further petition shall be filed against the same nonpartisan officer during the term for which the officer was elected, unless the petitioners signing the petition equal one and one-half times the number of signatures required on the first petition filed against the same officer, until one year has elapsed from the date of the previous recall election.

(4) No recall petition shall be circulated or filed against any elected officer whose term of office will expire within six months.

HISTORY: Source: L. 92: Entire article R&RE, p. 793, § 15, effective January 1, 1993. L. 97: (4) added, p. 1061, § 1, effective May 27.

1-12-103. Petition for recall - statement of grounds

Eligible electors of a political subdivision may initiate the recall of an elected official by signing a petition which demands the election of a successor to the officer named in the petition. The petition shall contain a general statement, consisting of two hundred words or less, stating the ground or grounds on which the recall is sought. The general statement may not include any profane or false statements. The statement is for the information of the electors who are the sole and exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds are not open to review.

HISTORY: Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993. L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1038, § 2](#), effective May 29.

1-12-104. Signatures required for state and county officers

(1) A petition to recall a state or county officer shall be signed by eligible electors equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office which the incumbent sought to be recalled occupies.

(2) If more than one person is required by law to be elected to fill the office to which the person sought to be recalled is an incumbent, then the petition shall be signed by eligible electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office to which the incumbent sought to be recalled was elected, the entire vote being divided by the number of all officers elected to the office at the last preceding general election.

HISTORY: Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993.L. 97: (1) amended, p. 1061, § 2, effective May 27.

1-12-105. Signatures required for school district officers

A petition to recall a school district officer shall be signed by eligible electors of the school district equal in number to at least forty percent of those electors who voted in such district in the last preceding election at which the director to be recalled was elected as indicated by the pollbook or abstract for such election. If no such election was held, the petition shall be signed by eligible electors of the school district equal in number to at least ten percent of those electors residing within the school district on the date that the petition is approved as to form under [section 1-12-108 \(4\)](#). In no case shall the number required for recall be less than ten percent of eligible electors qualified to vote in the most recent biennial school election; except that no more than fifteen thousand signatures is required.

HISTORY: Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993.L. 97: Entire section amended, p. 1061, § 3, effective May 27.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236, p. 1039, § 3](#), effective May 29.

1-12-106. Signatures required for nonpartisan officers

A petition to recall any other nonpartisan officer shall be signed by three hundred eligible electors of the political subdivision who are entitled to vote for a successor to the incumbent sought to be recalled or forty percent of the eligible electors of the political subdivision at the time the petition is approved as to form under [section 1-12-108 \(4\)](#), whichever number is less.

HISTORY: Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993.L. 97: Entire section amended, p. 1062, § 4, effective May 27.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236, p. 1039, § 4](#), effective May 29.

1-12-107. Designated election officials

(1) For state recall elections, the petition shall be filed with the secretary of state who shall review and approve as to form the petition for recall as provided in [section 1-12-108 \(4\)](#), certify the sufficiency of the petition, and notify the governor, who shall set the date for the election. The election shall be conducted by the appropriate county clerk and recorder in the manner provided in this title for state elections.

(2) For county recall elections, the county clerk and recorder shall review and approve as to form the petition as provided in [section 1-12-108 \(4\)](#). The petition shall be filed with the county clerk and recorder who shall certify the sufficiency of the petition and call and conduct the election.

(3) For school board recall elections, the county clerk and recorder shall review and approve as to form the petition as provided in [section 1-12-108 \(4\)](#). The petition shall be filed with the county clerk and recorder of the county in which the school district's administrative offices are located. The clerk and recorder of the county shall certify the sufficiency of the petition and call and conduct the election.

(4) (a) For all other nonpartisan recall elections, the form of the petition shall be filed with the designated election official for the political subdivision of the incumbent sought to be recalled.

(b) (I) If there is no designated election official for the political subdivision of the incumbent sought to be recalled, the petition shall be filed with another officer of that political subdivision.

(II) An officer who receives a petition filed under subparagraph (I) of this paragraph (b) shall immediately notify:

(A) The county clerk and recorder of the county in which the district court file for the political subdivision is located; or

(B) If there is no such district court file, the county clerk and recorder of the county in which the political subdivision has the greatest number of eligible electors at the time the petition is filed.

(III) A county clerk and recorder receiving a petition under subparagraph (II) of this paragraph (b) shall promptly appoint a person to serve as the designated election official. The appointed designated election official shall review and approve as to form the petition as provided in [section 1-12-108 \(4\)](#), certify the sufficiency of the petition, and call and conduct the election.

(5) No designated election official may, by rule, regulation, order, or any other official act, suspend or avoid the requirement that recall elections be held as mail ballot elections.

HISTORY: Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993.L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1039, § 5](#), effective May 29.L. 2014: (5) added, [\(SB 14-158\), ch. 170, p. 618, § 3](#), effective May 9.

1-12-108. Petition requirements - approval as to form - determination of sufficiency - protest - offenses

(1) The petition shall be prepared and circulated pursuant to this part 1.

(1.5) No signature shall be counted that was placed on a petition prior to approval as to form of the petition by the designated election official pursuant to subsection (4) of this section or more than sixty days after the designated election official's approval as to form of the petition.

(2) (a) The petition for the recall of an elected official may consist of one or more sheets, to be fastened together in the form of one petition section, but each side of the sheet that contains signatures of eligible electors shall contain the same heading and each petition section shall contain one sworn affidavit of the circulator. No petition shall contain the name of more than one person proposed to be recalled from office.

(b) The petition for recall may be circulated and signed in sections, and each section shall contain a full and accurate copy of the warning as required by paragraph (b) of subsection (3) of this section, the title in paragraph (c) of subsection (3) of this section, the general statement as described in [section 1-12-103](#), and appropriate columns or spaces for the information required in paragraph (b) of subsection (5) of this section. Each petition section shall designate, by name and address, a committee of up to three persons that shall represent the signers in all matters affecting the petition.

(3) (a) No petition shall be certified as sufficient that does not contain the requisite number of names of eligible electors whose names do not appear on any other petition previously filed for the recall of the same person under the provisions of this article.

(b) At the top of each side of each sheet that contains signatures of eligible electors shall be printed, in bold-faced type, the following:

WARNING: IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same measure or to knowingly sign the petition when not a registered elector.

Do not sign this petition unless you are an eligible elector. To be an eligible elector you must be registered to vote and eligible to vote in (name of political subdivision) elections.

Do not sign this petition unless you have read or have had read to you the proposed recall measure in its entirety and understand its meaning.

(c) Directly following the warning in paragraph (b) of this subsection (3) shall be printed in bold-faced type the following:

Petition to recall (name of person sought to be recalled) from the office of (title of office).

(4) (a) No petition shall be circulated until it has been approved as to form as meeting the requirements of this subsection (4). The official with whom the petitions are to be filed pursuant to [section 1-12-107](#) shall approve or disapprove a petition as to form by the close of the seventh business day following submission of the proposed petition. On the day that the action is taken, the official shall mail written notice of the action taken to the committee and to the person whom the petition seeks to recall.

(b) If the form of the petition is not approved as to form, the designated election official shall provide specific reasons for the disapproval.

(c) Nothing in this section limits the ability of the committee to correct a petition as to form in accordance with the specific reasons set forth pursuant to paragraph (b) of this subsection (4) and to submit the corrected petition for review and approval or disapproval in the same manner as provided in this part 1 for an original submission.

(5) (a) Every petition shall be signed only by eligible electors.

(b) Unless physically unable, all electors shall sign their own signature and shall print their names, respective residence addresses, including the street number and name, the city or town, the county, and the date of signature. Each signature on a petition shall be made, to the extent possible, in black ink.

(c) Any person, except a circulator, may assist an elector who is physically unable to sign the petition in completing the information on the petition as required by law. On the petition immediately following the name of the elector receiving assistance, the person providing assistance shall both sign and state that the assistance was given to the elector.

(6) (a) No person shall circulate a recall petition unless the person is a resident of the state, a citizen of the United States, and at least eighteen years of age.

(b) To each petition section must be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section, which includes the information and statements required for initiative or referendum petitions under [section 1-40-111](#).

(c) The designated election official shall not accept for filing any section of a petition that does not have attached to it the notarized affidavit required by this section. Any signature added to a section of a petition after the notarized affidavit has been executed is invalid.

(7) (Deleted by amendment, L. 97, p. 1062, § 5, effective May 27, 1997.)

(7.5) The petition may be filed at any time during the sixty-day period after the designated election official's approval as to form of the petition as specified in this section. The committee shall file all sections of a petition simultaneously, and any section of a petition submitted after the petition is filed is invalid and has no force or effect.

(8) (a) Promptly after the petition has been filed, the designated election official for the political subdivision shall review all petition information and verify the information against the registration records, and, where applicable, the county assessor's records. The secretary of state shall establish guidelines for verifying petition entries. Within twenty-four hours after the petition is delivered, the designated election official shall notify the incumbent of the delivery. Following verification of the petition by the designated election official, the designated election official shall make a copy of the petition available to the incumbent sought to be recalled.

(b) Any disassembly of a section of the petition prior to filing that has the effect of separating the affidavit from the signatures renders that section of the petition invalid and of no force and effect.

(c) (I) After review, and no later than fifteen business days after the initial filing of the petition, the designated election official shall notify the committee and the incumbent of the number of valid signatures and whether the petition appears to be sufficient or insufficient.

(II) Upon determining that the petition is sufficient and after the time for protest has passed and any protests duly raised have been fully adjudicated, the designated election official shall, within twenty-four hours, submit the certificate of sufficiency to the governor or designated election official, as appropriate, who shall set a date for holding the election in accordance with [section 1-12-111](#). If the election is a coordinated election, the secretary of state shall notify the designated election official of the coordinated election. The designated election official of the coordinated election shall post the certificate to his or her official web site, or, if there is no official web site, post the certificate in accordance with normal practices reasonably calculated to provide public notice, by 12 noon on the day after the day on which he or she issues the sufficiency determination.

(II.5) If the petition is determined to be insufficient, it may be withdrawn and may, within fifteen days after the date on which the petition was verified as insufficient, be amended and refiled as an original petition. A petition for recall may be amended no more than one time to collect additional signatures or cure circulator affidavits after a designated election official issues a determination of insufficiency under this subsection (8).

(III) If the petition is verified as insufficient, the designated election official shall provide the specific reasons for the determination to the committee. The determination may be appealed by the committee in the manner provided in [section 1-1-113](#) to the district court in the county in which the petition was filed. No person other than those on the committee have standing to appeal a determination that the petition is insufficient.

(9) (a) (I) A recall petition that has been verified by the designated election official shall be held to be sufficient unless a protest in writing under oath is filed in the office of the designated election official by an eligible elector within fifteen days after the designated election official has determined the sufficiency of the petition under paragraph (c) of subsection (8) of this section.

(II) The protest shall set forth specific grounds for the protest. Grounds include failure of any portion of a petition or circulator affidavit to meet the requirements of this article or any conduct on the part of petition circulators that substantially misleads persons signing the petition. The designated election official shall forthwith mail a copy of the protest to the committee, together with a notice fixing a time for hearing the protest not less than five nor more than ten days after the notice is mailed.

(III) Every hearing shall be before the designated election official with whom the protest is filed or a designee of the designated election official appointed as the hearing officer or before a district judge sitting in that county if the designated election official is the subject of the recall. The testimony in every hearing shall be under oath. The hearing shall be summary and not subject to delay and shall be concluded within thirty days after the protest is filed with the designated election official, and the result shall be forthwith certified to the committee.

(b) The party filing a protest has the burden of sustaining the protest by a preponderance of the evidence. The decision upon matters of substance is open to review, if prompt application is made, as provided in [section 1-1-113](#). The remedy in all cases shall be summary, and the decision of any court having jurisdiction shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding in a summary way.

(c) Repealed.

(d) (I) Any signer may request that his or her name be stricken from the petition at any time prior to when the petition is deemed sufficient and the time for protest has passed by filing with the designated election official a written request that his or her signature be stricken and delivering a copy of the request to at least one member of the committee. If the request is delivered to the member of the committee or the designated election official through the United States mail, it shall be deemed delivered to the committee or the designated election official on the date shown by the cancellation mark on the envelope containing the request received by the member of the committee or the designated election official. If the request is delivered to the member of the committee or the designated election official in any other manner, it shall be deemed delivered to the committee or the designated election official on the date of delivery and stamped receipt by the designated election official.

(II) If the designated election official receives a written request filed in accordance with this paragraph (d) after the petition is filed but before the petition is deemed sufficient and the time for protest has passed, the election official shall strike the signature of the signer who filed the request. If the election official receives such a written request before the petition is filed, the election official shall strike the signature of the signer who filed the request promptly upon the filing of the petition.

(10) Any person who willfully destroys, defaces, mutilates, or suppresses a petition, or who willfully neglects to file or delays delivery of a petition, or who conceals or removes a petition from the possession of the person authorized by law to have custody of it, or who aids, counsels, procures, or assists any person in doing any of the above acts is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in [section 1-13-111](#).

HISTORY: Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993.L. 93: Entire section amended, p. 1435, § 119, effective July 1.L. 95: Entire section amended, p. 845, § 72, effective July 1.L. 97: (4), (7), (8)(c), (9)(a), and (9)(c) amended and (7.5) added, p. 1062, § 5, effective May 27.L. 99: (9)(c) amended and (9)(d) added, p. 95, § 1, effective September 1.L. 2001: (2)(a) amended, p. 1004, § 14, effective August 8.L. 2002: (7.5) amended, p. 1640, § 32, effective June 7. L. 2007: (6)(a) and (6)(b) amended, p. 1981, § 32, effective August 3.L. 2012: (1), (2), (3)(a), (3)(b), (4), (5)(c), (6)(b), (6)(c), (7.5), (8), (9)(a), (9)(c), and (9)(d)(I) amended and (1.5)

added, [\(HB 12-1293\), ch. 236, p. 1040, § 6](#), effective May 29.L. 2014: (6)(b) and (8)(c)(II) amended, (8)(c)(II.5) added, and (9)(c) repealed, [\(SB 14-158\), ch. 170, p. 618, § 4](#), effective May 9.

1-12-108.5. Applicability of laws pertaining to initiative and referendum petitions and circulators

[Sections 1-40-111](#) to [1-40-113](#) apply to recall elections conducted under this article. Nothing in this section permits the application to recall elections, nor the enforcement, of any provision of law held to be unconstitutional or otherwise declared invalid or enjoined by a court of law.

HISTORY: Source: L. 2014: Entire section added, [\(SB 14-158\), ch. 170, p. 619, § 5](#), effective May 9.

1-12-109. Resignation

If an officer whose recall is sought offers a resignation, it shall be accepted and the vacancy caused by the resignation shall be filled as provided by law. The person appointed to fill the vacancy caused by the resignation shall hold the office only until the person elected at the recall election is qualified; except that, if the recall election is canceled in accordance with [section 1-12-110 \(1\)](#), the person appointed to fill the vacancy shall hold the office until it is filled at the next regularly scheduled election for that office.

HISTORY: Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993.L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1044, § 7](#), effective May 29.

1-12-110. Call for election - cancellation of recall election

(1) If the officer whose recall is sought does not resign within five days after the sufficiency of the recall petition has been certified by the designated election official and the time for protest has passed, the designated election official shall call the election and set the election date as required by [section 1-12-111](#); except that, if the officer whose recall is sought resigns at any time prior to the deadline to submit a petition as a successor candidate in accordance with [section 1-12-117](#), the recall election shall be canceled.

(2) If the officer whose recall is sought resigns at any time after the deadline to submit a petition as a successor candidate, the recall election shall be called and held notwithstanding the resignation.

HISTORY: Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993.L. 95: (1) amended, p. 849, § 73, effective July 1.L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1044, § 8](#), effective May 29.

1-12-111. Setting date of recall election

If the recall petition is held to be sufficient under [section 1-12-108 \(8\) \(c\)](#) and after the time for protest has passed and any such protest has been fully adjudicated, the designated election official or governor, as appropriate, without delay, shall set a date for holding the election not less than thirty nor more than sixty days after the petition has been filed and thus deemed sufficient by the designated election official and either the time for protest has passed or the time for such protest to be fully adjudicated has passed; however, if a general election is to be held within ninety days after the petition has been deemed sufficient and the time for protest has passed and the time for such protest to be fully adjudicated has passed, the recall election must be held as a part of that election.

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993.L. 97: Entire section amended, p. 1063, § 6, effective May 27.L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1044, § 9](#), effective May 29.L. 2014: Entire section amended, [\(SB 14-158\), ch. 170, p. 619, § 6](#), effective May 9.

1-12-111.5. Nonpartisan recall mail ballot plan

(1) If a nonpartisan recall election is to be conducted by mail ballot, the designated election official shall submit a written mail ballot plan to the secretary of state in accordance with [section 1-7.5-105](#) no later than five calendar days after calling the election.

(2) The secretary of state shall approve or disapprove a recall mail ballot plan within five calendar days after receiving the plan and shall provide written notice to the designated election official.

HISTORY: Source: L. 2012: Entire section added, [\(HB 12-1293\), ch. 236, p. 1045, § 10](#), effective May 29.

1-12-111.7. Recall election notice - publication

(1) For a recall election of a state officer, the governor shall publish notice of the recall election in the newspaper with the largest circulation in the state, and the secretary of state shall publish notice of the recall election on its web site.

(2) For a recall election for an officer other than a state officer, the designated election official shall publish notice of the recall election in a newspaper of general circulation in accordance with [section 1-5-205](#).

HISTORY: Source: L. 2012: Entire section added, [\(HB 12-1293\), ch. 236, p. 1045, § 11](#), effective May 29.

1-12-112. Ballots - statement included

(1) In addition to all other requirements of law, the official ballot shall contain the statement described in [section 1-12-103](#) stating the grounds for demanding the officer's recall. The officer sought to be recalled may submit to the designated election official a statement of three hundred words or fewer justifying the officer's course of conduct. The officer shall not include any profane or false statements in the statement of justification. The officer shall submit the statement no later than ten business days after the petition has been deemed sufficient and the time for protest has passed. The official ballot shall contain the statement of justification if submitted pursuant to this subsection (1).

(2) Ballots for the election of a successor to the officer sought to be recalled shall contain the candidates' names which shall be placed on the ballot by lot, regardless of the method of nomination.

(3) The official ballot for the election of a successor to the officer sought to be recalled shall contain a blank space in which the elector may write the name of a write-in candidate who has timely filed an affidavit of intent in accordance with [section 1-12-115](#).

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993.L. 97: (1) amended, p. 1063, § 7, effective May 27.L. 2012: (1) amended and (3) added, [\(HB 12-1293\), ch. 236, p. 1045, § 12](#), effective May 29.

1-12-113. Conduct and timing of recall election

(1) Except as modified by this article, the recall election and election of a successor shall be conducted according to articles 1 to 13 of this title.

(2) Except as otherwise provided in this part 1, for a recall election, all events in the uniform election code that are to be completed by the secretary of state, designated election official, or coordinated election official on or before the forty-fifth day prior to the election shall be completed no later than the forty-second day prior to the recall election.

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993.L. 2012: Entire section amended, [\(HB 12-1293\), ch. 236, p. 1045, § 13](#), effective May 29.

1-12-114. Mail ballots - plan required - voter service and polling centers - number required - definition

(1) (a) Notwithstanding [section 1-7.5-107 \(1\)](#), as soon as practicable after the date that the designated election official certifies the recall question to the ballot under [section 1-12-108 \(8\) \(c\) \(II\)](#), the county clerk and recorder or designated election official administering a recall election shall submit to the secretary of state, for approval within twenty-four hours after receipt, a proposed mail ballot election plan, including the manner in and date by which the mail ballot transmission deadline set forth in subsection (2) of this section will be met. If the secretary of state does not provide written notice of approval or disapproval of the plan within twenty-four hours, the plan is deemed approved.

(b) The secretary of state may disapprove a mail ballot plan submitted under paragraph (a) of this subsection (1) using only the same standards used to evaluate and approve of mail ballot plans transmitted under [section 1-7.5-105](#).

(2) Notwithstanding any provision of this code to the contrary:

(a) The designated election official conducting the recall election shall designate the office of the county clerk and recorder or other suitable location to function as a voter service and polling center from the twenty-second day prior to the final day of voting in such election through that final day of voting; and

(b) Not later than the fifteenth day before the last day on which voted mail ballots may be returned by electors other than covered voters under article 8.3 of this title, the designated election official shall mail ballots to eligible electors in accordance with the mail ballot plan developed pursuant to subsection (1) of this section.

(3) (a) There must be one voter service and polling center for each thirty thousand active registered electors in the district of the incumbent sought to be recalled; except that any such district must have at least one voter service and polling center, and each district that spans more than one county must operate one voter service and polling center within the boundaries of each county. Except for the voter service and polling center required under and open in accordance with paragraph (a) of subsection (2) of this section, which voter service and polling center counts as the first voter service and polling center required to be open under subsection (2) of this section, each additional voter service and polling center must be open from the eighth day prior to the final day of voting in the recall election through that final day.

(b) When a recall election is combined with a general election pursuant to article XXI of the state constitution and [section 1-12-111](#), the number and days of operation of voter service and polling centers and the manner of voting for the recall as part of said general election are the same as those prescribed under [section 1-5-102.9](#), except that one voter service and polling center must be open in accordance with the time established in paragraph (a) of subsection (2) of this section.

(4) As used in this section, and for purposes of article XXI of the state constitution, "part of said general election" means the inclusion of the questions of both the recall of an incumbent and the election of the incumbent's successor on mail ballots that are sent by mail, available at voter service and polling centers, or otherwise delivered to an elector as permitted by law, from the date for holding the election through the last day of voting in a general election pursuant to [section 1-4-201](#). Notwithstanding this definition, to maximize participation of voters covered by the federal "Uniformed and Overseas Citizens Absentee Voting Act", 42 U.S.C. sec. 1973ff et seq., all candidate races, ballot issues, and ballot questions that a covered voter is eligible to vote on shall be included on the ballots required to be sent pursuant to that act, and recall-related ballot questions shall be sent separately on ballots that adhere to the deadlines set forth in this section.

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. L. 95: Entire section amended, p. 849, § 74, effective July 1. L. 2007: Entire section amended, p. 1796, § 64, effective June 1. L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236, p. 1046, § 14](#), effective May

29.L. 2013: Entire section repealed, ([HB 13-1303](#)), [ch. 185, p. 752, § 138](#), effective May 10.L. 2014: Entire section RCRE, ([SB 14-158](#)), [ch. 170, p. 619, § 7](#), effective May 9.

1-12-115. Write-in candidates

No write-in vote for any office shall be counted unless an affidavit of intent has been filed indicating that the person for whom the write-in vote is made desires the office and is legally qualified to assume the duties of the office if elected. The affidavit of intent shall be filed with the designated election official no later than fifteen calendar days before the recall election date.

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993.L. 95: Entire section amended, p. 849, § 75, effective July 1.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236, p. 1046, § 15](#), effective May 29.

1-12-116. Sufficiency of the recall

If a majority of those voting on the question of the recall of any incumbent from office vote "no", the incumbent shall continue in office; if a majority vote "yes", the incumbent shall be removed from office upon the qualification of the successor.

HISTORY: Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993.

1-12-117. Nomination of successor - ballot certification

(1) For partisan elections, a candidate to succeed the officer sought to be recalled shall meet the qualifications of a party candidate or an unaffiliated candidate as provided in part 8 of article 4 of this title and shall be nominated by a political party petition or an unaffiliated petition as provided in part 9 of article 4 of this title. Nomination petitions may be circulated beginning the first date on which a protest may be filed and shall be filed no later than fifteen calendar days prior to the date for holding the election as provided in [section 1-12-111](#).

(2) For nonpartisan elections, nomination petitions for candidates whose names are to appear on the ballot may be circulated beginning the first date on which a protest may be filed and shall be filed no later than fifteen calendar days prior to the date for holding the election as provided in [section 1-12-111](#).

(3) (a) Every nomination petition shall be signed by the number of eligible electors required for the office in part 8 of article 4 of this title or as otherwise provided by law.

(b) (I) The designated election official shall verify successor candidate petitions within forty-eight hours after the deadline to file such petitions as set forth in subsections (1) and (2) of this section.

(II) The designated election official shall certify the ballot content as soon as possible, but not later than two business days after the date upon which the verification of successor candidate petitions is required pursuant to subparagraph (I) of this paragraph (b).

(4) The officer who was sought to be recalled is not eligible as a candidate in the election to fill any vacancy resulting from the recall election.

HISTORY: Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993.L. 94: Entire section amended, p. 1179, § 71, effective July 1.L. 95: Entire section amended, pp. 849, 862, § § 76, 123, effective July 1.L. 97: Entire section amended, p. 1064, § 8, effective May 27.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236 p. 1046, § 16](#), effective May 29.L. 2014: (1), (2), and (3) amended, ([SB 14-158](#)), [ch. 170, p. 621, § 8](#), effective May 9.

1-12-118. Election of successor

(1) The election of a successor is held at the same time as the recall election. The names of those persons nominated as candidates to succeed the person sought to be recalled, except write-in

candidates, shall appear on the ballot. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for office.

(2) (Deleted by amendment, L. 95, p. 850, § 77, effective July 1, 1995.)

HISTORY: Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993.L. 95: Entire section amended, p. 850, § 77, effective July 1.L. 2012: (1) amended, ([HB 12-1293](#)), [ch. 236](#), [p. 1047](#), [§ 17](#), effective May 29.L. 2014: (1) amended, ([SB 14-158](#)), [ch. 170](#), [p. 621](#), [§ 9](#), effective May 9.

1-12-118.5. Postelection protest of successor candidate qualification - procedure

(1) (a) Within seventy-two hours after certification of results of a recall election conducted under this article, any elector who is registered in a political subdivision represented by an official subject to recall may file a protest using the procedures in [section 1-1-113](#) alleging that the successor candidate who received the highest number of votes fails to qualify for the office. The protest must be filed in the district court in the county in which the petition determination was issued.

(b) Any protest filed under paragraph (a) of this subsection (1) takes precedence over all other nonemergency civil matters before the district court.

(2) If the court determines, pursuant to a protest filed under subsection (1) of this section, that the successor candidate against whom the protest is made fails to qualify, that individual may not take office. In such case, the office is deemed vacant and shall be filled according to law, including [section 2 \(3\) of article V of the state constitution](#) and part 2 of this article. The officer recalled in the recall election at which the unqualified successor was elected is ineligible to fill the vacancy.

HISTORY: Source: L. 2014: Entire section added, ([SB 14-158](#)), [ch. 170](#), [p. 622](#), [§ 10](#), effective May 9.

1-12-119. Canvass of votes - notification of results

(1) For the recall of a partisan officer, the canvass board shall be composed of one representative from each major political party and the county clerk and recorder.

(2) For the recall of a nonpartisan officer, the canvass board shall be composed of the designated election official, one member of the governing body, and one eligible elector of the political subdivision.

(3) The canvass board shall complete and certify the abstract of votes in accordance with article 10 of this title.

(4) If the majority of those voting on the recall question voted "yes", upon receipt of the certified abstract of votes cast, the designated election official shall issue a certificate of election to the successor candidate who received the highest number of votes. A copy of the certificate shall be transmitted by the secretary of state to the appropriate house of the general assembly for recall elections concerning the general assembly and to the governor for the recall of all other elections of state officers. For all other recall elections, a copy of the certificate shall be transmitted to the governing body of the political subdivision. The candidate who received the highest number of votes shall be sworn in and shall assume the duties of the office upon certification of the election results.

(5) If less than a majority of those voting on the recall question voted "yes", upon receipt of the certified abstract of votes cast, the designated election official shall notify in writing the incumbent, each candidate for the office, the committee, and the governing body of the incumbent.

HISTORY: Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993.L. 95: (3) and

(4) amended, p. 850, § 78, effective July 1.L. 99: Entire section amended, p. 491, § 22, effective July 1.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236, p. 1047, § 18](#), effective May 29.

1-12-120. Cost of recall election

(1) If at any recall election for a state office the incumbent whose recall is sought is not recalled, the incumbent shall be repaid from the state treasury any money authorized by this article which the incumbent actually expended as an expense of the recall election. In no event shall the sum repaid be greater than an amount equal to ten cents per voter. The general assembly shall provide an appropriation for state recall elections.

(2) If at any recall election for a county or local government office the incumbent whose recall is sought is not recalled, the governing body shall authorize a resolution for repayment from the general fund of the political subdivision any money authorized to be repaid to the incumbent by this article which the incumbent actually expended as an expense of the election. In no event shall the sum repaid exceed forty cents per eligible elector as defined in [section 1-1-104 \(16\)](#), subject to a maximum repayment of ten thousand dollars.

(3) Authorized expenses shall include, but are not limited to, moneys spent in challenging the sufficiency of the recall petition and in presenting to the electors the official position of the incumbent, including campaign literature, advertising, and maintaining campaign headquarters.

(4) Unauthorized expenses shall include, but are not limited to: Moneys spent on challenges and court actions not pertaining to the sufficiency of the recall petition; personal expenses for meals; lodging and mileage for the incumbent; costs of maintaining a campaign staff and associated expenses; reimbursement for expenses incurred by a campaign committee which has solicited contributions; reimbursement of any kind for employees in the incumbent's office; and all expenses incurred prior to the filing of the recall petition.

(5) The incumbent shall file a complete and detailed request for reimbursement within sixty days after the date of the recall election with the governing body of the political subdivision holding the recall election, who shall then review the reimbursement request for appropriateness under subsection (2) of this section and shall refer the request, with recommendations, to the general assembly at its next general session for state recall elections or to the treasurer of the governing body for all other elections within thirty days after receipt of the request for reimbursement.

HISTORY: Source: L. 92: Entire article R&RE, p. 798, § 15, effective January 1, 1993.L. 97: (2) amended, p. 1064, § 9, effective May 27.

1-12-120.5. Reimbursement for recall election expenses

A political subdivision shall reimburse the office of the county clerk and recorder for reasonable expenses incurred by the county clerk and recorder in performing duties relating to the recall of an incumbent of the political subdivision under this part 1.

HISTORY: Source: L. 2012: Entire section added, ([HB 12-1293](#)), [ch. 236, p. 1048, § 19](#), effective May 29.

1-12-121. Special provisions

(1) If the governor is sought to be recalled under this article by recall petition filed in the office of the secretary of state, the duties imposed upon the governor by this article and article XXI of the state constitution as to that recall petition shall be performed by the lieutenant governor. If the secretary of state is sought to be recalled under this article by recall petition filed in the office of the secretary of state, the duties imposed upon the secretary of state by this article and article XXI of the state constitution as to that recall petition shall be performed by the state auditor.

(2) If recall is sought of any other elected or appointed officer who is charged with responsibilities

under this article, the governing body shall immediately appoint another person to perform those duties.

HISTORY: Source: L. 92: Entire article R&RE, p. 799, § 15, effective January 1, 1993.L. 2012: Entire section amended, ([HB 12-1293](#)), [ch. 236](#), [p. 1048](#), [§ 20](#), effective May 29.

1-12-122. Recalls subject to "Fair Campaign Practices Act"

Recall elections are subject to the appropriate sections of article 45 of this title.

HISTORY: Source: L. 95: Entire section added, p. 850, § 79, effective July 1.

1-12-123. Conflicts with constitutional requirements for recall of state officers or other elections laws

(1) To the extent that this part 1 concerning the recall of state officers conflicts with article XXI of the state constitution, article XXI of the state constitution controls.

(2) To the extent that this part 1 conflicts with other provisions of this code, this part 1 controls.

HISTORY: Source: L. 97: Entire section added, p. 1064, § 10, effective May 27.L. 2014: Entire section amended, ([SB 14-158](#)), [ch. 170](#), [p. 622](#), [§ 11](#), effective May 9.

TITLE 1. ELECTIONS INITIATIVE AND REFERENDUM
ARTICLE 40.INITIATIVE AND REFERENDUM

C.R.S. 1-40-111 (2014)

1-40-111. Signatures - affidavits - notarization - list of circulators and notaries

(1) Any initiative or referendum petition shall be signed only by registered electors who are eligible to vote on the measure. Each registered elector shall sign his or her own signature and shall print his or her name, the address at which he or she resides, including the street number and name, the city and town, the county, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in ink. In the event a registered elector is physically disabled or is illiterate and wishes to sign the petition, the elector shall sign or make his or her mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required by this subsection (1). The person providing assistance shall sign his or her name and address and shall state that such assistance was given to the disabled or illiterate elector.

(2) (a) To each petition section shall be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section, which shall include his or her printed name, the address at which he or she resides, including the street name and number, the city or town, the county, and the date he or she signed the affidavit; that he or she has read and understands the laws governing the circulation of petitions; that he or she was a resident of the state, a citizen of the United States, and at least eighteen years of age at the time the section of the petition was circulated and signed by the listed electors; that he or she circulated the section of the petition; that each signature thereon was affixed in the circulator's presence; that each signature thereon is the signature of the person whose name it purports to be; that to the best of the circulator's knowledge and belief each of the persons signing the petition section was, at the time of signing, a registered elector; that he or she has not paid or will not in the future pay and that he or she believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition; that he or she understands that he or she can be prosecuted for violating the laws governing the circulation of petitions, including the requirement that a circulator truthfully completed the affidavit and that each signature thereon

was affixed in the circulator's presence; and that he or she understands that failing to make himself or herself available to be deposed and to provide testimony in the event of a protest shall invalidate the petition section if it is challenged on the grounds of circulator fraud.

(b) (I) A notary public shall not notarize an affidavit required pursuant to paragraph (a) of this subsection (2), unless:

(A) The circulator is in the physical presence of the notary public;

(B) The circulator has dated the affidavit and fully and accurately completed all of the personal information on the affidavit required pursuant to paragraph (a) of this subsection (2); and

(C) The circulator presents a form of identification, as such term is defined in [section 1-1-104 \(19.5\)](#). A notary public shall specify the form of identification presented to him or her on a blank line, which shall be part of the affidavit form.

(II) An affidavit that is notarized in violation of any provision of subparagraph (I) of this paragraph (b) shall be invalid.

(III) If the date signed by a circulator on an affidavit required pursuant to paragraph (a) of this subsection (2) is different from the date signed by the notary public, the affidavit shall be invalid. If, notwithstanding sub-subparagraph (B) of subparagraph (I) of this paragraph (b), a notary public notarizes an affidavit that has not been dated by the circulator, the notarization date shall not cure the circulator's failure to sign the affidavit and the affidavit shall be invalid.

(c) The secretary of state shall reject any section of a petition that does not have attached thereto a valid notarized affidavit that complies with all of the requirements set forth in paragraphs (a) and (b) of this subsection (2). Any signature added to a section of a petition after the affidavit has been executed shall be invalid.

(3) (a) As part of any court proceeding or hearing conducted by the secretary of state related to a protest of all or part of a petition section, the circulator of such petition section shall be required to make himself or herself available to be deposed and to testify in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure. Except as set forth in paragraph (b) of this subsection (3), the petition section that is the subject of the protest shall be invalid if a circulator fails to comply with the requirement set forth in this paragraph (a) for any protest that includes an allegation of circulator fraud that is pled with particularity regarding:

(I) Forgery of a registered elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the person who signs the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit; or

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign the petition.

(b) Upon the finding by a district court or the secretary of state that the circulator of a petition section is unable to be deposed or to testify at trial or a hearing conducted by the secretary of state because the circulator has died, become mentally incompetent, or become medically incapacitated and physically unable to testify by any means whatsoever, the provisions of paragraph (a) of this subsection (3) shall not apply to invalidate a petition section circulated by the circulator.

(4) The proponents of a petition or an issue committee acting on the proponents' behalf shall maintain a list of the names and addresses of all circulators who circulated petition sections on behalf of the proponents and notaries public who notarized petition sections on behalf of the proponents and the

petition section numbers that each circulator circulated and that each notary public notarized. A copy of the list shall be filed with the secretary of state along with the petition. If a copy of the list is not filed, the secretary of state shall prepare the list and charge the proponents a fee, which shall be determined and collected pursuant to [section 24-21-104 \(3\), C.R.S.](#), to cover the cost of the preparation. Once filed or prepared by the secretary of state, the list shall be a public record for purposes of article 72 of title 24, C.R.S.

HISTORY: Source: L. 93: Entire article amended with relocations, p. 683, § 1, effective May 4; (2)(a) amended, p. 2049, § 1, effective July 1.L. 95: (2) amended, p. 433, § 9, effective May 8.L. 2007: (2) amended, p. 1982, § 34, effective August 3.L. 2009: (2) amended and (3) and (4) added, [\(HB 09-1326\), ch. 258, p. 1172, § 9](#), effective May 15.

1-40-112. Circulators - requirements - training

(1) No person shall circulate a petition for an initiative or referendum measure unless the person is a resident of the state, a citizen of the United States, and at least eighteen years of age at the time the petition is circulated.

(2) (a) A circulator who is not to be paid for circulating a petition concerning a ballot issue shall display an identification badge that includes the words "VOLUNTEER CIRCULATOR" in bold-faced type that is clearly legible.

(b) A circulator who is to be paid for circulating a petition concerning a ballot issue shall display an identification badge that includes the words "PAID CIRCULATOR" in bold-faced type that is clearly legible and the name and telephone number of the individual employing the circulator.

(3) The secretary of state shall develop circulator training programs for paid and volunteer circulators. Such programs shall be conducted in the broadest, most cost-effective manner available to the secretary of state, including but not limited to training sessions for persons associated with the proponents or a petition entity, as defined in [section 1-40-135 \(1\)](#), and by electronic and remote access. The proponents of an initiative petition or the representatives of a petition entity shall inform paid and volunteer circulators of the availability of these training programs as one manner of complying with the requirement set forth in the circulator's affidavit that a circulator read and understand the laws pertaining to petition circulation.

(4) It shall be unlawful for any person to pay a circulator more than twenty percent of his or her compensation for circulating petitions on a per signature or petition section basis.

HISTORY: Source: L. 93: Entire article amended with relocations, p. 684, § 1, effective May 4.L. 2007: Entire section amended, p. 1982, § 35, effective August 3.L. 2009: (3) and (4) added, [\(HB 09-1326\), ch. 258, p. 1174, § 10](#), effective July 1.

1-40-113. Form - representatives of signers

(1) (a) Each section of a petition shall be printed on a form as prescribed by the secretary of state. No petition shall be printed, published, or otherwise circulated unless the form and the first printer's proof of the petition have been approved by the secretary of state. The designated representatives of the proponent are responsible for filing the printer's proof with the secretary of state, and the secretary of state shall notify the designated representatives whether the printer's proof is approved. Each petition section shall designate by name and mailing address two persons who shall represent the signers thereof in all matters affecting the same. The secretary of state shall assure that the petition contains only the matters required by this article and contains no extraneous material. All sections of any petition shall be prenumbered serially, and the circulation of any petition section described by this article other than personally by a circulator is prohibited. Any petition section circulated in whole or in part by anyone other than the person who signs the affidavit attached to the petition section shall be invalid. Any petition section that fails to conform to the requirements of this article or is circulated in a manner other than that permitted in this article shall be invalid.

(b) The secretary of state shall notify the proponents at the time a petition is approved pursuant to paragraph (a) of this subsection (1) that the proponents must register an issue committee pursuant to [section 1-45-108 \(3.3\)](#) if two hundred or more petition sections are printed or accepted in connection with circulation of the petition.

(2) Any disassembly of a section of the petition which has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.

(3) Prior to the time of filing, the persons designated in the petition to represent the signers shall bind the sections of the petition in convenient volumes consisting of one hundred sections of the petition if one hundred or more sections are available or, if less than one hundred sections are available to make a volume, consisting of all sections that are available. Each volume consisting of less than one hundred sections shall be marked on the first page of the volume. However, any volume that contains more or less than one hundred sections, due only to the oversight of the designated representatives of the signers or their staff, shall not result in a finding of insufficiency of signatures therein. Each section of each volume shall include the affidavits required by [section 1-40-111 \(2\)](#), together with the sheets containing the signatures accompanying the same. These bound volumes shall be filed with the secretary of state by the designated representatives of the proponents.

HISTORY: Source: L. 93: Entire article amended with relocations, p. 684, § 1, effective May 4.L. 95: (1) and (3) amended, p. 434, § 10, effective May 8.L. 2009: (1) amended, [\(HB 09-1326\), ch. 258, p. 1175, § 11](#), effective May 15.L. 2010: (1) amended, [\(HB 10-1370\), ch. 270, p. 1240, § 2](#), effective January 1, 2011.L. 2011: (1)(a) and (3) amended, [\(HB 11-1072\), ch. 255, p. 1104, § 4](#), effective August 10.