

## Making Participation in the Petition Process Accessible to Voters with Disabilities

The act of creating, filing, circulating or signing a petition or referendum is one of the most active forms of participating in our democratic process. Yet many voters with disabilities are hindered or completely excluded from participation either as a result of specific requirements in current guidelines which cannot possibly be met or due to lack of accommodation.

Questions and Concerns:

### **1. Do petition guidelines come from SOS or CACEO? Who creates the regulations? Who enforces them?**

- a. The SOS [Statewide Initiative Guide](#) reflect requirements specified by law.
- b. Elections-related regulations are proposed by the SOS and submitted to the [Office of Administrative Law \(OAL\)](#) for review in accordance with Administrative Procedure Act (APA).
- c. The OAL regular rulemaking process includes comprehensive public notice and comment requirements. Documents and information on which the rulemaking action is based must be made available for review and inspection. The process is designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law. For information regarding the OAL and its rulemaking process, please visit: [https://oal.ca.gov/rulemaking\\_process/](https://oal.ca.gov/rulemaking_process/).
- d. Regulations related to petitions are intended to ensure a uniformity of practice among elections officials who are responsible for reviewing petitions for compliance and conducting signature verification. Regulations related to petition processing and signature verification are available on the SOS website at: <https://www.sos.ca.gov/administration/regulations/current-regulations/elections/petition-processing-signature-verification-ballot-processing-and-ballot-counting>.
- e. Elections officials are responsible for reviewing petitions for compliance and must not receive petitions that do not comply with the law. ([Elections Code § 9015](#).)

### **2. Since the registration address rather than the residential address is required, would that not catch more fraud attempts than matching handwriting?**

- a. A petition signer must, at the time of signing, personally affix on the petition his or her signature, printed name, and [place of residence](#), including the street and number of the place of residence, and if no street or number for the place of residence exists, then a designation of the [place of residence](#) that will enable the location to be readily ascertained. (Elections Code section 100(b).)
- b. Additionally, pursuant to the California Supreme Court's decision in *Assembly v. Deukmejian* (1982) 30 Cal.3d 638, 180 Cal. Rptr. 297, the petition form must direct signers to include their "residence address" rather than "address as registered" or other address.

### 3. What accommodations are offered to disabled voters who wish to create, submit or circulate petitions?

(Note: Not all deaf voters use standard written language? How can circulator guidelines be adapted to allow voters who are unable to create a hand-written circulator declaration to participate? What must a circulator witness a signer doing, for instance?)

- a. It is the responsibility of the Legislature to provide the manner in which a petition must be circulated, presented, and certified, and the manner in which a measure shall be submitted to the electors. (Cal. Const., art. II, § 10(a).) The requirements are specified by law. Please see the [SOS Statewide Initiative Guide](#) for those requirements. The SOS has no authority to modify those requirements.
- b. The preparation of a petition is the responsibility of the proponent of a measure. A measure is placed on the ballot after the proponent successfully satisfies the requirements specified by law and the SOS issues a certificate certifying the measure as qualified for the ballot.
- c. Proponent(s) of a proposed law may seek the assistance of their own private counsel to help draft the text of the measure, or they may choose to write the text themselves. Proponents may also obtain assistance from the Office of Legislative Counsel in drafting the language of the proposed law.
- d. The law requires that each section of a petition submitted to an elections official have attached to it a declaration signed by the circulator of the petition. (Elections Code sections 104 and 9022.) A circulator declaration must be completed for the following reasons:
  - i. A circulator declaration includes a statement that the circulator witnessed the appended signatures and that each signature is the genuine signature of the person whose name it purports to be.
  - ii. A circulator declaration includes the dates between which petition signatures were gathered.
  - iii. A circulator declaration includes a statement that each signer of the petition was shown a valid and unfalsified "Official Top Funders" sheet if the petition does not include the top funder disclosure and one is required.
  - iv. By signing the declaration, the circulator attests to the truthfulness and correctness of this statement, under penalty of perjury.
  - v. Signatures on a petition section that are verified by means of a completed circulator declaration are *prima facie* evidence that the signatures are genuine and that the persons signing are qualified voters. (Elec. Code, § 9022(d).)
- e. Please note that the California Code of Regulations does specify instances in which a petition signature must be included in a raw count and be subject to signature verification when the circulator declaration is incomplete. (Cal. Code. Regs. § 20950.)

**4. Could SOS office manage accessibility of all petitions and referenda? (Provide all text in accessible formats, (ASL, large print, screen-reader-friendly formats, audio, etc.) Each alternative version of the petition text should include contact information which could be used by the voter who may wish to sign the petition or referendum.**

- a. The initiative is the power of the people of California to propose statutes and to propose amendments to the California Constitution. (Cal. Const., art. II, § 8(a).) The people also have the power to approve or reject statutes or parts of statutes, with the exception of urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual, current state expenses. (Cal. Const., art. II, § 9.)
- b. The preparation of a petition is the responsibility of the proponent of a measure. The SOS makes sample petitions and related documents available to assist the proponent in preparing a petition that complies with requirements specified by law. Please refer to the [SOS Statewide Initiative Guide](#) for further information.
- c. Public contact information for a proponent is provided by the proponent at the time a proposed measure is submitted to the Attorney General's office for an official title and summary. That proponent information is available on the Attorney General's active measures webpage here: <https://www.oag.ca.gov/initiatives/active-measures>.

**5. We need clearer documentation regarding witness requirements and procedures for those voters signing a petition, who cannot physically write their address.**

(Notes: No space on many petitions for witness information. Nothing in 2024 guidelines seems to say anything about signers needing a witness if unable to write their address, or that circulator cannot be a witness. Otherwise, If no third person is present, voters who are unable to legibly write their address cannot participate in the petition process. Most of these voters do not even know they need to have their signature witnessed. The act of voting in person does not require a witness, although the voter offers a signature by what someone else says is the correct address.)

- a. [Elections Code section 100.5](#) provides that, if a voter is unable to personally place the required information on a petition, they may request that another person print the voter's name and place of residence on the appropriate spaces of the petition. However, the voter must personally affix his or her mark or signature on the appropriate space of the petition, which must be witnessed by one person by subscribing his or her name thereon, meaning after the mark or signature of the signer.
- b. Cal. Code. Regs. Section 20931(b)(3) also provides that, if the signer of a petition is disabled and cannot print or sign their name or write their residence address, or if the voter has a signature stamp that is the same as on the voter's registration record, the signature is subject to signature verification. In either case, a witness must also sign for the signature to be valid.

**6. What is the process for changing the guidelines so that all voters can participate fully in the petition or referendum process?**

- a. A voter may want to contact their representatives in the Legislature.
- b. A voter may want to consider proposing a measure so that all voters may participate more readily in the petition process.