

# **PROCEDURES FOR THE RECALL OF MEMBERS OF THE BOARD OF DIRECTORS AND ELECTED OFFICERS OF THE TEXAS DENTAL ASSOCIATION**

## **Section 10. OFFICIALS SUBJECT TO RECALL**

Any members of the Board of Directors (Directors, Senior Directors and Vice Presidents) and any elected Officer (hereinafter collectively referred to as "Official") of the Texas Dental Association (hereinafter referred to as "Association" or "the Association") may be recalled as hereinafter provided. Any Official sought to recall shall continue in office unless and until recalled pursuant to Section 160 of these Procedures.

## **Section 20. INITIATION OF RECALL**

A recall shall be initiated by the filing of a recall petition in accordance with these Procedures. No petition may seek to call more than one (1) Official.

## **Section 30. FORM OF RECALL PETITION**

A petition for recall shall state (1) the name of the Official sought to be recalled, (2) the office held by that Official and (3) the reason that recall is sought. It shall leave space for signatures by the printed name, address and ADA membership number of the signer. No individual page of a recall petition shall contain more than twenty-five (25) signatures.

## **Section 40. RESPONSIBILITIES OF THE SECRETARY**

The Secretary of the Association shall make available upon written request of an active, life or retired member of the Association, in good standing and not under active discipline, blank forms of recall petitions. Within ten (10) days after receiving the request, the Secretary shall:

- a. Make blank recall petition forms available to the individual making the request;
- b. Inform the requesting individual, in writing, of the number of signatures required for the calling of a Recall Election with respect to any Official, and;
- c. Make available to the requesting party any additional names of active, life or retired members of the Association, in good standing and not under active discipline, that are not listed in the current Association Roster, as well as the names of active, life or retired members who are currently listed in the Association Roster who are no longer in good standing, solely for use in connection with circulation of the recall petition.

## **Section 50. QUALIFICATIONS OF SIGNERS AND CIRCULATORS**

A petition for recall of an elected Officer or a member of the Board of Directors of the Association may be signed by active, life or retired members, in good standing and not under active discipline, of the Association. A petition for recall shall be circulated only by an individual qualified to sign the petition.

## **Section 60. NUMBER OF SIGNATURES REQUIRED**

A petition for recall of a member of the Board of Directors must be signed by at least ten percent (10%) of the active, life, or retired members, in good standing and not under active discipline, of the Division represented by the Official.

A petition for the recall of an elected Officer must be signed by at least ten percent (10%) of the active, life or retired members, in good standing and not under active discipline, of the Association. The petition must include the signatures of at least twenty-five (25) active, life or retired members, in good standing and not under active discipline, of each Division of the Association. Every petition for recall may be inspected by any active, life or retired member, in good standing and not under active discipline, of the Association at the Central Office of the Association upon reasonable notice to the Executive Director.

A petition for recall of any Official other than the Secretary of the Association shall be filed with the Secretary. A recall petition for recall of the Secretary shall be filed with the Executive Director of the association. Any petition shall be accompanied by a certificate signed by the circulator certifying that, to the best of the circulator's knowledge, no individual has signed the petition (1) more than once or (2) without being qualified to sign. Upon the filing of a recall petition, the Official who is the subject of the petition shall be immediately notified in writing.

#### **Section 80. REFERRAL TO THE JUDICIAL COUNCIL**

Within the ten (10) days after the filing of the recall petition, the Secretary shall submit the Recall petition to the Judicial Council of the Association. If an Official subject to recall has an appeal pending before the Judicial Council, the President shall appoint a Recall Review Committee from active, life or retired members, in good standing and not under active discipline, of the Association to monitor the recall process. If the President is subject to recall, the President-elect shall appoint the Recall Review Committee. The Recall Review Committee shall consist of five (5) individuals and shall not include the Official sought to recall. The Committee shall designate one of its members as Chairman.

#### **Section 90. RESPONSIBILITIES OF THE JUDICIAL COUNCIL**

Within twenty (20) days after the filing of the recall petition, the Judicial Council shall determine whether the petition (1) is in proper form and (2) contains at least the number of proper signatures required by Section 60 above. Any improper signature shall not be counted, but the petition is not invalidated if it contains an improper signature. Except as provided in Section 180, the Judicial Council shall make all decisions relating to the recall process.

#### **Section 100. ACTION OF PETITION FOUND INVALID**

If the Judicial Council determines that the petition does not contain the required number of valid signatures, the Chairman of the Council shall promptly return the petition to the circulator and advise the circulator in writing of the deficiencies in the petition and the number of additional signatures required. The circulator may remedy the deficiencies and submit a new petition.

#### **Section 110. ACTION ON PETITION FOUND VALID**

If the Judicial Council determines that the petition does contain the required number of valid signatures, the Chairman of the Council shall promptly so advise in writing the circulator, the Official sought to be recalled and the members of the Board of Directors of the Association. At the same time, the Chairman shall in writing give the Official sought to be recalled the

opportunity to resign. If the Official chooses to resign, such resignation shall be tendered to the President or the President-elect as the case may be, within ten (10) days after receiving notice of the recall petition. If the Official does resign within ten (10) days after receiving notice of the recall petition, a Recall Election shall not be held and the provisions of Section 190 shall govern.

#### **Section 120. TIMING OF RECALL ELECTION**

If the Official does not resign, the Judicial Council upon receipt of the recommendations of the Board of Directors, which must be received within twenty (20) days after the members of the Board are so advised, shall set a date for a special Recall Election. The Recall Election must be held not later than ninety (90) days from the date the Official could have resigned. The Recall Election may be held by a mail ballot or by a Special Session of the House of Delegates at the request of the person named in the recall petition. All current, certified Delegates of the Association shall be notified in writing of the calling and the date of the Recall Election. Notwithstanding the foregoing, no special Recall Election shall be held within three (3) months prior to the date of a regular annual session of the Association. Should the date for a special Recall Election fall within the three (3) month prior to an annual session of the Association, the Recall Election shall take place as a first order of business at the opening meeting of the House of Delegates.

#### **Section 130. PROCEDURES FOR RECALL ELECTION**

Except as otherwise provided herein, the procedures governing a Recall Election shall be to provide each current, certified Delegate to the House of Delegates a ballot with instructions for its return to the Association by a date certain. If the Recall Election is to take place during the annual session of the Association, the Recall Election shall be conducted in the same manner as provided in the Bylaws of the Association for regular elections, except that it shall be a first order of business at the opening meeting of the House of Delegates. If an Official sought to be recalled has duties to perform in connection with the Recall Election, the Judicial Council shall appoint another qualified member to perform these duties. All reasonable expenses of a Recall Election shall be borne by the Association .

#### **Section 140. BALLOT FOR RECALL ELECTION**

The ballot for a Recall Election shall be separate from any other ballot. It shall contain the question: "Shall \_\_\_\_\_ be recalled from the office of \_\_\_\_\_?" The first blank shall be filled in with the name of the Official sought to be recalled, and the second blank shall be filled in with the office held by that Official. Immediately below this question there shall appear a box marked "YES" and a box marked "NO". The ballot must include a statement of not more than 250 words submitted by the circulator setting forth why the Official should be recalled. It may, at the discretion of the Official being challenged, include a statement of not more than 250 words submitted by the Official setting forth why he or she should not be recalled. If the statement of the circulator is not received within twenty (20) days after the circulator receives notice pursuant to Section 110, the Recall Election shall not be held. If the statement of the Official is not received within twenty (20) days after the Official receives notice pursuant to Section 110, such statement need not be included on the ballot.

#### **Section 150. DISTRIBUTION OF RECALL BALLOTS**

Where a Recall Election is held at the opening meeting of the House of Delegates, the procedures governing regular elections shall apply. Where a Recall Election is not held at the

opening meeting of the House, the following procedures shall apply: ballots for the recall of an Official shall be distributed to all current, certified Delegates to the House of Delegates of the Association. Each ballot must identify a date, at least twenty (20) days after distribution of the ballots, by which an executed ballot must be received at the central office of the Association. On that date, the election shall be closed. Provision shall be made to identify and certify that each executed ballot is from a current, certified Delegate to the House of Delegates and that the executed ballot itself is secret. The tabulation of all mail ballots shall be by the Credentials Committee of the House of Delegates.

**Section 160. RESULTS OF RECALL ELECTION**

At the close of the Recall Election, the total number of executed ballots received shall be the same or exceed the number constituting a current quorum of the House of Delegates for the ballots to be opened and tallied. If the number of executed ballots received at the close of the Recall Election is less than the number constituting a current quorum of the House, the Recall Election shall be referred to the next regular session of the House, to be considered as a first order of business at the opening meeting of the House. Where the ballots are opened and tallied, if fifty percent (50%) or less are marked "YES", the Official shall not be recalled. If more than fifty percent (50%) of the ballots are marked "YES", the Official shall be recalled. The Chairman of the Judicial Council of the Association shall promptly certify the result of the Recall Election to the President or if the President has been recalled, to the President-elect. Upon certification the president or, if applicable, the President-elect, shall declare the office of the recalled Official to be vacant. The Chairman of the Judicial Council shall also advise the Official sought to be recalled, the circulator of the recall petition and the Board of Directors of the results of the Recall Election. Where the Recall Election is held at the opening meeting of the House, announcement to the House of the results of the Recall Election and the appropriate declaration shall be deemed to satisfy the requirement of the Chairman of the Judicial Council. The Council must advise those listed above of the results of the Recall Election. Where the Recall Election is not held in the House of Delegates, the executed ballots shall be retained under seal until the adjournment, Sine Die, of the next session of the House and shall be available, if required, for the exclusive use of the Investigative Committee.

**Section 170. FILING OF AN APPEAL**

A recalled Official who believes that the recall petition contained an inadequate number of valid signatures, that the ballots were improperly counted, that the recall process did not otherwise comply with the Procedures or was not fair or impartial in some regard may appeal the recall to the House of Delegates of the Association. An appeal shall be initiated by the filing of a notice of appeal with the President or, where appropriate, with the President-elect within ten (10) days after notification of the results of the Recall Election or, if the Recall Election is held in the House of Delegates, immediately upon certification of the election results. The notice of appeal shall state with precision how the Recall Election is alleged to have violated these Procedures or the recall process. The recalled Official shall not hold office while an appeal is pending.

**Section 180. CONSIDERATION OF AN APPEAL**

The President or, where appropriate, the President-elect, shall immediately appoint an Investigative Committee of five (5) members of the House of Delegates to investigate the allegations of the appeal. The Investigative Committee shall not include the recalled Official or any member of the Judicial Council of the Association. Within thirty days (30) days after the result of the Recall Election is certified, or just prior to the holding of a regular election in the House if the appeal was filed after a vote taken on the recall petition at the opening meeting of the House, the Investigative Committee shall report its findings. It shall also make

a recommendation regarding whether or not the Recall Election should be overturned. The appeal and the report of the Investigative Committee shall be taken up by the House as a first order of business at the opening meeting of the House or in case of an appeal after a vote in the House at the opening meeting, the report made just prior to the regular elections of the Association in the House of Delegates. The vote taken on any appeal shall conform to procedures outlined in the Bylaws of the Association for regular elections. If the vote of a majority of the members of the House, present and voting, is to reinstate the recalled Official, said Official shall be reinstated to office. Otherwise, the Official shall remain recalled. The recalled Official, the members of the Judicial Council of the Association and the members of the Investigative Committee, where applicable, shall not participate in this vote. The decision of the House of Delegates shall be final and binding on all members of the Association.

**Section 190. FILLING A VACANCY CAUSED BY RECALL**

If an Official is recalled, Chapter VI, Section 70, Vacancies, of the Bylaws, shall govern. Notwithstanding the provisions of the Bylaws of the Association for filling a vacancy in office due to a Recall Election, if a Recall Election is overturned by the House of Delegates, any person who has assumed the office of the recalled Official shall be deemed to have held that office on an acting basis only.

**Section 200. DISABILITY OF RECALLED OFFICIAL**

An Official who has been recalled or who has resigned from office after the filing of a recall petition shall not be elected to office or appointed to fill any vacancy in any office during the term of the office previously held by that Official.

**Section 210. RELATIONSHIP TO BYLAWS**

These Procedures are incorporated by reference into the Bylaws of the Association and shall govern in case of any conflict between them.

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