

DE 80-39 - December 31, 1980

**Municipal Recall Section
100.361, F.S.**

*To: Mr. Clinton E. Foster, Esquire, Post Office Box 4558, 1610 Beck Avenue, Panama City, Florida
32401*

Prepared by: Division of Elections

This is in response to your request for formal opinion pursuant to Section 106.23(2), F.S. (1979). Your question can be restated as follows:

Does Section 100.361(1)(c), of the municipal recall law require that each page of the initial recall petition contain a statement of grounds for recall as well as the appropriate lines for signature by electors?

Section 100.361(1)(c), F.S., states:

"Each elector of the municipality signing a petition shall sign his name in ink or indelible pencil as registered in the office of the supervisor of elections and shall state his place of residence and voting precinct. Each counter part of the petition shall contain appropriate lines for signature by electors and a form of affidavit, to be executed by the circulator thereof, verifying the fact that the circulator saw each person sign the counter-part of the petition, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the circulator on the date indicated."

The above-cited subsection discusses the initial petition which must be accompanied by a requisite showing of interest. Once the showing of interest is obtained, the city clerk or auditor will then circulate a second petition called the Recall Petition and Defense which includes not only the statement of grounds for recall but a statement of defense prepared by the public officials who is the subject of the recall petition.

However, your question focuses on the initial petition phases and whether "each counterpart" of the initial petition must contain the statement of grounds for recall.

In order to obtain the requisite number of signatures on the initial petition, it may be necessary to circulate one or more copies of the petition. The term counterpart has no statutory meaning but, in the context of this municipal recall statute, counterpart probably means duplicate, copy or equivalent petition. Therefore, each counter-part or duplicate of the initial recall petition must contain the appropriate lines for signature by the electors, a form of affidavit to be executed by the circulator which verifies the fact that the circulator saw each person sign the counterpart or copy of the petition, that each signature appearing thereon is the genuine signature of the person it purports to be and that

the petition was signed in the presence of the circulator on the date indicated. There is no requirement in the statute that each signature page contain a statement of the grounds for recall so long as the fact page states this information. In my opinion to require every signature page to restate the statement of grounds for recall, would be burdensome and might well frustrate any attempt to use the recall statute. In the absence of facts to the contrary, it must be presumed that any person who signs a recall petition does so voluntarily after reading the statement of grounds for recall.

SUMMARY

Section 100.361(1)(c), F.S., of the municipal recall law does not require each signature page of an initial recall petition to contain a statement of the grounds for recall as long as the fact page of the petition contains this information.