



**County Executive Office**

**Memorandum**

July 14, 2006

To: Bill Campbell, Chairman  
From: Thomas G. Mauk, County Executive Officer  
Subject: Exception to the Rule 21

RECEIVED  
06 JUL 14 AM 11:21  
CLERK OF THE BOARD  
ORANGE COUNTY  
BOARD OF SUPERVISORS

S52C

The County Executive Office is requesting a supplemental for the July 18, 2006 Board Hearing Meeting.

Agency: Registrar of Voters  
Subject: Capistrano Unified School District Recall Petitions Status Update  
District: All

Reason for supplemental: Requested by Chairman Bill Campbell

Concur:

\_\_\_\_\_  
Bill Campbell, Chairman  
Orange County Board of Supervisors

cc: Rob Richardson  
Assistant to the County Executive Officer



**SUPPLEMENTAL AGENDA ITEM  
AGENDA STAFF REPORT**

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ORANGE COUNTY  
BOARD OF SUPERVISORS

ASR Control

**MEETING DATE:** 07/18/06  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** All Districts  
**SUBMITTING AGENCY/DEPARTMENT:** Registrar of Voters  
**DEPARTMENT CONTACT PERSON(S):** Neal Kelley (714) 567-5139, Brett Rowley (714) 567-7623

**SUBJECT:** Capistrano Unified School District Recall Petitions Status Update

<b>CEO CONCUR</b> 	<b>COUNTY COUNSEL REVIEW</b> N/A	<b>CLERK OF THE BOARD</b> Discussion
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**Budgeted:** N/A                      **Current Year Cost:** N/A                      **Annual Cost:** N/A  
**Staffing Impact:** No                      **# of Positions:**                      **Sole Source:** N/A  
**Current Fiscal Year Revenue:** N/A  
**Funding Source:** N/A

**Prior Board Action:**

**RECOMMENDED ACTION(S)**

Receive and file the status update from Registrar of Voters per Board directive.

**SUMMARY:**

The Board requested an update of the Capistrano Unified School District recall petitions status.

**BACKGROUND INFORMATION:**

On December 22, 2005, the Registrar of Voters certified as insufficient the 7 petitions to recall Capistrano Unified School District (CUSD) Board members. The CUSD Recall Committee (petitioners) delivered approximately 177,500 signatures or 25,000+ for each board member on November 8, 2005.

Pursuant to the Elections Code and by the deadline, the petitions were certified as being insufficient. The majority of insufficient signatures fit into three categories: not registered, out of district, and/or declaration incomplete. Under the category of declaration incomplete, thousands of signatures were declared as insufficient pursuant to Elections Code Section 100 which dictates that registered voters shall personally affix their signature, printed name and place of residence on the petition. In this case the circulators were filling in voter information.

After the Registrar of Voters certified the petitions as insufficient on December 22, 2005, and pursuant to Government Code Section 6235.5, proponents requested to inspect and review the petitions. The

proponents were given access to review the petitions in an effort to understand why they were found to be insufficient. That review period ended on February 6, 2006.

Upon completion of their research, the Capistrano Unified School District Recall Committee issued a report of what they believed were wrongdoings on the part of the school district and the Registrar of Voters office. Exhibit E of their report uses the names of actual signers of the petition to help prove their case.

The CUSD Recall Committee delivered their report to the media at a press conference in which they also requested an investigation of the Registrar of Voters office by the Orange County Grand Jury and District Attorney as well as from the Secretary of State and Attorney General of California. They complained the Registrar improperly invalidated signatures in which the address was filled out by the circulator and conspired with the Capistrano Unified School District to certify the petitions as insufficient. The District Attorney and Secretary of State both reviewed the allegations and found no violation of the Elections Code and that the Registrar acted appropriately in regards to the certification.

Finding no remedy with the aforementioned agencies, the petitioners sued the Registrar of Voters, asking the court, among other things, to overturn the Registrar's ruling on Elections Code Section 100. On Tuesday, July 11, 2006 the Superior Court affirmed the Registrar's actions in rejecting the "declaration incomplete" signatures. The judge also cited the case of Mapstead v. Anchungo that affirms the Registrar's duty to invalidate signatures that did not comply with the code.

A separate issue has developed between the Capistrano Unified School District and the recall petitioners regarding a list of 150-petition signers' names. The Registrar of Voters office was mentioned in the media as having allowed school district representatives to view the petitions. The Registrar of Voters initially read the code as allowing members of a government agency to review the petitions, and in the spirit of fairness and honesty allowed two district employees to review the petition.

These individuals visited the Registrar's office in mid-January. One of them, now a former CUSD employee, claims that he recorded about 24 names from the petitions and supplied them to a member of the district. The two individuals were there for approximately one hour. A very small amount of time was spent actually looking at the petitions. No Registrar of Voters staff witnessed anyone recording any names from the petitions.

The Registrar of Voters' initial determination that the school district employees should be allowed access to the petitions turned out to be incorrect as later determined by County Counsel.

The mission of our department is "To ensure the integrity of elections in a uniform, consistent, and accessible manner." We consider it our duty to be open and honest with the public as we conduct their business and that means admitting to our mistakes. The record of the department over the past couple of years speaks for itself as our operations have become a model for elections officials around the nation.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**REVIEWING AGENCIES:**

County Executive Office

**EXHIBIT(S):**

N/A

**ATTACHMENT(S):**

N/A