



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 15, 1975

ATTORNEY GENERAL OPINION NO. 75- 394

Mr. Michael G. Patton
Lyon County Attorney
Lyon County Courthouse
Emporia, Kansas 66801

Re: Elections--Recall Elections

Synopsis: There presently exists no statutory authority whatever for the county election officer or any official to call and conduct an election for the recall of a public official.

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Dear Mr. Patton:

You enclose an inquiry from the Lyon County Clerk, advising that petitions are being circulated in Lyon County requesting that an election be held to recall a member of the board of education of a unified school district, and the mayor of a city of the third class. The question is posed whether there exists any legal authority for a recall election. There does not.

Article 4, § 3 provides thus:

"All elected public officials in the state, except judicial officers, shall be subject to recall by voters of the state or political subdivision from which elected. Procedures and grounds for recall shall be prescribed by law."

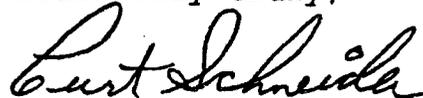
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This provision is not self-executing. No recall election may be held until the grounds for recall are prescribed, and the procedures for calling and conducting a recall election are set forth by statute. Indeed, there exists no provision today which indicates how many signatures are required to render a recall petition sufficient. Article 4, §3 of the Kansas Constitution formerly prescribed in some detail the signature necessary on such petitions. This section was amended at the November, 1974, general election, and those provisions were deleted.

The voters of Kansas approved this constitutional amendment last year in the expectation, fully justified by its language, that the Legislature would act promptly to prescribe the grounds upon which elected officials might be subject to recall, and the steps which voters might take to require that recall elections be held. The failure of the legislature to act promptly to honor this obligation is inexcusable when one considers the clear mandate of the voters who approved this amendment at the polls last November.

Regrettably, I must conclude that there presently exists no legal authority whatever for calling and conducting a recall election.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj