



Written by [Michael Tennant](#) on June 30, 2021

Newsom Sues to Be Listed as Democrat on Recall Ballot Despite Law He Signed

California Governor Gavin Newsom is suing an elections official he appointed for enforcing a law he signed because adhering to the law will prevent him from being listed as a Democrat on the upcoming recall ballot.

Secretary of State Shirley Weber, a former Democratic assemblywoman whom Newsom appointed to the post in December after he named then-Secretary of State Alex Padilla to the U.S. Senate, [announced](#) last week that the recall election will occur, petitioners having gathered more than enough signatures to force it. The date for the election has not yet been set.



Gage Skidmore/Wikimedia Commons

In addition to asking voters whether they want to recall Newsom, the ballot will also ask which candidate they would like to replace him. All replacement candidates are required to file paperwork that includes their party preference with the secretary of state no later than 59 days before the election. The officer being recalled, however, is only required to inform the secretary whether he intends to run as a replacement candidate (since he presumably filed all the necessary paperwork before running the first time). According to the [California Elections Code](#), “The officer shall inform the Secretary of State whether the officer elects to have a party preference identified on the ballot by the deadline for the officer to file an answer with the Secretary of State.”

This language was added to the code in 2019 as part of a bill intended to enable officials facing recall to include their party preferences on the ballot, something they could not previously do. According to [Politico](#), with no opposition, the legislation “sailed through” both houses of the legislature, after which Newsom signed it, probably without “scrutiniz[ing] the bill’s implications.”

In the case of the current recall, the deadline for Newsom to respond was February 28, 2020, seven days after the individuals spearheading the effort filed a notice of intent to circulate a recall petition. Newsom did file his answer by the deadline; but, according to his [lawsuit](#), his elections attorney made “an inadvertent but good faith mistake,” namely failing to include Newsom’s party preference. Thus, while all the other candidates on the upcoming ballot will have their parties listed, Newsom will not.

“When Newsom was required to file paperwork in February 2020, the state had not yet imposed Covid-19 closures and gubernatorial recall petitions were dismissed as hopeless efforts routinely filed by conservative Republicans,” noted *Politico*. It’s quite likely neither Newsom nor his elections attorney took the recall effort — the sixth in his first 14 months in office — seriously.

But after Newsom took the occasion of the virus to become the state’s dictator-in-chief, the effort gained steam. Now that the recall election is a reality, Newsom, whose June 19 request to be listed on the ballot as a Democrat was rejected by Weber, wants the court to grant him a do-over, arguing in his complaint that he is being held to the legal deadline “for no discernable reason.”



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This is the same Newsom, mind you, who griped that a judge, in contravention of state law, [granted recall petitioners an extra four months to gather signatures](#) because Newsom's lockdown had made their task so difficult. The governor, it seems, only appreciates judicial activism when it works in his favor.

Nor is Newsom opposed to changing laws by other means to keep his job. According to [Courthouse News Service](#), "Newsom on Monday inked legislation that will allow Weber to certify the recall before lawmakers and finance officials have completed a formerly required 30-day review of likely recall costs," thus making it possible to hold the election before his poll numbers sink any lower. "The rule change was introduced earlier this month by Democratic lawmakers after it became crystal clear the recall had qualified. Critics have accused the majority party and Newsom of 'changing the rules during the middle of the game.'"

Newsom is asking the court to force Weber to accept his party-preference filing and to declare that he "substantially complied with" the law.

Weber, despite owing her job to Newsom, isn't budging. "The Secretary of State's office has a ministerial duty to accept timely filed documents," her spokesman told Courthouse News. "Acceptance of filings beyond a deadline requires judicial resolution."



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