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ARIZONA ATTORNEY GENERAL

May 18, 1981

INTERAGENCY

The Honorable Bill English
Arizona House of Representatives
State Capitol, House Wing
Phoenix, Arizona 85007

Re: I81-064(R81-066)

Dear Representative English:

In your letter of March 23, 1981, you requested an interpretation of A.R.S. § 19-202 as it relates to when petitions to recall a public officer may be circulated. Subsection A of A.R.S. § 19-202 states:

A. A recall petition shall not be circulated against any officer until he has held office for six months, except that a petition may be filed against a member of the legislature at any time after five days from the beginning of the first session after his election.

Your specific question is whether this provision prohibits the circulation of recall petitions until an officer has held office for six months in the term for which he was elected, if he held the office prior to election for the term.

The provision, on its face, prohibits the circulation of recall petitions until an officer has "held office for six months." Inasmuch as no requirement exists that the six-month period starts to run at the beginning of a term, we conclude that the six-month period is satisfied when an officer has held the office for six months, irrespective of when the election took place.^{1/}

1. Note, however, that the six-month period is waived in the case of a legislator against whom a recall petition may be filed after five days from the beginning of the first session after election.

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This conclusion is reinforced by examining subsection B of A.R.S. § 19-202, in which a financial requirement is placed on circulating more than one recall petition against the same officer "during the term for which he was elected."^{2/} (emphasis added.) We presume that, if the Legislature had intended to toll the six-month period from the beginning of a term, it would have used language similar to that found in subsection B. The fact that such a limitation does not appear in subsection A lends support to the proposition that the six-month period runs from the date of original occupancy of the office.

Sincerely,



BOB CORBIN
Attorney General

2. Subsection B states:

B. After one recall petition and election, no further recall petition shall be filed against the same officer during the term for which he was elected unless the petitioners signing the petition first pay into the public treasury from which such election expenses were paid all expenses of the preceding election.