

Chapter I. Voter Registration

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To vote in official elections in Kansas, a person must possess the constitutional qualifications of an elector and must be registered to vote.

I. VOTER QUALIFICATIONS

The constitutional qualifications to vote in Kansas are:

- eighteen years of age or older,
- U.S. citizenship, and
- residency in Kansas. There is no length of residency requirement in Kansas, other than the 20 days one must be registered before the election. [Kansas Constitution, Article 5, Section 1]

Further, there is a statutory requirement of registration before voting. [KSA 25-2302] A person possessing the constitutional qualifications may apply for registration to the county election officer of the county where the person resides, using an application form approved by the Secretary of State, or the national mail voter registration form issued pursuant to federal law. [KSA 25-2309(a)] A person may also register online at votekansas.gov.

A special provision allows 17-year-olds to register to vote if they will be 18 on or before the next statewide general election. [KSA 25-2306] This does not allow a person to vote in the primary or at any other election before attaining the age of 18.

II. VOTER DISQUALIFICATIONS

A registrant is disqualified from voting by reason of death, federal or state felony conviction, or declaration by a court of competent jurisdiction. [Kansas Constitution, Article 5, Section 2; KSA 25-2316c; KSA 21-6613; KSA 22-3722]

If a registrant moves out of the state, his/her name is removed from the voter list of the county of the registrant's most recent registration. If a registrant moves from one county to another within the state, the registrant's name is removed from the voter list in the county of former residence and added to the voter list in the county of new residence, either by re-registering in the new county or by completing a driver's license change of address form. (See Sections e and h below.)

A registrant may at any time file a written request with the county election officer to have his/her name removed from the voter list. [KSA 25-2316c(f)(2)]

A. Death Notices

Kansas law requires the cancellation of registrations when voters die. County election officers are to check obituary notices in local newspapers and cancel the registrations of those who are deceased. [KSA 25-2316c(f)(1)] Also, the statewide voter registration system has an interface with the Office of Vital Statistics in the Kansas Department of Health and Environment which provides lists of deceased persons to county election officers electronically. [KSA 25-2316c(f)(4), KSA 65-2422d(f)]

The Secretary of State conducts an annual program of comparing the voter registration list to the Social Security Administration's death master file. Results are provided to county election officers for cancellation of deceased registrants after confirming that the possible matches do, in fact, represent the same individual. [KSA 25-2316c(f)(4)]

B. Felony Convictions

Conviction of either a state or a federal felony results in the loss of voting rights until the person completes the terms of the sentence. If the person is granted probation or parole, his/her term of sentence is not completed until the probation or parole is finished. The law prohibits a person who has been convicted of a felony from: registering to vote, voting, holding public office, or serving on a jury. [KSA 21-6702, 21-6604, 21-6613] When notified of a felon's discharge, the county election officer allows the person to re-register.

1. Federal convictions:

The National Voter Registration Act [NVRA] directs the U.S. Attorney in each federal judicial district to notify the chief state election officer of federal felony convictions. The chief election officer (in Kansas, this is the Secretary of State) forwards the notice to the appropriate county election officer for cancellation of the felon's voter registration. [NVRA, Section 8(g); KSA 25-2316c(g)]

2. State convictions:

The county election officer is required to cancel the voter registration of all persons convicted of state felonies. The voter registration system developed pursuant to the Help America Vote Act [HAVA] interfaces with the Department of Corrections' database and provides notices of state felony convictions to county election offices electronically. Upon receipt of such information, the county election officer cancels the registrations.

3. Post Felony Re-registration:

A felon who loses voting rights must re-register to vote after the sentence is completed. The county election officer does not automatically restore the person's name to the registration list. When registering to vote, the felon is not required to submit proof of final discharge. The voter registration application form contains an affidavit above the signature

line attesting that the person's rights have been restored. Signing a false affidavit is a felony, which would result in loss of voting rights upon conviction.

C. Jury Duty Noncitizen Lists

Kansas law requires district courts in Kansas to provide to the Secretary of State the names of prospective jurors who indicated on their jury questionnaires that they are not United States citizens K.S.A. 43-174(a). Noncitizens are exempt from jury duty. The Secretary of State passes the names on to county election offices for review. If they are found to be noncitizens and registered voters, their registrations are canceled, and the individuals could face prosecution for falsely registering to vote.

III. VOTER REGISTRATION APPLICATION

The law requires a person who wants to vote to complete a voter registration application form and submit it to the county election officer in the county where the person lives. The application must be made on a form approved by the Secretary of State or on national mail voter registration form prescribed by the Election Assistance Commission, which may be used in any state. [KSA 25-2309(a)]

The Kansas voter registration application form also is used for other purposes in addition to the original registration of a voter. It is used to update the voter's registration records, such as name changes, address changes, or party affiliation changes; and it is used in the process of administering provisional ballots.

The form approved by the Secretary of State is revised from time to time because of statutory changes, the addition of a newly recognized political party or a party's loss of recognition. When the form is revised, it is distributed to all county election officers and others required by law to conduct voter registration. The application form is available on the Secretary of State's web site at www.sos.ks.gov and on some county election officers' websites.

Registration is available at hundreds of places statewide. Some sites are required by law (see NVRA below, Section h) and others may be designated by the county election officer at sites such as banks, grocery stores, libraries, and at public events such as county fairs. These sites offer voter registration opportunities during their normal business hours. NVRA-mandated sites are only *required* to offer voter registration to persons applying for the regular services or benefits provided by the offices. It is optional for these offices to offer registration to persons who are not applying for services or benefits. [KSA 25-2303(b)]

Any person wishing to conduct a voter registration drive may obtain and distribute a supply of application forms, but they should be mindful of laws governing distribution of forms and timely transmittal to the election office. They may receive training from the county election officer or the Secretary of State's office as to how to instruct applicants on completing the form and the requirements for returning completed forms to the respective county election offices. The Secretary of State provides a pamphlet outlining the rules for conducting voter registration drives.

A. Faxing and Emailing Applications

In 2008 the Secretary of State adopted a policy that county election officers may accept faxed voter registration applications. Many CEOs have adopted this policy. In practice, this policy has been expanded to allow applicants to transmit via email scanned images of application forms to the election office. This is viewed as another form of electronic transmission, similar to faxing, and is acceptable as long as the images are legible.

B. Electronic Motor-Voter

Driver's license offices are an important part of the voter registration process due to the National Voter Registration Act [NVRA] of 1993. This is the reason the NVRA is often referred to as "motor-voter." In many areas of the United States, including Kansas, most new applications and changes of address come through motor vehicle offices. From the time of implementation of the NVRA in Kansas in the mid-1990s until 2008, the motor-voter process was on paper, meaning that even though the driver's license application process was paperless, Division of Motor Vehicles (DMV) offices handed out paper voter registration applications to individuals who wished to register to vote.

In late 2007 the Secretary of State and the Kansas Department of Revenue, of which the Division of Motor Vehicles is a part, signed a Memorandum of Understanding to develop an electronic, paperless motor-voter system. Beginning in the fall of 2008, DMV offices began to collect and transmit voter registration data electronically. Using the basic information collected for driver's licenses, the driver's license examiners ask several additional questions required for voter registration—citizenship and age questions, party affiliation and phone number—and transmit the information with the digitized signature attached from the driver's license database.

The voter registration data is processed through the statewide voter registration database, sorted by county and sent to each county election office through the statewide voter registration database.

Also, change of address information is sent the same way, as well as data collected on DMV's change of address website.

IV. PROCESSING VOTER REGISTRATION APPLICATIONS

The county election officer has the responsibility of processing each application and determining whether the applicant meets the constitutional and statutory requirements of a qualified elector in Kansas. [KSA 25-2303, 25-2304, 25-2309(g)] Each application must be reviewed for completeness and legibility. An application for registration to vote which has been materially altered by the person submitting the application should be rejected by the county election officer as void. AGO 95-27

A. Citizenship and Age Boxes

The voter registration application form includes check boxes for the applicant to indicate whether he/she is a United States citizen and whether he/she will be at least 18 years old by the next election. If the citizenship box is not checked on a new voter registration application, the county election officer rejects the application and mails the applicant a notice of incompleteness with instructions on how to complete the application and the period of time during which the application must be submitted in order to be eligible to vote in the next election. [KSA 25-2309(k)]

B. Verification with the Division of Motor Vehicles

Each applicant is required to provide either the person's driver's license number or the last four digits of the Social Security number on the application. [KSA 25-2309(b)(5)] These numbers are verified using an interface with the Division of Motor Vehicles driver's license database to satisfy the requirements of the Help America Vote Act [HAVA].

C. Alternative Forms of Signatures

State law requires the applicant for voter registration to sign the application form. For a person with a disability, the signature may be made by mark, initials, typewriter, print, stamp, symbol, or any other manner if by placing the signature the person intends the signature to be binding. A signature may be made by another person at the applicant's direction if the signature reflects the applicant's intention. See the chart on page II-66. [KSA 25-2309(a)]

The law also allows a computerized, electronic, or digitized transmitted signature, which allows the Division of Motor Vehicles to collect and transmit voter registration data, including the signature, in a paperless format. See Electronic Motor-Voter above. [KSA 25-2309(a)]

D. Notice of Disposition

The county election officer sends a notice of disposition to each applicant, notifying the applicant either that:

- the application is sufficient, and the applicant's name has been added to the official county voter registration list, or
- the information on the application was incomplete or illegible or the applicant did not meet the requirements for voting.

The notice of disposition requests the applicant to contact the election office to supply the missing information if something was incomplete or illegible. [52 USC § 20507(a), KSA 25-2309(e), KSA 25-2316c(a)]

The reason for the notice of disposition may be that the applicant failed to check the citizenship box. [KSA 25-2309(k)]

If a notice of disposition is returned by the post office as undeliverable, the county election officer must send a confirmation notice. [KSA 25-2309(e); 25-2316c] The NVRA does not permit removal of the registrant's name from the registration list due to the return of the notice of disposition as undeliverable, but these voters may be designated as "inactive," mailed a confirmation notice, and their registrations may be canceled if they do not vote in any election held between the date of the confirmation notice and the second succeeding federal general election. (See FEC Guide, p. 3-7, 3-8.)

E. Incomplete Records

The county election officer creates a record in the ELVIS (Election Voter Information System) voter registration database for any person who submits a voter registration application. A person who submits an incomplete voter registration application is entered into the database but is not given full registration status until they correct whatever deficiency existed with the application. This type of record is referred to as an Incomplete record and given a status of 'Suspense' with a reason code of 'incomplete application' in ELVIS. There are many reasons for Incomplete status: missing name, missing signature, missing birth date, insufficient or improper address, or illegible handwriting.

Upon creation of the Incomplete record, the county election office must mail the person a notice of disposition informing them of the deficiency and how to correct it. In this case, the notice of disposition is referred to as a notice of incompleteness. If the person corrects the deficiency, the Incomplete status is removed, and the person is an active registered voter. The applicant must provide the required information within 90 days after the voter registration application was received by the county election office. If the required information is not provided within 90 days, the voter registration application shall be designated as cancelled. A new voter registration application shall be required to become registered to vote. [K.A.R. 7-23-15]

V. REGISTRATION DEADLINE

The law establishes the deadline to register to vote as the 21st day before the election, so prospective voters may not apply for registration for that election after that date. [KSA 25-2311]

Applications postmarked by the 21st day before the election must be accepted and processed for that election. If the postmark is missing or illegible, the application should be accepted only if received in the election office by the ninth day before the election. [KSA 25-2311(e)]

Applications received electronically are valid if they are received by 11:59 p.m. on the 21st day prior to the election. Registration applications received in ELVIS that have a transaction date on or before the 21st day must also be processed as valid.

Applications received during the 20-day period when registration is closed before an election are not valid for that election. Such applications are processed beginning the day after the election. [KSA 25-2309(f)]The pre-election registration deadlines affect voters' constitutional right to vote. Thus, it is imperative that county election officers promptly

forward to each other any applications or changes of address received in the days leading up to the deadline. If one county election officer receives applications by the registration deadline, or applications which are *postmarked* by the deadline, those registrations are valid and must be sent to the appropriate county without delay. A phone call to notify the election officer that the registrations are being forwarded is recommended. Likewise, the Secretary of State's office observes the same deadlines and forwards applications to the appropriate counties and to notify election officers that applications are being mailed.

A person who completes an application for voter registration is not considered a registered voter until the county election officer adds the applicant's name to the county's official voter registration list. [KSA 25-2309(g)] In this sense, the person who completes an application is an applicant; if the application is deemed valid, the person is a registrant; when the registrant votes in an election, the person is considered a voter.

In processing applications and adding names to the registration list, it is important to keep in mind one of the provisions in the NVRA that says that once registered, a person's name may not be removed from the list except for specified statutory reasons (death, felony conviction, moving out of the county, etc.). Thus, once a county election officer processes an application, deems it valid, and adds the applicant's name to the official list, the name may not be removed except for reasons specified in KSA 25-2316c(f), (g).

VI. VOTER REGISTRATION ADMINISTRATION

A. Date of Registration

The date of registration entered the voter registration file by the county election officer is significant. Not only is this the date the applicant becomes eligible to vote, but it is also when the person is eligible for other political acts such as running for office and signing petitions. In most cases the registration date is the date the election officer finishes reviewing the application and adds the applicant's name to the official voter registration list. However, at certain times, especially before the registration cut-off before an election, there may be too many applications to process and add to the list on the same day they are received. For this reason, the county election officer should adopt a practice of date-stamping applications when they are received in the election office. Then, when the applications have been processed and the qualifications of the applicants have been verified, the date stamped on each application is the date entered on the official list and the date of eligibility of the registrant.

B. Verification Notice

These are *optional* notices mailed to applicants with the intention of verifying the sufficiency of their addresses. The NVRA and Kansas law neither require nor prohibit these, so notices may be used if the county election officer wishes. The notices are mailed before the registrant's name is added to the registration list and before the notice of disposition is mailed. If a verification notice is returned undeliverable, a notice of disposition may then be mailed informing the applicant that the address provided on the

voter registration application was inadequate, and the applicant's name has not yet been added to the registration list. If the verification notice is not returned undeliverable by the post office, the notice of disposition must then be mailed informing the applicant of their status as a registered voter.

C. Residency

County election officers are voter registrars and often receive questions about the proper address to use in registering to vote. The term residency arises in four election-related situations: (1) registering to vote, (2) voting, (3) running as a candidate for elective office, and (4) holding office.

The key statute defining residency for voter registration purposes is KSA 25-407, which states:

The judges of election, in determining the residence of a person offering to vote, shall be governed by this section. "Residence" means the place adopted by a person as such person's place of habitation, and to which, whenever such person is absent, such person has the intention of returning.

Other relevant statutes are KSA 25-2309(b)(2), which governs the registration process and the design of the application form and requires the applicant to provide his/her "place of residence, including specific address or location..." and KSA 25-108 which permits elected officials and government employees to be considered as residents of the place from whence they were elected or appointed.

Kansas courts have addressed residence for voter registration. A person is not considered to have lost their residence who leaves their home and goes into another state or territory, or county of this state, for temporary purposes, with an intention of returning. *Littell v. Millemon*, 154 Kan. 670, 675 (1942). Not every change of abode constitutes a change of residence. *Campbell v. Ramsey*, 150 Kan. 368, 387 (1939). Residence is determined by the acts and intentions of the person. *State, ex rel., v. Corcoran*, 155 Kan. 714, 719 (1942).

The applicant identifies his or her residence when registering to vote and the county election officer should accept the address provided.

D. County Election Officer's Role

The county election officer's role in voter registration is ministerial. The county election office processes registration applications and determines if an address is an actual address in the county but does not determine if a particular address is the *correct* one for a certain registrant. The county election office cannot add requirements to the voter registration process, such as asking for documents proving residency.

But the county election office must process the applications. KSA 25-2309(g) states that an applicant is not considered a registered voter until the county election office adds the applicant's name to the county voter registration list.

Another statute to consider here is KSA 25-2322, which states in part:

Mandamus to compel registration

If the county election officer refuses to register any person who makes application therefor as provided in this act, such person may bring an action in mandamus to require such registration in the district court of the district in which the county election officer is located.

One may conclude from this statute that the county election office must register each applicant unless there is evidence that the person is not qualified or eligible to vote. If the county election office fails to do so, the applicant has a statutory right to seek relief in court.

E. Review of Residency in Election-Related Situations

There are procedures outlined in state law that may be used if a question arises regarding a person's residency in each of the four election-related situations.

1. Registering to vote

The county election office checks each application for completeness and legibility and verifies that addresses provided are actual addresses. The county election office is not authorized to add other verification procedures to determine an applicant's intent regarding residency or the presence of or the type of structure at the address provided.

2. Voting

Poll workers may, and in fact, have a duty to challenge a voter's ballot if there is a question about the voter's qualifications to vote that ballot in that precinct on that election day. KSA 25-414(a) states: "*It shall be the duty of each judge of election to challenge any person offering to vote, whom the judge shall know or suspect not to be qualified as an elector.*" The act of challenging a ballot raises the residency question and requires the county board of canvassers to decide the issue. The canvassers should seek the advice of the county counselor or county attorney.

3. Running as a candidate for elective office

The county election officer or the Secretary of State has the authority to determine the validity of candidate filings pursuant to KSA 25-208a.

A candidate's residency may be questioned through the objection process (KSA 25-308). If the county or state election officer determines a candidate's filing to be valid, another person may file an objection. If the county or state election officer determines a candidate's filing to be invalid, the candidate may file an objection.

Objections are considered and decided by the county or state objections board, which is considered a quasi-judicial body.

4. Holding office

If a question arises about the qualifications of an office holder, two methods provided in law for removing the person from office are recall and ouster. Recall is a petition/election process. [KSA 25-4301 to 25-4331] Ouster is a court proceeding initiated by the county/district attorney or the Attorney General. [KSA 60-1201 to 25-1208]

5. Conclusion

When faced with questions about residency, the county election officer must keep in mind the ministerial nature of their duties. Members of the public may expect them to do more, but all public officials must act within the limits of their statutory duties. The county election office is encouraged to seek the advice of the county attorney or county counselor.

VII. ROUTINE VOTER LIST MAINTENANCE

A. General List Maintenance Duties

Maintenance of voter registration lists requires constant attention in the election office. It is a cooperative effort between local election officials nationwide and the state election offices. List maintenance includes keeping updated information on the following possible changes in each registrant's registration data:

- (1) address change
- (2) name change
- (3) party affiliation change
- (4) active/inactive status
- (5) suspended status
- (6) restricted address status (requiring nondisclosure of residence address)
- (7) disqualification from voting.

The county election officer may *always* act without confirmation on information signed and received directly from the voter, such as:

- (1) a new voter registration application form containing updated information
- (2) a change of address form completed at a driver's license office
- (3) information on a provisional ballot envelope or other information collected from the voter at the polling place
- (4) a written request from a voter.

In updating voter registration records, however, it is important to change the records only if the new information is received on a form designed for that purpose. Information received from a source other than the voter, or information received from the voter on a form designed for a different purpose, must be confirmed before altering the official voter registration record.

For instance, if a voter indicates a different address in signing a petition or on the advance ballot application form, it should not be considered a change in voter registration without confirmation. Or, if a registered voter files as a candidate for elective office and indicates on the declaration of intention or petition a residential address different from the address on his/her registration records, the registration records should not be changed on that basis alone. Rather, the candidacy should be declared invalid if the address is outside the election district and if residency in the district is required for that office.

B. Special Registration Statuses

1. Inactive Voters

An inactive voter is a registered voter who has been mailed a confirmation notice because the voter appears to have moved *out of the county* and has not responded to the notice and has not voted in any election or otherwise contacted the election office. [KSA 25-2316c(e)(4)]

This designation is a result of the National Voter Registration Act's list maintenance provisions. This includes those who were mailed a confirmation notice because a "forwarding order expired" or "moved-no forwarding address" notice was received from the post office. These individuals are still registered and may reactivate their status by voting or through another contact with the election office. The inactive designation is in most cases a temporary status and the voter will eventually make some contact with the election office to reactivate his/her status. If not, the registration will be canceled if the voter fails to vote in any election held in the county between the date the notice was mailed and the date of the second subsequent national/state general election. [KSA 25-2316c(d)(2)] At any rate, inactive voters are registered voters. Their names should be included on poll books sent to the polls on election day.

2. Suspended Voters

A suspended voter is a registered voter who has failed to vote at two consecutive national/state general elections. [KSA 25-2304(b)] This is not a designation arising from the National Voter Registration Act; rather, it is a designation required by state law that helps candidates, campaigns and political parties exclude unlikely voters from their mailings and other campaign contacts. These individuals are still registered and may cause their "suspended" designation to be canceled by voting in a national/state general election. Note that because of the statutory definition of the term "suspended voter," a voter's suspended status is not removed by voting in a national/state *primary* election, a municipal primary or general election, or a special question submitted election (although, if the voter is also an *inactive* voter, voting in one of these elections can affect the voter's inactive status). The suspended voter loses his/her suspended designation only by voting in a national/state general election. Suspended status never results in cancellation of the voter's registration. If a suspended voter is canceled, it is due to some other reason.

A particular voter may be designated as either inactive or suspended or both. They are separate but similar designations that may sometimes overlap.

“Suspended” should not be confused with “suspense.” In terms of the Kansas statewide voter registration database (ELVIS), suspended is a reason and suspense is a status. Applications representing individuals who are not full-fledged registered voters are designated with the suspense status; for instance, UOCAVA voters and those who have not completed the requirements for registration (failure to sign the application, failure to check a required box concerning citizenship, etc.). Thus, Suspense registrations are more properly referred to as Incomplete. Suspended is a reason defined as registered voters who have not voted in the past two consecutive national/state general elections.

3. Address Restricted Status

Certain individuals may file a request with the county election officer to have their residential addresses concealed from public records. When a person makes such a request, his/her residential address is not printed on poll books or provided to persons who purchase voter registration data.

Such applicants must specify a “clearly unwarranted invasion of personal privacy or a threat to the voter’s safety”. It is most requested by victims of domestic violence, law enforcement officers and judicial officers.

The Secretary of State has prepared a form, Form RN—Request for Nondisclosure of Residential Address, for this purpose. [KSA 25-2309(i)]

4. Safe at Home Status

Kansas law provides a program, administered by the Attorney General’s office, called Safe at Home, that allows victims of domestic violence to participate in a program where all their personal information is removed from public records. Once a person enrolls in the Safe at Home program, all their mail is sent to the Attorney General’s office and forwarded to them at an undisclosed address.

Safe at Home status extends to voting. Participants may register to vote and apply for advance by mail ballots through the Secretary of State. The administrator of the program in the Secretary of State’s office coordinates with the appropriate county election officers to have ballots mailed, returned, and tabulated.

C. Tracking Address Changes

1. Evidence of Address Changes

List maintenance activity requires significant commitment in terms of time and resources to track and update address changes. Any time the county election officer receives evidence of a voter’s change of address from any source other than directly from the voter, the change must be confirmed. This is usually done by mailing a forwardable confirmation notice. (See NVRA Guide for County Election Officers, or “Confirmation Mailing Procedure” below.)

Evidence of an address change might be:

- a returned piece of official election mail
- a returned mail ballot or advance voting ballot
- information from the National Change of Address program
- information from the county's own mass or targeted mailings

If the county election officer has been notified of a voter's address change by any alternative source other than those listed above, such as from an election board worker or a candidate, the election officer may contact the voter by phone, mail or other means in an attempt to determine the correct address. However, the election officer may not change a voter's address without written notice from the voter, nor may the voter's name be included in any category (such as confirmation mailings) that might eventually result in cancellation of the voter's registration.

Note: This is different from the National Change of Address (NCOA) process. The NCOA is recognized in federal and state law as an acceptable means of identifying address changes. The law *requires* the address to be changed on the county registration records and a confirmation notice to be sent when an in-county address change is discovered through NCOA.

If a voter moves to a new address in a different precinct in the same county, the county election officer may choose to send a notice informing the voter of the location of the new polling place.

2. Confirmation Mailing Procedure

If the county election officer receives indication of a voter's address change from a source other than the voter, the NVRA requires the address change to be confirmed. This is done through the confirmation mailing process. [KSA 25-2316c(d), (e)]

The confirmation notice is a forwardable, return-postage-paid mail piece asking the voter to verify and update his/her address information.

An important distinction affecting the processing of confirmation notices is whether the apparent address change is a move *within* the county or *out of* the county (or state).

If the county election officer receives an indication that a voter has moved *within* the county, the election officer must:

- change the voter's registration record to reflect the change,
- send a forwardable confirmation notice to the voter at the new address.

The voter's status remains active.

If the confirmation notice is returned by the voter, the county election officer verifies the information and files the card. If the confirmation notice is not returned, the county election officer does nothing else. The voter's name may not be removed from the registration list.

If the county election officer receives an indication that a voter has moved *out of* the county, the election officer must:

- send a forwardable confirmation notice to the voter at the new address,
- change the voter's status to inactive.

The voter's name may not be removed from the registration list yet.

If the confirmation notice is returned by the voter verifying that the voter has moved out of the county, the county election officer removes the voter's name from the registration list and files the card. If the confirmation notice is not returned, or if the post office returns the confirmation notice as "undeliverable" or "moved-no forwarding address," the county election officer does nothing else. Then, if the voter fails to vote in any election from the date of the confirmation notice through the second succeeding federal general election, the county election officer removes the voter's name from the registration list. If the post office returns the notice as undeliverable, the voter is considered inactive and thus may be canceled after the second succeeding federal general election.

The county election officer must maintain records of the dates of all confirmation mailings and returns from voters for statistical reports filed with the Secretary of State. Such records are maintained for two years.

3. Change of Address Form

If a previously registered voter completes a change of address form at a driver's license office, the law requires that the same form also serve to change their address for voter registration purposes unless the voter indicates otherwise on the form. Public assistance offices distribute new registration forms to applicants who change their addresses. If a change of address form indicates that the applicant does not want the address change to affect the voter registration records, the county election officer files the form with the voter's original registration card(s) and does nothing else. For all other completed change of address forms, the county election officer makes the required changes on the voters' registration records and files the forms with their original registration cards.

Change of address forms completed at driver's license offices are forwarded to the county election officer both on paper and electronically. Change of address forms received through the driver's license system do not require the county election officer to send confirmation notices. However, it is advisable to send notices to the voters informing them if their precincts and polling places change.

Change of address forms resulting from county-to-county moves result in previously registered voters' records being transferred from one county to the other. They are not new registrations; they are updates or transfers with the voter history, party affiliation and date of original registration following each voter. Most change of address forms are electronic, sent to the county election officer by the Division of Motor Vehicles because of either an in-office address change or an online change entered by the voter.

Change of address forms are processed according to the following guidelines:

4. Change of Address Procedure

Change of address forms are completed at driver's license offices and forwarded to the county election officer on paper or via email. Sometimes a voter submits a new voter registration form indicating a change of address rather than changing his/her address at a driver's license office. These constitute information received directly from the voter and are processed by the county election officer without the need for a confirmation notice.

Changes of address fall into three main categories.

Category 1: Voter moved into Kansas from outside the state—

This voter's out-of-state registration does not follow the voter. The county election officer should consider this as a written request for a voter registration form. Send a notice to the person saying they must register in Kansas and enclose a voter registration application form.

Category 2: Voter who moved within the county—

The county election officer should make the address change on the voter registration file. The record should maintain the date of the original registration along with the voter history and party affiliation. If the party affiliation was left blank on the address change form, the party affiliation should remain unchanged.

Category 3: Voter moved from one county to another in Kansas—

[1] If the voter's *new* residence is in the county election officer's county,

a. the county election officer enters the data and conducts a duplicate search to identify the county of the voter's previous residence,

b. if the previous address is in a Kansas county, select the record. The electronic record and all attached documents (if the county of previous registration imaged the documents) are automatically transferred to the new county.

c. if the documents are not imaged, ask the county election office in the county of previous registration to mail the hard copies of the documents relevant to the voter's record.

d. if the previous address is not in Kansas, see point 1 above.

[2] If the voter's *previous* address is in the county election officer's county, under normal circumstances the county election officer does not need to do anything because the record is automatically transferred to the new county when the county election officer in that county processes the change of address.

In the unlikely event that the county election officer in the county of the voter's previous address receives notice of the address change before the county election officer in the new county, the county election officer should cancel the registration.

5. Emergency 9-1-1 Addressing

Applicants for voter registration are required to provide residential addresses on the application form for the county election officer to assign them to the correct precincts,

which determines the correct polling places and ballots for the registrants. Some traditional addresses such as rural routes and star routes are not geographically specific, requiring the county election officer to plot the locations of the voters' residences on a map to determine their precincts.

When a county (or sometimes a jurisdiction within the county) adopts emergency 9-1-1 addressing, every resident is assigned a street address by the post office. This changes each voter's address in postal service records and county records such as tax rolls and appraisal records. Since passage of the National Voter Registration Act of 1993, county election officers in counties adopting 9-1-1 addressing have faced a question whether to require all registered voters to re-register using their newly assigned addresses or to change the voter registration records without further action by the registrants.

The policy of the Secretary of State is that it is permissible to change the addresses without requiring the registrants to re-register. It is recommended that the election officer obtain a copy of the official document that changed the addresses in case questions arise about the process for changing the addresses. Often the official document is a listing from the post office showing the previous addresses and the new ones.

This policy is consistent with the NVRA—that state and county government should take part of the responsibility for tracking voters' address changes. Voters are not required to complete extra paperwork if the information is otherwise available from a reliable source. 52 USC § 20507(e) requires registered voters to report changes of address and states that “failure to notify the registrar of the change of address” shall not disenfranchise such voters. Voters should re-register when they move, but there is no requirement to re-register when they have not moved but their addresses change for reasons beyond their control.

Kansas law reflects this federal requirement. K.S.A. 25-2316c(b) requires registrants to re-register when they move but preserves their right to vote provisionally in compliance with the NVRA. State law does not require them to re-register when their addresses are administratively changed to accommodate a program such as 9-1-1 addressing.

The NVRA and state law require a confirmation mailing to give registrants an opportunity to verify routine address changes, but that is not required in the case of 9-1-1 address changes because in such cases the registrants did not physically move. These are merely changes in the way registrants' addresses are listed and did not result from voter action.

D. Voter History

The county election officer maintains voter history records on each registered voter. Voter history means keeping track of whether the voter cast a ballot at a given election. The voter registration system developed pursuant to HAVA maintains each person's complete voter history in the central database. In that system, voter history is referred to as “voting credit.” Voting credit is not given for participation in unofficial advisory elections, so the county election office conducts advisory elections in the test database rather than the production database to ensure that voting credit is not posted as the result of such voters' participation in advisory elections.

When maintaining voter history records, the county election officer should include anyone who went to the polls and cast a ballot on election day or who cast an advance ballot, even

if the voter's ballot was challenged/provisional or ultimately declared invalid. The election officer should not include persons who applied for advance ballots but did not return them.

The rules on voter history may be summarized as follows:

Type of Ballot	Situation	Include in Voter History as Having Voted?
Ballot cast at poll	Voided ballot	Yes, unless voided because voter voted more than once
Provisional ballot	Any	Yes, even if ballot is invalidated
Advance ballot or Federal services ballot	Applied for, returned	Yes
	Applied for, returned after polls close	Yes
	Applied for, returned, but invalidated	Yes
	Applied for, not returned	No
	Permanent advance ballot sent to voter, not returned	No

VIII. SYSTEMIC VOTER LIST MAINTENANCE PROGRAM

The NVRA requires each state to conduct a systematic program for maintaining an accurate and updated voter registration list. The main thrust of this requirement is to identify registered voters whose addresses have changed and to contact them, usually through the mail, to obtain updated information. According to federal and state law, this may be accomplished in one of two ways. Each county election officer must choose one of the following:

A. National Change of Address (NCOA) Program

Each year the Secretary of State uses the statewide voter file (See Central Voter Registration Database below, Section g.) to conduct the NCOA program. The Secretary of State contracts with a private vendor licensed by the U.S. Postal Service to compare the statewide voter file against the Postal Service's National Change of Address file, which maintains address changes for 36 months. If a registered voter's record appears more than once, it indicates a possible address change that must be reviewed for possible cancellation of one or more obsolete records. The information the Secretary of State receives from the

NCOA program is forwarded to the appropriate county election officers, who mail confirmation notices to obtain updated information directly from the voter. See “Confirmation Mailing Procedure” above. [KSA 25-2354(a); 52 USC § 20507(c)]

B. Mass or targeted mailings

As an alternative to NCOA, the county election officer may choose to conduct his/her own mailings. Either a mass mailing to all registered voters in the county or a series of targeted mailings may be used. If targeted mailings are used, the series of mailings must eventually reach each registered voter at least once per year. The mailings ask registrants if the information on the county voter file is correct and, if not, to contact the election office to update it. If mail pieces are returned as undeliverable, it constitutes evidence of an address change and the confirmation mailing process must be initiated. See “Confirmation Mailing Procedure” above. [KSA 25-2354(a)]

C. Duplicate check

Another list maintenance program conducted using the statewide voter file is the duplicate check. This program is not required by law, but it is a useful clean-up tool that has been in effect since 1997. Keying specifically on the name, birth date, and Social Security number or driver’s license number (if they’re available), the program identifies individuals whose records appear more than once in the statewide file.

The statewide voter registration system developed pursuant to HAVA automates the duplicate check. Notification of a possible duplicate is provided upon entering the information from the voter registration application. There is an opportunity to verify the information and delete the duplicate.

D. Temporary Driver’s License Check

The Secretary of State obtains from the Division of Motor Vehicles the current list of temporary driver’s license holders and compares it to the statewide voter registration database. Temporary license holders are not U.S. citizens and are thus ineligible to register and vote. The county election officer should follow up with these individuals and ensure they are non-US citizens. Upon confirmation, they should be canceled and referred to law enforcement for investigation and possible prosecution.

E. Cancellations

Election officers at the state and county levels must continuously and diligently exchange information to keep everyone’s records current. Most often this is accomplished through cancellation notices. Any time a registered voter moves out of the jurisdiction of one election officer, whether to a new county within the state or to a new state, and re-registers in the new jurisdiction, the election officer in the new jurisdiction must send a cancellation notice to the election officer in the previous jurisdiction. For in-state moves, the voter

registration database executes a transfer of the voter's record from one county to another. This creates a new registration in the new county.

F. No Voter Activity

A new law was passed by the Kansas Legislature in 2022 that allows a county election officer to transmit a forwardable confirmation notice to the voter if the voter has no election-related activity for any four-calendar year period. No election-related activity is defined as the registered voter has not voted, attempted to vote, requested or submitted an advance ballot application, filed an updated voter registration card, signed a petition, or responded to any official election mailing transmitted by the county election office.

G. Conclusion

It is extremely important to use all the tools at the election officer's disposal to keep voter lists as clean and accurate as possible. In fact, failure to perform some of the essential list maintenance activities is a violation of the law. Inaccurate voter lists are detrimental to the voting public, candidates, campaigns, and the election administration process in general.

The tools used in list maintenance include:

- NCOA
- mailings
- duplicate checks
- cancellations from other jurisdictions
- review of records with no election activity
- obituaries and death notices
- felony conviction notices.

X. POLITICAL PARTY AFFILIATION

A. Voter indication of party affiliation

Kansas is one of about 30 states with an official party affiliation list. [KSA 25-3301(b), 25-3304] Voter registration applicants may choose to affiliate with one of the recognized political parties at the time of initial registration or any time after. (See Chapter IV, Section f, Political Parties.) A check-off box is provided on the voter registration application form prescribed by the Secretary of State. Some counties use a separate Change of Party Affiliation Form for use by unaffiliated registered voters who wish to affiliate or for those who wish to change their affiliation. Most counties, however, use the regular voter registration application form for all registration- and affiliation-related purposes.

Registered voters who are unaffiliated may affiliate with either the Democratic or Republican party at the polling place on the day of the partisan primary election (August of even-numbered years) and vote that party's ballot. [KSA 25-3301(c)] However,

depending on the party, in some cases they might not be required to affiliate before voting in the primary. Courts have ruled that each party may determine who may vote in its primary. Thus, a party may continue with a closed primary as Kansas law has prescribed since 1908, or it may choose to allow unaffiliated voters or members of other parties vote in its primary. The state cannot pass laws dictating who may vote in each party's primary.

For the last election, both major parties in Kansas required voters to be affiliated with the parties to vote in their respective primaries. Registered voters who are unaffiliated may affiliate with a party at the polling place on election day, or in the process of obtaining an advance ballot and vote that party's primary ballot.

B. Party Affiliation Deadline

A law passed in 2014 prohibits voters from changing party affiliations during the weeks before and after the August primary election. Beginning with the candidate filing deadline on June 1, no voter may file a document to change party affiliations or to disaffiliate from a party until the results of the primary have been certified by the state board of canvassers. The statutory deadline for the state board of canvassers to meet is September 1. If a person files such a document during the prohibited period, the county election officer rejects it and instructs the person to re-file the document after the state canvass. [K.S.A. 25-3304(b)] An unaffiliated voter may, however, affiliate with a party during this period or when voting at the primary on election day or when applying for an advance ballot before the primary.

X. CENTRAL VOTER REGISTRATION DATABASE CVR)

Federal and state law requires the Secretary of State to maintain a statewide centralized voter registration database. [KSA 25-2304(b)] Each county election officer maintains the county's database, but all operations are performed in the statewide centralized database implemented pursuant to HAVA. The centralized voter registration database/election management system in Kansas is called ELVIS (for **E**lection **V**oter **I**nformation **S**ystem).

Data entered or updated by county users is instantly loaded into the central database, duplicates are identified, and the file is available for conducting all regular election functions.

The Secretary of State never alters a record in the voter file. The county election officer has sole authority and responsibility for adding, deleting and updating voters' registration records. [KSA 25-2303(a)] The central database is merely a collection of all 105 counties' files, and it reflects exactly the data that are submitted by the counties. The results of all list maintenance functions performed by the Secretary of State are always sent to the county election officers for appropriate action, and the subsequent central database reflects the actions taken by the county election officers.

No voter registration data may be used for commercial purposes. The law does not prohibit using the data for campaign purposes, which are specifically not considered commercial. [KSA 25-2320a, KSA 45-220, AGO 94-132, AGO 96-98]

XI. NATIONAL VOTER REGISTRATION ACT OF 1993 (NVRA)

At the time of its passage, the National Voter Registration Act of 1993 was the biggest change in U.S. and Kansas election law in several decades. It may be summarized into its three main components: expanding voter registration, maintaining accurate registration lists, and fail-safe voting.

A. Increasing the number of registered voters through expansion of voter registration opportunities.

- Expanded the number of locations and opportunities for voter registration.
- More government offices provide voter registration opportunities.
- Agency-based registration must be active and affirmative, not passive.
- All NVRA-mandated registration agencies except motor vehicle offices must keep records of when individuals decline to register.

1. Motor-Voter

Voter registration is required in the driver's license application process because more than 90% of Americans have driver's licenses or nondriver identification cards. In Kansas, some surveys show that as many as 98% of Kansans have these types of identification cards.

2. Public assistance agencies

These agencies are included to ensure that lower socio-economic classes and persons with disabilities are not excluded from the process.

- Voter registration is required to be offered at all state agencies administering any of four federal assistance programs:
 - Food Stamps (DCF offices in Kansas)
 - Medicaid (KDHE and KDADS offices in Kansas)
 - Aid to Families with Dependent Children (DCF offices in Kansas)
 - Women, Infants and Children (KDHE offices in Kansas)

Voter registration is required to be offered at offices that operate state-funded programs primarily engaged in providing services to persons with disabilities, including services provided in the home.

3. Armed forces recruitment offices

Registration at these sites is managed and conducted by military personnel who operate the offices.

4. Other offices designated by the state

In Kansas, the law designates first- and second-class city clerks' offices.

5. Mail registration

a. Anyone may conduct door-to-door voter registration.

b. Election officers must supply forms free upon request. The Secretary of State and many county election officers have adopted a policy requiring a written justification for large quantities of forms. For instance, the Secretary of State requires a written request for quantities greater than 25 forms. The request must specify who will distribute the forms, the plan for distribution, and the reason for the number of forms being requested. Persons making such requests are asked to return unused forms.

B. Protecting the integrity of the electoral process by ensuring that accurate and current voter registration rolls are maintained.

The policy underlying the NVRA is that a voter should be retained on the voter registration list when there is a doubt about the registration, rather than mistakenly removing a qualified voter from the registration list. Once registered, a voter's name may never be removed from the rolls for simple failure to vote. A voter's registration may be canceled only for reasons specified in law, such as moving out of the county or state, or a felony conviction, but not solely because the person did not vote. Subsequent Supreme Court cases have allowed jurisdictions to send confirmation mailings after a reasonable period of not voting.

- The government has primary responsibility for keeping voters' records updated.

County election officers must mail notices of disposition by non forwardable mail to all applicants. The notice of disposition informs the applicant whether he/she has met the registration requirements and is on the registration list, or whether more information is needed to process the application. [KSA 25-2309]

County election officers must send confirmation notices to all voters for whom the election officers receive evidence of name changes or address changes, either within the county or outside the county. Evidence of an address change might be information from the National Change of Address data file from the U.S. Postal Service, a returned notice of disposition, or other returned mail marked "undeliverable" or "moved-no forwarding address." When mailing a confirmation notice due to an in-county move, the county election officer changes the registrant's address on the voter file to reflect the new address and sends the confirmation notice to that new address. The confirmation notice is a forwardable, return postage-paid mail piece prescribed by the Secretary of State. (See List Maintenance above, Section e.)

The state must conduct a systematic program for keeping registration lists updated. Under the NVRA and Kansas law there are two options:

- National Change of Address program
- Mass or targeted mailings by the counties

Each county chooses whether to participate in the NCOA program conducted by the Secretary of State or whether to conduct its own mass or targeted mailings. (See List Maintenance, Section e.)

Removal of names is permitted in cases of:

- felony conviction (See Section I b)
- death
- mental capacity, as determined by a court
- written request by the voter
- written confirmation by the voter of an address change outside the county
- failure to respond to a confirmation notice sent because of evidence of an address change *outside the county*, followed by failure to vote in any election held between the date of the confirmation notice and the second subsequent federal/state general election.

C. “Fail-safe” voting procedures to encourage voter turnout and to ensure that an individual’s right to vote prevails over bureaucratic or legal technicalities

- Once registered, a voter remains on the voter list as long as the individual remains eligible to vote in that jurisdiction (county).
- If a registered voter moves within the county and fails to re-register before the election, the voter may vote a provisional ballot at the new precinct or a central location. The central location is designated by the county election officer.
- If a registered voter changes his/her name and fails to re-register before the election, the voter may vote a provisional ballot.

D. Other Important Concepts in the NVRA

- The U.S. Department of Justice has enforcement authority.
- Each state designates a chief state election official to coordinate responsibilities.
- The NVRA is a voter registration act, not a voting act. It has contributed to an increase in registrants, but no noticeable increase in voters.
- Confidentiality: *Where* a person registers, or *whether* a person registers or declines to register, must be kept confidential.
- Grievances: Individuals may file grievances with the chief state election official if they believe their rights under the NVRA have been violated.
- Purging: The rules for purging ineligible or inactive voters changed, and they are much more limited than before NVRA.

- Provisional voting: Due to fail-safe voting requirements, the number of challenged and provisional ballots is increasing.
- Reporting: The NVRA requires records to be kept regarding the number of registrations received from various sources, the number of cancellations and the number of confirmation notices sent and returned. Counties report to the Secretary of State; the Secretary of State reports biennially to the Election Assistance Commission; the EAC reports to Congress.
- The NVRA prescribes fines and imprisonment up to five years for violations of the provisions of the act. Individuals also may be prosecuted under state law.

Legal References

K.S.A. 25-2309, 25-2316c, 25-3301

K.A.R. 7-23-13

FEC Guide to Implementing the NVRA