



# ***A Short Guide to Helping Voters Register Under Kansas Law\****

*\*Kansas's efforts to require documentary proof of citizenship to register and vote are the subject of ongoing litigation. This guide reflects information available at the time of writing.*

## **WHO IS ELIGIBLE TO VOTE?**

An individual may register to vote in Kansas if he or she:<sup>1</sup>

- Is a U.S. citizen;
- Is a resident of Kansas;
  - "Residence" is defined by Kansas law as 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."<sup>2</sup>
- Will be 18 years old on or before Election Day;<sup>3</sup> and
- Has not been convicted of a felony under the laws of any state or of the United States, unless pardoned or restored to his civil rights. Civil rights are restored once the person has completed the terms of the authorized sentence.<sup>4</sup>

In October 2013, the Kansas chief state election official announced plans to establish a dual registration system by which individuals who register using federal forms without submitting documentary proof of citizenship will be allowed to vote only in federal elections, and not in state and local elections. Individuals who register on state forms without providing such proof will be placed in suspense and may not vote in any elections.<sup>5</sup>

## **WHAT CONSTITUTES A COMPLETE VOTER REGISTRATION APPLICATION?**

Federal law<sup>6</sup> requires that voter registration applications include:

- The applicant's Driver's License or State ID number, or, if none,
- Last four digits of Social Security Number, or, if none
- The state will assign the applicant a number, and
- Check boxes for the applicant to indicate whether she is a U.S. citizen and will be 18 by Election Day.

Federal law authorizes states to only require identifying information that "is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process."<sup>7</sup>

Kansas law requires the following information:<sup>8</sup>

- Name
- Residence address or location
  - The address does not need to be exact, but must be sufficiently detailed to enable the county election official to assign the applicant to the correct precinct.<sup>9</sup>
- Mailing address, if different
- Date of birth
- Sex
- The last four digits of the person's social security number or the person's full driver's license or nondriver's identification card number;
- Telephone number, if available;
- Naturalization data (if applicable);



- If applicant has previously registered or voted elsewhere, residence at time of last registration or voting;
- When present residence established;
- Name under which applicant last registered or voted, if different from present name;
- An attestation that the applicant meets each eligibility requirement; and
- Signature
  - May be made by mark, initials, typewriter, print, stamp, symbol, or any other manner, so long as the registrant intends for it to be binding<sup>10</sup> A signature may be made by another person at the registrant's direction if the signature reflects the registrant's intention<sup>11</sup>
- Proof of citizenship
  - Kansas has a statute that requires proof of citizenship for voter registration (see below); however, under the Supreme Court's ruling in *Arizona v. Inter Tribal Council of Arizona, Inc.*,<sup>12</sup> a state cannot require applicants who register using the *federal* voter registration form to provide proof of citizenship.<sup>13</sup>
  - In October 2013, the Kansas chief state election official announced plans to establish a dual registration system by which individuals who register using federal forms without submitting documentary proof of citizenship will be allowed to vote only in federal elections, and not in state and local elections. Individuals who register on state forms without providing such proof will be placed in suspense and may not vote in any elections.<sup>14</sup>
  - The state law requires *new* registrants, or individuals who must re-register after being legally removed from the voter rolls,<sup>15</sup> to submit proof of U.S. citizenship for review by the county election officer in order to successfully register to vote.<sup>16</sup> This must be done either in person at the time that the applicant files his or her registration form with the county election officer, or by including a photocopy of documentation indicating U.S. citizenship with his or her mailed registration application.<sup>17</sup> Proof of voter registration from another state is not satisfactory evidence of U.S. citizenship.<sup>18</sup>
  - A registered Kansas voter who updates their registration address or other information is not required to submit evidence of United States citizenship.<sup>19</sup>
  - Kansas statute states that acceptable documents to fulfill the documentary proof requirement include:<sup>20</sup>
    - The applicant's driver's license or non-driver's identification card issued by the Division of Vehicles, if the card indicates that the person has successfully proved citizenship
    - The applicant's birth certificate
    - The applicant's valid or expired U.S. passport
    - The applicant's U.S. naturalization documents; or the number of his or her certificate of naturalization (if the number can be verified)
    - Other documents or methods of proof of U.S. citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952
    - The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number
    - The applicant's consular report of birth abroad of a citizen of the United States of America
    - The applicant's certificate of citizenship issued by the U.S. Citizenship and Immigration Services
    - The applicant's certification of report of birth issued by the U.S. Department of State
    - The applicant's American Indian card, with KIC classification, issued by the U.S. Department of Homeland Security



- The applicant's final adoption decree showing the applicant's name and U.S. birthplace.
- The applicant's official military record of service showing the applicant's place of birth in the U.S.
- An extract from a U.S. hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the U.S.

If a document submitted as evidence of U.S. citizenship contains an expiration date and this date has passed when the document is submitted for purposes of voter registration, the document will nonetheless be considered in assessing qualifications to register to vote.<sup>21</sup>

If an applicant is a U.S. citizen but is not in possession of any of the forms of documentation listed above, he or she may submit any form of evidence that demonstrates U.S. citizenship.<sup>22</sup> If the state election board finds that the presented evidence does not constitute satisfactory evidence of U.S. citizenship, the applicant may appeal the determination. The determination will be reversed if the applicant receives a declaratory judgment that he or she is a U.S. national.<sup>23</sup>

The date of birth indicated on the document submitted as evidence of United States citizenship shall match the date of birth provided on the application for voter registration.<sup>24</sup>

## WHAT IS THE DEADLINE FOR SUBMITTING REGISTRATION APPLICATIONS?

County election officers must receive completed registration forms no later than 21 days prior to Election Day for the applicant to be able to vote in that election.<sup>25</sup> However, completed registration forms submitted by mail will continue to be processed if they are postmarked no later than the 21<sup>st</sup> day preceding Election Day, or, if the postmark is illegible or missing, they are received no later than the 9<sup>th</sup> day preceding Election Day.<sup>26</sup>

If a person was in federal service and his or her service was discharged too late to register to vote on time, he or she may register until noon on the day preceding Election Day, so long as he or she submits an affidavit establishing his or her eligibility to register in this manner. The county election officer will then provide him or her with a certificate stating the precinct in which he or she is entitled to vote, which must be presented to and filed with the election board of that precinct at the time of voting.<sup>27</sup>

## WHAT ARE THE STATE RULES GOVERNING VOTER REGISTRATION DRIVES?

### BEFORE THE DRIVE

**A. Does the state require organizations conducting voter registration drives to register or file other information detailing its voter registration activities?**

No, however, to obtain more than 25 copies of the registration form, a written request is required. However, forms may also be printed from the Internet or photocopied.<sup>28</sup> The state's voter registration drive guide also asks that unused original forms be returned to election officials.<sup>29</sup>

**B. Does the state require any training in order to conduct voter registration drives?**

Voter registration drive workers may receive training from the county election officer or the Secretary of State's office as to how to instruct applicants on completing registration forms and the requirements for returning completed forms to county election offices, but it is not mandatory.<sup>30</sup>



**C. Does the state have restrictions on who may help others register to vote?**

No.

**D. Does the state have restrictions on whether workers may be paid?**

No.

**E. Can canvassers or the voter registration drive offer something of value to a person in exchange for completing a voter registration application?**

Federal law states that whoever "pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years."<sup>31</sup> At least one federal appellate court has interpreted "payment" as "intended to include forms of pecuniary value offered or given directly to an individual voter, and indicated the value should be based on "an assessment of the monetary worth of an item from the perspective of the voter receiving the item." That case held that food vouchers could be "payment."<sup>32</sup>

Another example is California's Secretary of State's interpretation of the federal law to mean that "Any type of incentive is considered 'payment,' even things as seemingly innocent as cookies or admission to an entertainment event."<sup>33</sup>

**DURING THE DRIVE**

**A. Are there special rules requiring the registration drive worker to sign her name to the completed voter registration application?**

No.

**B. Are voter registration groups prohibited from putting identifying marks on completed voter registration applications?**

No.

**C. Are there restrictions on copying completed voter registration applications prior to submitting them to the registrar?**

Kansas law does not directly address this issue. However, use of voter registration lists or information from the list for commercial purposes is a class C misdemeanor.<sup>34</sup>

**D. Are voter registration groups subject to time limits for submitting the voter registration applications they have collected?**

There is no statutory or regulatory language addressing this issue. The Secretary of State's Guide for Voter Registration Drives states that any person conducting a registration drive must mail, deliver or fax all forms to the county or state election office as soon as they are completed by the applicants or by the registration deadline before the election.<sup>35</sup>

County election officers must receive completed registration forms no later than 21 days prior to Election Day for a person to be able to vote in that election.<sup>36</sup>

**E. What are the consequences for failing to submit voter registration applications on time?**

Failure to deliver completed applications to the appropriate county election officer or the chief state election official constitutes voter registration suppression, a severity level 10, nonperson felony.<sup>37</sup>

**F. How are completed voter registration forms tracked?**

Upon receipt of a completed registration form, the county election officer must send, by nonforwardable first class mail, a notice of disposition of the application to the applicant at the address he or she provided on the registration form.<sup>38</sup> The name, date of registration and residence of successful registrants will then be entered into county registration books.<sup>39</sup>



**G. Who is responsible for investigating and enforcing the state rules?**

County election officers, including county election commissioners and county clerks, are responsible for administering and enforcing Kansas election law.<sup>40</sup> The chief state election official is the Secretary of State.<sup>41</sup>

## WHAT ARE THE RULES FOR CORRECTING INCOMPLETE APPLICATIONS?

**A. If a voter registration application is incomplete, may the voter registration driver write the missing information on the application with the consent of the applicant?**

Yes, but a voter registration driver worker cannot sign the registration form for the applicant unless the applicant has a disability and has requested the worker to do so.<sup>42</sup>

**B. How may an applicant correct an incomplete application after it has been submitted to county election officials?**

If an application is incomplete, the county election officer will send notice to the applicant, by nonforwardable first class mail, to let him or her know that required information is missing.<sup>43</sup>

If an applicant fails to check the citizenship checkbox, the county election officer must send the application back to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application before the deadline and be eligible to vote in the next election.<sup>44</sup>

If an applicant fails to submit evidence of United States citizenship before the deadline to register to vote before an election, the applicant may submit a valid citizenship document by mail or personal delivery to the county election office by the close of business on the day before the election or a valid citizenship document by e-mail or fax before midnight on the day before the election.<sup>45</sup>

If an applicant's name or sex as indicated on the document submitted as evidence of U.S. citizenship is inconsistent with the name or sex provided on the application, the election officer shall ask the applicant for a second, government-issued document confirming the applicant's name or sex. If the applicant is unwilling or unable to provide a second document, the applicant can sign an affidavit, under oath, that the applicant is the individual reflected in the first document provided as evidence of citizenship. If the applicant is unwilling or unable to do either, the election officer will inform the applicant of the right to appeal to the state election board.<sup>46</sup>

If an applicant's date of birth as indicated on the document submitted as evidence of U.S. citizenship does not match the date of birth provided on the application, the election officer will inform the applicant of the right to appeal to the state election board.<sup>47</sup>

## WEB PAGE WITH STATUTE

[http://kslegislature.org/li/b2011\\_12/statute/025\\_000\\_0000\\_chapter/025\\_023\\_0000\\_article](http://kslegislature.org/li/b2011_12/statute/025_000_0000_chapter/025_023_0000_article)

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## DISCLAIMER

The information contained in this document is for general guidance only. It should not be used as a substitute for consultation with professional legal or other competent advisers. Project Vote is not responsible for any errors or omissions, or for the results obtained from the use of this information.

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<sup>1</sup> Kan. Const. Art. 5 § 1; Kansas Secretary of State, *Guide for Voter Registration Drives 2* (rev. Apr. 2013), available at [http://www.kssos.org/forms/elections/A\\_Guide\\_to\\_Voter\\_Registration\\_Drives.pdf](http://www.kssos.org/forms/elections/A_Guide_to_Voter_Registration_Drives.pdf).

<sup>2</sup> Kan. Stat. § 25-407

<sup>3</sup> Kan. Stat. § 25-2306

<sup>4</sup> Kan. Const. Art. 5 § 2; Kan. Stat. § 21-6613

<sup>5</sup> Dion Lefter, "Kris Kobach laying groundwork for two-tier voting system in Kansas," *Wichita Eagle* (Oct. 4, 2013), <http://www.kansas.com/2013/10/04/3038825/kobach-laying-groundwork-for-two.html>.

<sup>6</sup> Help America Vote Act of 2002, Sections 303(a), 303(b)

<sup>7</sup> National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-7(b)

<sup>8</sup> Kan. Stat. § 25-2309(b)

<sup>9</sup> Kan. Admin. Regs. § 7-23-12

<sup>10</sup> Kan. Stat. § 25-2309(a)

<sup>11</sup> *Id.*

<sup>12</sup> 570 U.S. \_\_\_, 133 S. Ct. 224 (2013)

<sup>13</sup> *Id.* Note that Project Vote cannot provide legal advice; instead, organizations seeking legal advice should consult counsel regarding the applicable laws and regulations.

<sup>14</sup> Dion Lefter, "Kris Kobach laying groundwork for two-tier voting system in Kansas," *Wichita Eagle* (Oct. 4, 2013), <http://www.kansas.com/2013/10/04/3038825/kobach-laying-groundwork-for-two.html>

<sup>15</sup> Kan. Stat. § 25-2309(n), Kan. Admin. Regs. §§ 7-23-14(c)-(d)

<sup>16</sup> Kan. Stat. § 25-2309(l)

<sup>17</sup> Kan. Stat. § 25-2309(l)

<sup>18</sup> Kan. Stat. § 25-2309(o)

<sup>19</sup> Kan. Stat. § 25-2309(p)

<sup>20</sup> Kan. Stat. § 25-2309(l)

<sup>21</sup> Kan. Admin. Regs. § 7-23-14(a)(6)

<sup>22</sup> Kan. Stat. § 25-2309(m)(1)

<sup>23</sup> Kan. Stat. § 25-2309(m)(6)

<sup>24</sup> Kan. Admin. Regs. § 7-23-14(a)(3)

<sup>25</sup> Kan. Stat. § 25-2311(e)

<sup>26</sup> *Id.*

<sup>27</sup> Kan. Stat. § 25-2302d

<sup>28</sup> Kansas Secretary of State, *Guide for Voter Registration Drives 2* (rev. Apr. 2013), available at [http://www.kssos.org/forms/elections/A\\_Guide\\_to\\_Voter\\_Registration\\_Drives.pdf](http://www.kssos.org/forms/elections/A_Guide_to_Voter_Registration_Drives.pdf)

<sup>29</sup> Kansas Secretary of State, *Guide for Voter Registration Drives 2* (last updated Apr. 2013), available at [http://www.kssos.org/forms/elections/A\\_Guide\\_to\\_Voter\\_Registration\\_Drives.pdf](http://www.kssos.org/forms/elections/A_Guide_to_Voter_Registration_Drives.pdf)

<sup>30</sup> *Kansas Election Standards I-3* (last revised Sept. 1, 2011), available at [http://www.kssos.org/forms/elections/election\\_standards/ChapI-VoterRegistration.pdf](http://www.kssos.org/forms/elections/election_standards/ChapI-VoterRegistration.pdf)

<sup>31</sup> 42 U.S.C. § 1973i(c).

<sup>32</sup> *United States v. Garcia*, 719 F.2d 99, 102-03 (5th Cir. 1983).

<sup>33</sup> California Secretary of State, *Guide to Voter Registration Drives 10*, available at <http://www.sos.ca.gov/elections/guides/guide-to-vr-drives.pdf> (last revised March 2013)



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<sup>34</sup> Kan. Stat. § 25-2320a

<sup>35</sup> Kansas Secretary of State, *Guide for Voter Registration Drives 2* (last updated Apr. 2013), *available at* [http://www.kssos.org/forms/elections/A\\_Guide\\_to\\_Voter\\_Registration\\_Drives.pdf](http://www.kssos.org/forms/elections/A_Guide_to_Voter_Registration_Drives.pdf)

<sup>36</sup> Kan. Stat. § 25-2311(e)

<sup>37</sup> Kan. Stat. § 25-2421a

<sup>38</sup> Kan. Stat. § 25-2309(e)

<sup>39</sup> Kan. Stat. § 25-2305

<sup>40</sup> Kan. Stat. § 25-2303(a)

<sup>41</sup> Kan. Stat. § 25-2504

<sup>42</sup> Kansas Secretary of State, *Guide for Voter Registration Drives 1* (rev. Apr. 2013), *available at* [http://www.kssos.org/forms/elections/A\\_Guide\\_to\\_Voter\\_Registration\\_Drives.pdf](http://www.kssos.org/forms/elections/A_Guide_to_Voter_Registration_Drives.pdf)

<sup>43</sup> *Id.* at 2.

<sup>44</sup> Kan. Stat. § 25-2309(k)

<sup>45</sup> Kan. Admin. Regs. § 7-23-14(b)

<sup>46</sup> Kan. Admin. Regs. §§ 7-23-14(a)(2), (5)

<sup>47</sup> Kan. Admin. Regs. § 7-23-14(a)(3)