

**COUNTY
ELECTION
OFFICER**

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HAVA

Help America Vote Act

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HAVA Overview/Impact on CEO

INTRODUCTION

A. Origin of HAVA

B. Themes of HAVA

1. State involvement is increasing
2. Accessibility is improved
3. Voters have a better chance of having their votes count

C. Effect on Counties

1. CVR
2. Voting procedure
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INTRODUCTION



The election world was changed by the 2000 election and the resulting federal legislation, the Help America Vote Act of 2002 (HAVA). Election officials at the state, county and local levels, as well as the voters themselves, are affected by the changes brought about by HAVA. Training of election officials is more thorough and uniform. In Kansas, county election officers receive more frequent and more in-depth training directed from the state level. County officials in turn train their precinct poll workers in new HAVA procedures.

The training programs were developed by the office of the Kansas Secretary of State and representatives of the Kansas County Clerks' and Election Officials' Association with input from many other groups and individuals.

A. Origin of HAVA

The 2000 presidential election was unprecedented in several ways: the popular vote was exceedingly close between the top two candidates; the winner was determined by the Supreme Court; the process of deciding the winner was extremely long; and structural and procedural inadequacies in the voting process in some places were shown to have frustrated voters and obscured the results. These factors combined to produce an erosion of public confidence in the election process and a demand for reform.

The U.S. Congress' response to the public outcry was the passage of the Help America Vote Act of 2002, which was signed by the President on October 29, 2002.

B. Themes of HAVA

1. State involvement is increasing

The state is more heavily involved in election administration. Some functions that used to be performed solely by the county election officer are now done with assistance from the state. Aspects of election administration with increased state involvement include: creation and maintenance of the statewide centralized voter registration (CVR) database; purchase, installation and maintenance of voting equipment; training of county election officers (CEOs) and precinct election board workers; and funding of certain election activities.



2. Accessibility is improved

Voters who in the past have needed assistance in voting are now able to cast their ballots without assistance through the placement of at least one fully accessible electronic voting machine in each polling place.

HAVA places more emphasis on, and some federal funding for, improving physical access to all polling places. The goal is full compliance with the Americans with Disabilities Act.

Although not specifically required by HAVA, other federal rules allow voters who are not proficient in English to receive ballots and other voting materials in alternative languages in specified counties. Currently, Spanish is the only alternative language required by federal law in Kansas.

3. Voters have a better chance of having their votes count

Voters who cast ballots have a greater chance of having their ballots count through the elimination of confusing ballot and voting equipment designs, improved voting procedures, and the guarantee of the right to a provisional ballot when warranted. Voters will know whether their ballots counted and, if not, why.

C. Effect on counties

1. CVR

In Kansas, CEOs have always built and maintained their own voter registration databases. With implementation of the statewide centralized voter registration (CVR) database in 1994, counties were required to send their data to the state on set intervals according to a specified data format.

HAVA requires that “each state, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level.” The SOS, with advice from an appointed CVR work group, has designed the format for the new CVR system and the plan for selection of a single vendor. The new system will be installed in early 2005 on a trial basis and later that year will become the official voter registration database for the state and all the counties.

CEOs will no longer send their databases to the state nor purchase or maintain software individually. Records of voter history, confirmation mailings, and many other voter contacts are automated, including identity checks with the Social Security Administration and duplicate name checks (eliminating the need for the annual NCOA check). CEOs receive training and support from the vendor.



2. Voting procedure

Three requirements of HAVA alter the voting procedure for some voters.

a. Voter identification

HAVA introduced the concept of voter identification into the registration/election process. In Kansas, all first-time voters in the county are required to provide identification at some point in the process.

“First-time voter” is defined in Kansas law as a person who has never voted before in the county where registered, including a person who was once registered, and may have even voted, but was canceled and has re-registered. They may have been canceled for moving out of the county or state, due to a felony conviction, or by court order. Whatever the reason, upon re-registering such a person is once again considered a first-time voter.

The identification requirement of a first-time voter may be satisfied any of several ways:

1. The applicant may provide identification when registering or at any time after registration.
2. The CEO may use the state voter registration data verified by the Division of Motor Vehicles to verify the applicant’s driver’s license number or last 4 digits of Social Security number provided on the voter registration application form.
3. The applicant may provide identification when voting, either in advance or at the polling place on election day.
4. The first-time voter who has not previously provided identification and fails or refuses to provide it before voting may vote a provisional ballot, and only a provisional ballot, and submit identification to the CEO sometime after election day but before the county canvass to ensure that the provisional ballot is valid.

Acceptable forms of identification are:

- a current and valid photo identification such as a Kansas driver's license or nondriver's identification card
- current utility bill
- bank statement
- government check
- paycheck
- other government document showing the name and address of the voter

The Secretary of State is authorized to adopt rules and regulations defining what documents are considered acceptable forms of identification.

b. Voting machines

HAVA requires, at minimum, one DRE (direct recording electronic) voting machine in each polling place that will allow persons with disabilities, including visually impaired voters, to cast their ballots independently. The HAVA-compliant DREs are equipped with an audio ballot component that allows visually impaired voters to hear the ballot choices and make their selections by pressing buttons.

c. Provisional ballots

HAVA guarantees each voter's right to cast a provisional ballot if the voter's name is not on the poll book or if there is a question about the voter's qualifications to vote in that precinct in that election. There is little change here for Kansas election officers because full provisional voting rights were written into state law in 1996 with implementation of the National Voter Registration Act. What has changed with HAVA are the oath taken by a provisional voter, the addition of a free access system (see below) and the requirement that a poll worker give explanatory information to the provisional voter.

d. Provisional ballot oath

The provisional voter must sign an affirmation that he/she is (1) a registered voter in the precinct in which he/she desires to vote, and (2) eligible to vote in that election. The affirmation is transmitted to the county election office with the provisional ballot (but not in the same envelope) for determination of the validity of the ballot.

e. Provisional ballot free access system



State and county election officers provide a system for provisional voters to request and obtain information, at no cost to the voters, as to whether their provisional ballots were counted and, if not, the reason the ballots were invalid.

3. Voter intent

4. Funding

HAVA requires each state to “adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.” (Section 301)

HAVA provides for funding from several sources: federal appropriations, state/county matching funds, and several types of grants. Federal appropriations began in federal fiscal year 2003 and are authorized, but not necessarily appropriated, through fiscal year 2006.

After the 2000 election the office of the Secretary of State and the Kansas County Clerks’ and Election Officials’ Association adopted the Kansas Election Standards, which include sections on determining voter intent, counting provisional ballots, and counting write-in votes (Sections III-e, III-f and III-g).

The first federal funding under Title I of HAVA guaranteed each state a minimum of \$5 million with disbursements based on the percentage of the nationwide voting age population residing in each state. Kansas received \$5 million.

Further appropriations also are based on voting age population and are made under Title II. Kansas’ share of the fiscal year 2003 appropriation is approximately \$7.6 million; in 2004, approximately \$13.5 million.

Thus, Kansas will receive a total of approximately \$26 million (Title I and Title II, from the first two years of congressional appropriations). Of that, approximately \$21 million require a 5% match from the state.

The amount of future years’ funding is dependent on the Congressional appropriations process.

b. State/county match

Each appropriation made under Title II requires a 5% match from the state. Beginning in state fiscal year 2004, the formula used in Kansas requires the state legislature to appropriate 3 of the 5% and the counties to collectively supply the other 2%. In state fiscal year 2004 these amounts were: state appropriation \$225,000, and counties’ share \$150,000. In state fiscal year 2005 these amounts are approximately doubled.

c. Grants

Grants under HAVA are either entitlements or competitive grants. In federal fiscal year 2003 grants funds were guaranteed to each state for the purpose of improving accessibility of polling places. Kansas' share was \$110,057. Future grants funds require the states to apply, and the amounts of the awards are based on how many states apply and the nature of the grant proposals.

d. Permanent maintenance fund

The funding plan in Kansas includes a provision for a certain amount of money to be set aside in a special fund (amount to be determined) for upgrades of equipment and software and for counties to obtain low-cost loans for improvements in election administration, which in many cases will be for upgrading of voting equipment.

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What does HAVA change?

- The role of the state
- New computerized registration system
- Registration and voting procedures
- Funding

Voter Registration/CVR

INTRODUCTION

A. Registration process

1. Sources of applications
2. Processing applications
3. Identification requirements of first-time voters
4. Notices of incompleteness
5. Notices of disposition
6. Registration deadline
7. Verification notices
8. Exchange of data

B. Centralized Voter Registration (CVR)

1. System setup
2. List maintenance

INTRODUCTION

notes



Voter registration is required for voting and for nearly all other forms of participation in the political process. The voter registration list is the basis for the administration of elections and the determinant of who may vote in a given election, where and upon what ballot. Because the constitutional right to vote is governed by the voter list, the creation and maintenance of an accurate list is imperative, and a computerized, automated list increases efficiency.

A. Registration process

The county election officer oversees the registration process in the county. Application forms are distributed by many entities, but it is the county election officer who processes the applications, determines the qualifications of applicants, and adds the names of qualified applicants to the official list.

1. Sources of applications

Mail—Individual applicants or persons or groups conducting registration drives may mail applications to the election office.

In person—A person may deliver one or more applications to the election office. The application forms may have been obtained from a recognized registration site or printed from an Internet site.

Other election offices—Any state, county or local election office in the United States may forward completed applications to the appropriate election office if they were delivered to the wrong office.

Private drives—Any person or group wishing to conduct a registration drive may obtain a supply of forms, distribute them, and return completed forms to the election office in person or by mail.

Designated agencies—Certain government offices are required by the National Voter Registration Act and corresponding state laws to distribute applications.

These agencies include:

- Division of Motor Vehicles driver's license examination offices.
- Offices distributing certain types of public assistance:

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The voter registration list is the basis for the whole election process.



2. Offices in the Kansas Department of Health and Environment administering the federal Women, Infants and Children program.

- Agencies providing services to persons with disabilities, including services provided in the home.
- First and second class city offices.

Deputized outposts—County election officers may establish registration outposts in various public places, including retail stores, banks, libraries, and schools. These are referred to as deputized outposts because, according to the law, the persons operating such outposts serve as deputy election officers. They serve for two-year terms and receive training and supplies from the county election officer and keep records according to the CEO's instructions.

2. Processing 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. Each application must be reviewed for completeness and legibility.

3. Identification requirements of first-time voters

First-time voters in the county must provide personal identification at some point in the process of registering and voting. The name and address on the identification must match their registration record.

The CEO may contact first-time voters if they did not provide identification with their registration applications. Or, the CEO may check their driver's license numbers or last 4 digits of Social Security numbers against the voter file verified by DMV using the Social Security Administration records. The DMV verification is new in 2004, so the quality and reliability of the data are unknown at this time.

Whatever method of obtaining identification of first-time voters is used, the CEO may do so in an attempt to reduce the number of first-time voters who will have to be asked by election board workers to provide identification.

4. Notices of incompleteness

If an applicant fails to check the box on the registration application

saying that the application was incomplete and instructing the applicant how and by what date to complete the application in order to be eligible to vote in the next election.



5. Notices 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.
- 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.

If a notice of disposition is returned by the post office as undeliverable, the county election officer must send a confirmation notice. 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.

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6. Registration deadline

The deadline for voter registration before any election is an important date. The law establishes the deadline as the 15th day before the election, so prospective voters may not apply for registration for that election after that date, and registered voters affiliated with a party may not change their party affiliations after that date before the partisan primary in August of even-numbered years.

Applications postmarked by the 15th 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.

Applications received during the 14-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.

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 ad-



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 makes every effort to forward 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. 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, he/she 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).

The date of registration entered into 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.

7. Verification notices

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 them, so they 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 no-

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 his/her status as a registered voter.

8. Exchange of data

The voter registration process is a daily activity in most election offices. Applications, changes of address, and cancellations are routinely received from various sources for processing. Likewise, these documents must be forwarded from a given election office to the appropriate offices in order to keep everyone's records updated.

Changes of address are sent on paper and via email from the Division of Motor Vehicles. In the future, DMV and possibly other agencies will transmit entire applications electronically, including signatures.

The exchange of documents and transmittal of data must be complete and constant if the state and counties are to have accurate voter registration lists.

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B. Centralized Voter Registration (CVR)

1. System setup

HAVA caused the statewide CVR to move from a repository database to a fully automated and integrated system. The CVR was first created in 1994 by state law. Funding was not provided to allow the construction of a fully automated system; the result was a statewide database that required each county to submit its database every three months and required the SOS to rebuild the entire database each time.

This repository database did accomplish several things, including:

- a. every county had a computerized voter registration list
- b. a standardized data format was established
- c. a statewide file was created to facilitate multicounty data requests NCOA processing and duplicate name searches

HAVA required that "each state, acting through the chief State elec-



voter registration list defined, maintained, and administered at the State level...” [Section 303(a)(1)(A)]

The system designed by the SOS with input from the county election officers and other sources will have the following general features:

- It will be a single vendor, single software CVR system installed in each county.
- Counties will receive training, maintenance and support from the vendor.
- In addition to the computerized voter registration list, it will include an election management system (EMS) for management of precincts, poll workers, candidates, and other aspects of the election process. Each county has an option to use the state EMS or continue using its existing EMS. If it does not opt for the state EMS, the county will be responsible for maintaining and upgrading it as needed and will bear the cost of the programming necessary to tie it to the state EMS.
- It will allow secure electronic data transfer state to county, county to state, and county to county, including electronic reporting of election results, voter registration totals, and other reports.
- It will be installed on a test/trial basis in January, 2005. Sometime before the 2006 election season it will become the official, and the only, voter registration system used in Kansas.
- CEOs continue to be responsible for processing applications, determining qualifications of applicants, and adding/deleting/altering records.
- It will be accessible as required by the ADA.

It's important to use all the tools available to maintain as clean a list as possible.

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2. List maintenance

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 all of the following possible changes in each registrant's registration data:

- a. address change
- b. name change
- c. party affiliation change
- d. active/inactive status
- e. suspended status
- f. restricted address status (requiring nondisclosure of residence address)
- g. disqualification from voting

The CEO 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 station
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 records. 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 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.

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
- a. National Change of Address (NCOA)

The NVRA requires each state to conduct a systematic program for maintaining an accurate and updated voter registration list.



be accomplished in one of two ways. Each county election officer must choose one of the following:

1. NCOA

Each year the secretary of state uses the April 1 statewide voter file 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 CEOs, who mail confirmation notices in an attempt to obtain updated information directly from the voter.

2. Mass or targeted mailings

As an alternative to NCOA, the CEO 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.

b. Confirmation mailings

The most expensive list maintenance activity in terms of time and money spent is tracking 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.

Evidence of an address change might be:

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

If the CEO 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 that this is different from the 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.

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. Each year the secretary of state uses the April 1 statewide voter file to compare all the names to each other. Keying specifically on the name, birth date and Social Security number, the program identifies individuals whose records appear more than once in the statewide file. These possible duplicates are sent to the CEOs for review. If a registered voter's name appears on the list in more than one county, the respective CEOs must exchange information to determine (1) whether the records do in fact represent the same individual, and (2) which address is the more recent. The CEO possessing the "old" record may then cancel the registration from the county list.

The process of checking for duplicates will be automated when the new CVR system required by HAVA is implemented. The CEO will receive immediate notification of a possible duplicate upon entering the applicant's data.

d. Cancellations



One important factor in maintaining accurate voter registration lists is canceling the registrations of registrants who no longer are qualified to vote in the election officer's jurisdiction. Cancellations are caused by four factors.

1. Address change out of the county or state

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.

2. Death

When the election officer sees an obituary notice in a newspaper or receives a death notice from the Office of Vital Statistics in the Kansas Department of Health and Environment, the deceased voter's registration is canceled.

3. Felony conviction

When the election officer receives a notice of federal or state felony conviction, the felon is ineligible to vote upon conviction until the sentence is served. Notices may come from a U.S. Attorney's office or the Kansas Sentencing Commission. Such notices are usually forwarded to the county election officer by the secretary of state's office. Some CEOs have individual arrangements with their state district courts to be notified of state felony convictions.

Upon receiving notice of a felony conviction, the election officer cancels the person's registration. When the sentence is served, the person may re-register to vote.

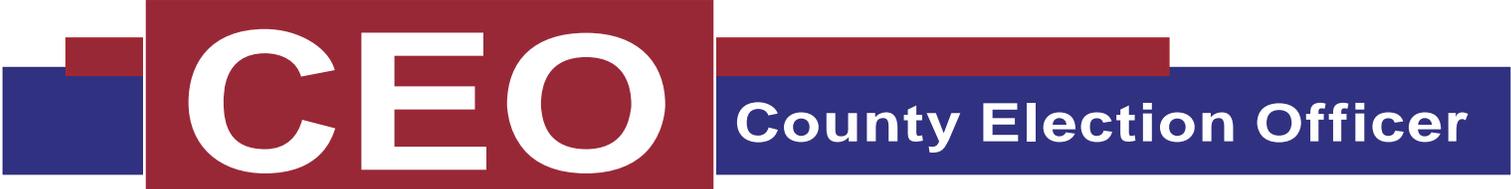
4. Court ruling

If a court of competent jurisdiction rules a person ineligible to vote, the CEO cancels the person's registration. Such rulings are not common.

e. DMV verification of CVR

HAVA requires the DMV in each state to verify the statewide CVR database using the state driver's license database and the Social Security Administration's database. This will be automated with the new computerized CVR before the 2006 election.

Before implementation of the computerized CVR, DMV runs a computer comparison of the existing CVR and the DMV and SSA databases. DMV provides a verification list to the SOS, who in turn provides county data to each CEO. The CEO must review the voter registration records that come back as unverified, determine which of them are first-time voters, and flag them on the poll book lists for identification during the voting process.



CEO

County Election Officer

Preparing for an Election

INTRODUCTION

A. Types of Elections

B. Calendar

C. Publications

D. Ballots

E. Choosing Polling Places

F. Appointing Election Boards

G. Poll Books



INTRODUCTION

Although many people are involved in the planning and conduct of an election, it is the county election officer who oversees the activities of all those involved. The following aspects of election administration should be considered when preparing for an upcoming election.

A. Types of elections

Following is a list of the types of elections conducted by CEOs. Advisory elections are a possible exception in that the county election officer is not always involved. A more complete discussion of each type of election is included in the Kansas Election Standards.

1. National/state/county/township elections.
2. City/school elections.
3. Other local elections.
These include, but are not limited to, hospital boards, drainage districts, and fire districts.
4. Question submitted elections, or special elections.
These include statewide constitutional amendment elections, recall elections, bond elections, sales tax elections, and many others, but they never include elections at which individuals are elected to office.
5. Mail ballot elections.
These are held for local jurisdictions and question submitted elections only.
6. Presidential preference primary.
7. Recall elections.
8. Advisory elections.
These are neither specifically authorized nor prohibited by law. When conducted, they sometimes involve the county election officer. Special rules apply.

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The calendar is the road map for the election.

B. Calendar

It is helpful to build a calendar backward from the date of the election. All the important dates should be entered on the calendar so that it becomes the road map for conducting the election. Working

backward in time from the date of the election, four events provide around which the calendar is built: voter registration deadline, the beginning of advance voting, ballot preparation, and the date of publication of notice of the election.



The secretary of state prepares a calendar for national/state/county/township elections and distributes it to CEOs during the fall of the year preceding the election. The SOS also prepares a calendar for city and school elections held in odd-numbered years. Each CEO must prepare his/her own calendar for special elections, also referred to as question submitted elections.

C. Publications

✓ Newspaper publications are the main way to notify the public.

There are several types of publications that must be printed in local newspapers before an election. The schedule for publishing and often the content of the publication are prescribed by laws governing the type of election being conducted. Specific information on various publications is available in Chapter II of the Kansas Election Standards.

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The major types of publications are:

- a. Notice of election—Public notice of an election is nearly always given by publication in a newspaper in the jurisdiction affected by the election. The dates and frequency of the publication are often contained in the specific statutes governing the election, but if not, K.S.A. 25-105 contains general rules for all regularly scheduled general elections and special question submitted elections.

The format of publications is usually not specified in law. Often CEOs adapt previously-published notices to fit the current situation and submit the publication to the newspapers.

- b. Notice of close of registration—Voter registration is always closed for the 14 days leading up to an election and on election day. The CEO must publish notice of the close of registration by the tenth day before registration closes. The format of this publication is contained in an administrative regulation. The secretary of state sends an official notice of the close of registration to each CEO prior to the 60th day before any primary or general election. Receipt of the notice constitutes a directive for the CEO to publish the notice according to the regulation.

D. Ballots

The CEO is responsible for preparing, printing and distributing ballots for any official election. The format of the ballots is determined by statute, and the secretary of state sends ballot forms to each county before major elections. The CEO chooses a printer to prepare ballots. Some use a local newspaper or other publisher, some use a vendor that supplies voting equipment and election supplies, and some that use hand-counted paper ballots print their own ballots on computer printers and photocopy them as needed.

In candidate elections, ballot preparation begins as soon as possible after the candidate filing deadline has passed and the required period for determining the validity of filings has elapsed. The main factor in the timing of ballot preparation is the beginning of advance voting, which occurs twenty days before the election. The CEO must receive ballots from the printer at least five days before the election to allow time for inspection by candidates and their agents. As a practical matter, though, the ballots must be printed before the beginning of advance voting twenty days before the election. The format for advance voting ballots and regular ballots is the same.



The ballot is the medium for voters to express their preferences.

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A general rule is to allow at least three weeks for ballot preparation. The deadline for distribution of federal services ballots, 45 days before the election, sometimes requires a separate ballot be prepared on a personal computer and photocopied as needed.

1. Write-in lines

Write-in lines are required to be printed on ballots for each race *except*:

- the presidential preference primary
- national/state primaries where one or more candidates are on the ballot
- city/school/community college primaries
- question submitted elections

NOTE: An exception to these rules for write-in lines is the election of precinct committee persons in the Democratic and Republican parties at state primary elections. Write-in lines are always included for these positions because they are *elected* at the primary, not nominated. When write-in lines are required, the number of lines equals the number of positions being elected or nominated.

2. Ballot rotation

Kansas is one of the states that require ballot rotation. This is an important consideration in ballot preparation because of the additional cost and complication. The fundamental rule of rotation is that each candidate's name must appear at the top of the list of candidates for that office on an equal number of ballots throughout the election district. This requirement is based on the assumption that there is an advantage to having one's name appear at the top of the list. The assumption is that voters are more likely to vote for the first name listed than for names farther down the list.

Rotation produces many different ballot styles, each of which causes a different setup by the printer.

a. Rotation by the secretary of state

For each of the statewide federal offices, statewide state offices, congressional, state legislative, state board of education and some judicial offices, the secretary of state rotates the candidates' names using *entire counties* as the building blocks according to the following procedure:

- List the counties in the district in alphabetical order.
- Include the number of registered voters in each county beside the county's name. In primary elections, list the number of registered Democrats or Republicans, as the case may be, for each party's rotation schedule.
- Group the counties into as many segments as there are candidates. Each group of counties must have approximately the same number of registered voters as the others. The policy of the secretary of state is to allow no more than a 0.5% deviation from the ideal number.
- If an equitable breakdown cannot be made because of disparities in the number of registered voters (or party affiliates, in the case of a primary), the secretary of state issues an "order to rotate" to the counties involved. The counties then rotate the names on a precinct basis.

NOTE: Counties using DRE voting systems must rotate by precinct regardless of the secretary of state's rotation.

b. Rotation by the county election officer

For each local office except precinct committee positions, and for each state or national office for which the secretary of state has issued an order to rotate, the CEO rotates the candidates' names using *entire precincts* as the building blocks according to the following procedure:

- List the precincts in the district in alphabetical or numerical order.
- Include the number of registered voters in each precinct beside the precinct's name. In primary elections, list the number of registered Democrats or Republicans, as the case may be, for each party's rotation schedule.
- Group the precincts into as many segments as there are candidates. Each group of precincts must have approximately the same number of registered voters as the others.
- If an equitable breakdown cannot be made because of disparities in the number of registered voters (or party affiliates, in the case of a primary), some county election officers choose to adjust the order of precincts to achieve a more equitable breakdown. However, others do not adjust the order of precincts. Their ballots are rotated with the most equal distribution possible using the precincts listed in the regular alphabetical or numerical order.

NOTE: CEOs design their own rotation schemes for 1st and 2nd class city elections. Due to the irregular shape of many school districts and the member districts within school districts and community college districts, precincts are not required to be used for rotation in school and community college elections. Ballots for 3rd class city elections are not required to be rotated.

E. Choosing polling places

The CEO determines precinct boundaries within the guidelines of the U.S. Census Bureau and state laws. One limitation is that a precinct may not contain more than one township, although townships may be subdivided into more than one precinct. The CEO also determines the voting area served by each polling place. Often the voting area served by a given polling place is a single precinct, but multiple precincts may vote at the same polling place if the county election officer chooses. In such cases, however, separate ballots and tallies must be maintained for each precinct. It is recommended, but not required, that a separate election board be appointed for each precinct to minimize the chance of errors in ballot distribution.

Many polling places are in public buildings, but they may be in private facilities if needed. Often the CEO must rent the buildings, but at any rate permission must be secured before using them.

1. Accessibility

Polling places are considered public accommodations while they are used for voting, and as such they must meet normal accessibility requirements.



Since passage of the Americans with Disabilities Act, CEOs have been responsible for ensuring that polling places meet ADA requirements, even though the ADA contains no requirements applying specifically to polling places.

HAVA has focused increased attention on polling place accessibility, especially for individuals with disabilities, and has provided some resources for improving accessibility. Accessibility is improved two ways under HAVA: physical access to the polling place and access to the ballot.

a. Physical access to the polling place

Kansas had state laws before ADA and HAVA that attempted to make polling places reasonably accessible, but HAVA causes overall access to be improved greatly. The secretary of state works with private protection and advocacy groups to design a plan for identifying areas needing improvement and allocating resources to maximize their effect. These groups also identify local individuals familiar with accessibility issues to work with CEOs to identify the specific needs of polling places in their localities.



Voting must be accessible to everyone.

Accessibility of polling places focuses on two main factors:

- the ability to travel from a car or sidewalk into the building
- movement within the building to and from the voting area

b. Access to the ballot

Kansas has no fewer than five separate statutory provisions guaranteeing access to the ballot for voters who need assistance, but all these provisions require the voter to *receive assistance*. The major change brought about by HAVA is the guarantee of the ability to vote independently, secretly and *without assistance*—the same as every other voter. Thus, the ballots and voting booths are designed so as not to present obstacles for voters in wheelchairs or who have limited mobility, and electronic voting machines with audio ballot components are provided for visually impaired voters.

Poll workers must be trained several ways:

- how to inspect facilities for accessibility problems
- how to use new voting equipment
- how to instruct voters
- how to be sensitive to the needs of voters who have a disability

2. Language accessibility



According to records of the decennial census of the U.S. Census Bureau and federal regulations adopted by the U.S. Department of Justice, certain jurisdictions with local concentrations of non-English-proficient citizens are required to produce voting materials, including voter registration information and ballots, in languages other than English. After the 2000 census, six Kansas counties are required to produce voting materials in Spanish: Finney, Ford, Grant, Haskell, Kearny and Seward. The requirements also include providing translators and poll workers to provide language assistance during voting periods and to conduct community outreach and public relations campaigns.

The secretary of state coordinates with the Hispanic and Latino American Affairs Commission (formerly the Kansas Advisory Committee on Hispanic Affairs) to translate the required materials into Spanish and to identify local translators and poll workers who can provide assistance on election day.

The translated materials are offered to other CEOs who wish to provide them to the voting public. The number of counties required to produce alternative language materials, and the languages other than English required to be included, could change after the 2010 census.

F. Appointing election boards

The CEO is responsible for appointing, training and equipping members of the election board in each precinct or voting area.

1. Composition of election boards

Each election board is usually composed of three or more members with one supervising judge, one or more judges, and the rest clerks. The board may be as small as two members in a precinct of fewer than fifty registered voters with a polling place more than ten miles from the nearest polling place. The members of the board, excluding the supervising judge, are required to represent a mix of political parties, but this requirement may be relaxed if it is impossible to obtain an adequate number of board members of different political affiliations.

The CEO is authorized to appoint one 16- or 17-year-old person to work on each election board. Any such teenage board workers must possess the other qualifications of being registered voters except age. It is recommended that teenage board workers be appointed based on an informal agreement between the CEO and school officials,



2. Qualifications

Election board workers must have the qualifications of electors (U.S. citizenship, eighteen years of age, residence). They must be residents of the voting areas in which they serve unless it becomes necessary for the CEO to appoint them in another precinct due to a shortage. In such cases they are allowed to vote advance ballots due to their absence from their precincts on election day. Board workers may not be candidates on the ballot in the election at which they work, except at the national/state/county/township primary they may be candidates for precinct committeemen and committeewomen of their parties. They are not prohibited from serving on the board if their spouse, family member or other relative is a candidate on the ballot.

3. Pay

Pay of election judges and clerks is set by a resolution adopted by the board of county commissioners. It may not be less than \$40 per day in counties using voting machines nor less than \$3 per hour in counties not using machines. Most counties pay at least the federal minimum wage. Supervising judges are entitled to receive additional pay, and they receive mileage expenses at the state rate.

Through a combination of federal and state laws, the first \$1,000 of each election board worker's pay each year is exempt from withholding for unemployment compensation, workers compensation, FICA and federal income tax. Annual wages up to \$600 are not required to be reported to the Internal Revenue Service.

✓ Election boards are the contact points for voters.

4. Recruitment and appointment of election boards

County chairs of the two major political parties are directed by law to furnish names of board workers to the CEO. The CEO is required to appoint these nominees to the election boards in their respective precincts of residence, "if such persons can qualify and if such recommendations are timely."

In case the number of recommendations from the county party chairs is insufficient to fill all the positions, or if one or more of the recommendations is unqualified or incapable of performing the duties required, the CEO maintains a pool of trained board workers for appointment as needed.

According to the law, election board workers are to be appointed at

least ten days before the election, but often withdrawals and additions occur until election day. Before assuming their duties, they are required to take an oath or affirmation on Form EO, prescribed by the secretary of state. Oaths/affirmations are filed with the CEO.



5. Training election boards

CEOs are required by state law to provide training for election board workers. HAVA creates large-scale changes in the training of election board workers, including state guidelines for training, the providing of training materials, and requirements as to the number of hours board workers spend in training. The training focuses on new laws governing the election process, voting equipment, ballots, and prescribed procedures for the voting place. The secretary of state is directed by law to provide CEOs with information as to the form and content of instructions to election boards.

Each CEO should provide written instructions, usually in the form of a manual, to each election board. The instructions can be used as a reference when board workers are faced with an unusual situation or if they simply cannot remember the instructions given at the training session. One of the central points to cover in written instructions is the handling of ballots.

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6. Authority of election boards

Election boards are required to comply with all statutes and regulations governing the voting procedure. At the same time, they are required to *enforce* the rules for voting in their polling place and within a 250-foot radius of the entrance. The CEO and the supervising judge have control over the polling place and may restrict activities if they hinder or impede the voting process. This may include activities of authorized poll agents, members of the press, exit pollsters, candidates, or voters not immediately involved in the act of voting. In setting the rules for the polling place, the main concern is to preserve the ability of voters to receive their ballots and cast them in secrecy. To that end, they must prevent unauthorized access to ballots and prevent electioneering.

7. Accessibility for board workers with disabilities

Election board workers with disabilities must be provided accessible facilities according to their needs, including rest rooms. They may be assigned to polling places in precincts other than where they live if needed.



G. Poll books

Just as the voter registration list is the basis for the entire election process, the poll book is the basis for conducting the election at the precinct polling place. The CEO must do everything possible to provide the election board with an accurate, up to date poll book including the following information:

- Who is eligible to vote at that precinct and polling place in that election.
- What each voter's party affiliation is (in partisan primary elections).
- Who has applied for and returned an advance ballot before the election.
- Who is a first-time voter who needs to provide identification before voting.

The poll book should be printed with the voter's declaration printed on each page. Each line must provide a space for the voter's signature.

Advance Voting/Federal Services Absentee Voting

INTRODUCTION

A. Advance Voting

1. Periods of advance voting
2. Process

B. Federal Services Absentee Voting

1. Secretary of State designated oversight agency
2. Ballot applications
3. Voting eligibility
4. No identification requirements
5. Faxing applications and ballots
6. Ballot distribution
7. Deadline for casting ballots
8. Canvassing ballots



INTRODUCTION

Two distinct types of voting, advance voting and federal services absentee voting, require special consideration by the CEO. In these cases, ballots are applied for, distributed and collected before election day. They may even be partially processed before election day, although tabulations and vote totals are not allowed until the regular ballots are counted after polling hours are over on election day.

A. Advance voting

Kansas is one of a growing number of states that have adopted early voting systems to encourage higher voter turnout and to make voting more convenient and accessible. Any registered voter may choose to vote before election day by mail or in person. Advance voting is in effect for all official elections conducted by the CEO.

1. Periods of advance voting

The CEO is required to begin transmitting *mailed* advance ballots on the twentieth day before the election, but no earlier. For *in-person* advance voting in the election office, the election officer must begin the process on Tuesday one week before election day, but may begin it earlier, any time up to twenty days before the election.

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Voter's choice - in person or by mail.

2. Process

The advance voting process may be divided into four phases:

- a. applying for ballots
- b. transmitting ballots
- c. casting ballots
- d. canvassing

a. Applying for ballots

No advance ballot may be issued to any voter unless the voter has signed an application for a ballot. This may be done through the mail, by fax, or in person. There are no restrictions on who may distribute blank applications. Individuals, groups, political parties and candidates may distribute them through the mail or door to door. If such private individuals or groups collect signed applications and submit them to the county election office for the voters, the applications must be transmitted to the election office within two business days of signing.

For in-person advance voting in the election office, many CEOs have devised a log book with the required language of the application at the top of each page with lines for voters' signatures below. This reduces the amount of paper in the files.



The beginning of the application period for mailed advance ballots varies by the type of election, but the period is open at least 90 days in all cases. Applications filed before the opening of the application period should be held by the CEO and processed when ballots are ready for distribution. The end of the application period for mailed advance ballots is always the Friday before the election, although in many situations the applications need to be submitted earlier to allow sufficient time for mailing the ballots and returning them. The deadline for applying for and casting in-person advance ballots is noon the day before the election. Sick/disabled advance voters are exceptions to this deadline. For in-person advance voting, the application period is the same as the voting period, which may begin as early as twenty days and as late as seven days before the election. In-person advance voting ends at noon the day before the election. The in-person advance voter signs the application at the advance voting site and receives the ballot.

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The application form for regular advance ballots is prescribed in law. Form AV1, developed by the secretary of state, is widely used and has been produced in four formats, some of them designed for postcard mailings or envelope mailings. Forms are available on request from any election office, on the secretary of state's web site at www.kssos.org, and at some CEOs' sites.



Advance voting is no-excuse absentee voting.

Identification requirements for advance voters

Advance voters who are first-time voters are subject to the same identification requirements as other voters. A first-time advance voter voting in person in the county election office is treated the same as a regular voter at the polling place on election day. A first-time advance voter voting by mail may submit a copy of valid identification with the application for the ballot, or may write their driver's license or last 4 digits of Social Security number on the ballot application. The number is then checked against the voter registration list verified by DMV. If the information matches, the voter's identification requirements have been satisfied and no further identification is required of that voter.

If a first-time advance voter fails to provide identification information, or if the information provided is not valid, the CEO is instructed by law not to issue a ballot. It is recommended that an attempt be made to obtain identification from the voter.



Failing that, the CEO may issue a provisional ballot, but the ballot would not be considered valid unless the voter submitted identification sometime before the county canvass.

Faxing applications

A voter may electronically transmit the signed application form to the election office by facsimile. Thus, the blank application may be faxed to the voter and the signed application may be faxed back to the election office. However, this does not permit the faxing of *ballots*, either blank or marked.

Specific categories: permanent and assisted advance voting

The laws provide two special application procedures for voters with temporary or permanent sicknesses and disabilities.

1. Permanent advance voting

A person with a permanent sickness or disability may apply at any time to the county election officer for permanent advance voting status. Once a voter obtains permanent status, the CEO automatically sends the voter an advance ballot every election without the voter having to renew the application each time. The voter must specify the nature of the permanent physical disability or illness that makes it difficult or impossible for the voter to go to the regular polling place to cast a ballot. A permanent advance voting applicant is not required to furnish a physician's records or signature, but the voter must sign an affirmation on the form. The applicant should be specific as to the nature of the sickness or disability; using "age" or "failing health" is not adequate.

Identification requirements—The number of permanent advance voters who are first-time voters is expected to be small, but if such a situation arises, these voters are still subject to the identification requirements. They must submit valid identification with their applications for permanent status, with their ballot, or at some other time before the county canvass. Also, they may provide driver's license or Social Security information on their applications that may be checked using the voter registration file verified by DMV.

The CEO is required by law to maintain a separate list of permanent advance voters for public inspection. Sometimes permanent advance voters whose physical conditions worsen over time fail to return their ballots.



The CEO may send cancellation notices to permanent advance voters who have failed to return their ballots for two consecutive national/state general elections. The notice tells the voters that their names will be removed from the permanent list unless they renew their application for permanent status within thirty days after the date the notice was mailed. Any such permanent advance voters who reapply for permanent status are reinstated; those who do not are removed from the list of permanent advance voters. Loss of permanent status *does not* affect voter registration; such persons remain registered voters in the county and precinct where registered unless canceled for a separate reason.

2. Sick/disabled advance voting

A voter who has a temporary illness or disability or who is not proficient in reading the English language may receive assistance in applying for, marking and returning their advance ballot. This might apply to persons on the permanent list or to persons who are temporarily sick or disabled, such as hospitalized persons. If the voter requests the assistance of another person, the person rendering assistance must file a statement with the CEO stating that they assisted the sick/disabled voter and that they did not exercise undue influence on the sick/disabled voter's decisions. Form AV5, "Affidavit of Assistance," was prescribed by the secretary of state for this purpose. The affidavit may be filed with the CEO before the ballot application process or it may be returned with the application and ballot. It is important that the affidavit of assistance provide the name of the voter who is receiving the assistance. A separate affidavit must be filed for each voter. The affidavit does not replace the application for the advance ballot; the sick/disabled voter is still required to sign an application form, but the person rendering assistance is authorized to assist the voter in the application process, carry the ballot to the voter, assist the voter in marking the ballot if needed, and mail the ballot or deliver it to the election office.

Sick/disabled/non-English proficient advance voters have a special application deadline. They may apply for ballots any time during the regular application period through election day until the hour the polls close.

Power of attorney

Although a person may assist a sick or disabled voter in applying for, marking and returning a ballot, the act of voting may *not* be done by power of attorney.



Replacement ballots

If a voter has applied for an advance ballot and the ballot is destroyed, spoiled, lost or not received by the voter, the voter may apply for a replacement ballot. Any such replacement ballot issued by the CEO must be a provisional ballot. The regular advance ballot application deadlines apply in all such instances. Although the law does not specifically require a *written* request in such cases, the secretary of state developed Form AV6, called the “Request for Replacement Advance Voting Ballot,” for this purpose.

b. Transmitting advance ballots

If signed applications are received in the election office before the twenty-day advance voting period, the CEO holds them until advance voting begins. When applications are received during the advance voting period, the CEO must send the ballots within two business days of receipt of properly completed and signed applications.

Advance ballots are mailed with voting instructions and a return envelope. Outgoing postage is paid by the county, but counties are not required to pay return postage, although some have chosen to do so as a voting incentive.

Satellite advance voting

In-person advance voting is normally conducted in the county election office. However, in counties with populations exceeding 250,000 (as of the 2000 census, only Johnson and Sedgwick), the election officer may designate additional sites as needed to accommodate the number of advance voters. Any such sites must operate under the same rules as voting in the election office, including the presence of election boards appointed and trained by the CEO.

c. Casting advance ballots

Mailed advance ballots

Upon receipt of a *mailed* advance ballot, the voter marks it and personally encloses it in the return envelope. The voter must sign the statement on the outside of the envelope saying that they personally marked the ballot and enclosed it in the envelope and that they have not voted another ballot at that election.

In-person advance ballots

The voter who wishes to vote *in person* in the election office must first sign the application, then mark the ballot and deposit it in the ballot box. Some optical scan systems allow the voter to

insert the ballot into the scanner. No matter what type of ballot is used (except electronic voting), as a guarantee of secrecy the voter has a right to request an envelope to seal the ballot in before depositing it in the ballot box.



All advance ballots must be received in the county election office before the close of polling hours on election day in order to be valid.

If a voter has received an advance ballot but decides to vote at the regular polling place, the voter may return the unvoted advance ballot to the election board at the voter's regular polling place and vote a provisional ballot. The election board voids the advance ballot.

Advance voting lists

The CEO is required to maintain a list of all voters who have applied for and returned advance ballots. The list is available for public inspection by registered voters. If a registered voter asks to view the list, the CEO must first require the person to provide the person's name, address, signature, date and time of inspection on a log book. Also, the person must show a driver's license or other reliable identification to the CEO. The CEO may charge a reasonable fee for copies of records.

A list for each precinct is sent to the polling place on election day to enable the election board workers to prevent voters from casting a second ballot at the polling place after having already voted in advance.

d. Canvassing advance ballots

The CEO appoints a special election board to count advance ballots. The special board conducts the original canvass of advance ballots.

The CEO delivers the ballots to the election board after the ballots have been collected. No ballots received after the close of polls on election day are counted. It is strongly recommended that the CEO provide *written* instructions to the special election board. Written instructions are always recommended for anyone who handles ballots.

A mailed ballot returned in an unsigned envelope is not counted. Advance ballots should be checked against the poll books to ensure that no voter casts two ballots—one in advance and one at the polling place.



In counties using optical scan equipment, it is permissible to scan the ballots and store the data, but no vote totals may be tabulated or disseminated until after the polls close on election day.

The special election board may challenge ballots if they are mismarked or the voter's intent is unclear. These challenged ballots are referred to the county board of canvassers for final decisions.

If a first-time voter casts an advance ballot without having submitted identification at any time during the process, the ballot is invalid and is not to be counted by the county canvassing board.

B. Federal services absentee voting

A federal law called the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) guarantees voting rights for military personnel, serving either domestically or abroad, and civilian U.S. citizens living abroad. Election officers in all states must pay special attention to this category of voters.

The UOCAVA is administered by the Federal Voting Assistance Program (FVAP), which is part of the Department of Defense in Washington, D.C.

1. Secretary of State designated oversight agency

State law designates the secretary of state as the single agency responsible for providing information on registration and absentee ballot procedures, as required by HAVA. The county election office continues to be the place where ballot applications (Federal Post Card Applications, or FPCAs) are filed and from which ballots are issued and to which they are returned. If applications or ballots are received in the secretary of state's office they are forwarded as soon as possible to the correct county election office.

✓ These are the only voters who may receive and cast their ballots by fax.

✓ Federal services voting is guaranteed by federal law.

2. Ballot applications

The law allows absentee voters who qualify to vote under the UOCAVA to apply for a ballot to the CEO in the county they consider their residence county. It is not necessary for them to be registered to vote in the county where they request a ballot, although many are.

The ballot application form designed by the FVAP for this purpose is called the Federal Post Card Application (FPCA). A federal services voter who files an application before the primary election in a given year auto

matically receives a ballot in any election between the date of the application and the second succeeding national/state general election. There is no statutory deadline for applications to be submitted, but they must be submitted early enough to allow transmittal time to and from the voter, and many federal services voters are in remote locations, so ample transmittal time must be built in.



✓ Federal services voting is the only voting still referred to as “absentee” in Kansas.

3. Voting eligibility

Although federal services voters are not required to be registered to vote in the counties where they apply for their ballots, they must possess the constitutional qualifications of electors. They are eligible to vote for all regular elected officers except Democratic and Republican Party precinct committee persons (at the state primary election), and they may vote on statewide ballot questions such as constitutional amendments, but they are not entitled to vote in local question submitted elections.

4. No identification requirements

The identification requirements of first-time voters do not apply to federal services voters, even if they are first-time voters in the county.

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5. Faxing applications and ballots

A special law in Kansas allows some voters to receive and return their ballots by fax to save time in receiving and returning the ballot.

This applies to:

- a. Military federal services voters, their spouses and dependents.
- b. Civilian federal services voters living outside the United States, their spouses and dependents.

They must submit a signed statement along with the ballot saying that by faxing their ballot they are knowingly waiving their right to secrecy. Faxing of applications and ballots is done at the request of the voter

✓ Federal services voters don't have to be registered before requesting a ballot in a county.

6. Ballot distribution

Federal services ballots must be mailed by the CEOs to the voters by the 45th day before the election. This is the earliest of any ballot deadlines, and in some elections it is nearly impossible for election officers to meet it.

Ballots are mailed in an outgoing envelope with voter instructions and a return envelope included. The FVAP prescribes the format of the enve-



lopes, and the secretary of state prints and distributes the envelopes to CEOs according to their requests.

The secretary of state's office also prepares a sample set of voter instructions, called Form FS3, "Instructions for Voting Federal Services Absentee Ballot." CEOs reproduce the instructions as needed for inclusion with outgoing ballots.

Some election officers also include a copy of Form S1F, "Affidavit of Federal Services Facsimile Voter," to enable the voter to fax the ballot if needed. Enclosing the form is not required, but it helps the voter in some cases when the time remaining to return the ballot runs short due to slow mail delivery to overseas locations.

The voter must sign a statement on the return envelope before sending the ballot back to the election office.

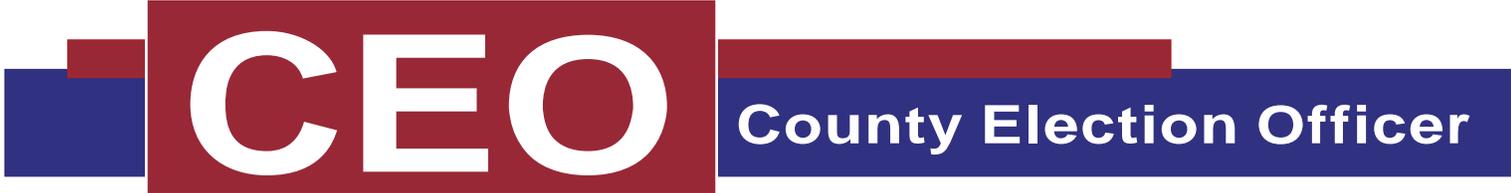
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7. Deadline for casting ballots

Federal services absentee ballots must be received in the county election office before the close of polls on election day in order to be counted and included in the official election results.

8. Canvassing ballots

These ballots must be counted, tabulated and reported along with the regular election results using the same procedures as are used for all other ballots. CEOs must take measures to ensure that such voters do not vote twice, the same as they do for advance voters.

The logo features the letters 'CEO' in a large, white, sans-serif font, centered within a dark red rectangular box. To the left of this box is a blue rectangular shape, and to the right is a dark blue horizontal bar that extends across the top of the page. The text 'County Election Officer' is written in white, sans-serif font on this dark blue bar.

CEO

County Election Officer

Voting Procedure/Provisional Ballots

INTRODUCTION

A. Procedure for Voter

B. Procedure for Election Board

C. Voter Identification

D. Provisional Voting

E. Second Chance Voting

F. Voting Systems



INTRODUCTION

The procedure used on election day whereby voters receive, mark and cast their ballots is the main contact most voters have with the electoral process. If all goes well, all the pre-election planning, preparation and training by the election officer culminates in a mere few minutes spent in the polling place and voting booth by each voter. If the planning and preparation are adequate, and if the training and procedures used by election board workers are effective, the voter's experience is uneventful. Following is a discussion of the procedures used in Kansas. Each CEO may adapt them to fit the characteristics of the county or the polling place.

A. Procedure for voter

After entering the polling place, the voter:

1. States his/her name to the election board workers. The voter might be asked to also provide his/her residence address.
2. Signs his/her name next to the printed name in the poll book.
3. If required, shows identification.
4. Receives the ballot(s) and enters an unoccupied voting booth.
5. Marks the ballot(s), or enters votes on the machine in counties where DRE equipment is used. The voter may be limited to five minutes in the voting booth if other voters are waiting. If the voter tears, defaces, mismarks or in any way spoils the ballot, the voter may request a replacement ballot up to two times, for a total of no more than three ballots issued to the same voter.
6. Returns the voted ballot to the election board.

Alternative forms of signatures

A voter who is unable to sign the poll book due to a disability may:

1. Ask an election board worker to sign.
2. Ask another person of the voter's choosing to sign.
3. Apply a signature by using a "mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding."

Voters must refrain from all illegal activities such as electioneering. Anyone exhibiting improper or unruly behavior is subject to control exerted by the CEO or the supervising judge and may be reported to law enforcement officials.

If a voter has received an advance ballot before the election but has not returned it to the election office and wishes to vote at the precinct on

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The polling place and the voting procedure are under the control of the CEO and supervising judge.

election day, the voter may return the advance ballot to the polling place and vote a provisional ballot. The election board voids the advance ballot. The voter should be allowed to vote a provisional ballot even if the voter fails to return the advance ballot. If the CEO determines after the election that the voter did not vote another ballot at that election, the provisional ballot should be counted unless there is another reason for not counting it.



A voter requiring assistance due to a physical disability may receive:

1. Assistance from a person of the voter’s choice.
2. Assistance from two election board workers of different political parties.
3. Ballots at the polling place entrance or outside the polling place, as long as it is within a 250-foot radius of the entrance.

B. Procedure for election board

After a voter enters the polling place and states his/her name to the election board, the board members follow this procedure:

1. “Announce the name in a loud and distinct tone of voice.”
2. Instruct the voter to sign the poll book A board member or other may sign the poll book for a voter who is physically unable to sign if the voter asks them to, or a person may use a stamp, symbol or other mark.
NOTE: First-time voters in the county who have not previously provided identification are required to do so before voting. (See “Voter Identification” in Section C.)
3. Determine the appropriate ballot(s) and hand it to the voter (except in counties using DRE equipment).
4. If necessary, administer a challenged or provisional ballot
5. Instruct the voter on how to cast the ballot, including the operation of voting equipment (if appropriate), special questions on the ballot, and races and questions printed on the back of the ballot. Board workers should never provide information to voters about specific candidates or inform voters about write-in candidates.
6. Direct the voter to an unoccupied voting booth.
7. Receive the marked ballot from the voter and clip the number from the corner of the ballot (in counties using hand-counted paper ballots).
8. Make notations on the poll book as needed for voters requiring assistance.
9. Keep track of void, objected to, and challenged/provisional ballots.

✓ First-time voters must be flagged and tracked throughout the process.



10. Conduct the original canvass of ballots (in counties using hand-counted paper ballots).
11. Return all voted and unvoted ballots and all equipment and supplies to the county election office.

Election boards are responsible for all activities that occur at the polling place. The supervising judge, acting under the direction of the CEO, enforces laws and county policies regarding voting procedures. One important component of this duty is to prevent illegal activities such as electioneering. This sometimes requires coordination with local law enforcement officials.

C. Voter identification

Kansas law requires certain voters, referred to as first-time voters, to provide identification before receiving a ballot.

First-time voters include:

1. Registrants who have never before voted in the county where they seek to cast a ballot.
2. Persons who were previously registered, and may have even voted, and were canceled for some reason (moving out of the county or state, felony conviction, disqualification by a court) and re-registered.

First-time voters may satisfy the identification requirements when they register or at any time after registering, or the first time they vote, or after casting a provisional ballot.

First-time voters who have not provided identification during or after registration must be noted on the poll book, or a separate list provided, so election board workers know to ask them for identification.

If a first-time voter is unable or unwilling to provide an acceptable form of identification, he/she should be issued a provisional ballot.

First-time voters must be flagged and tracked throughout the process.

The voter may provide a copy of an acceptable identification to the CEO after election day but before the county canvass. In such cases the provisional ballot counts.

Acceptable forms of identification

Election board workers may accept any of the following forms of identification from a first-time voter:

notes 

- current and valid driver's license or nondriver's identification card issued by the Kansas Division of Motor Vehicles
- current utility bill
- bank statement
- government check
- paycheck
- other government document showing the name and current address of the voter

In order to be valid, the identification provided by a first-time voter must match the name and residential address on the voter registration file.

NOTE: Voter identification requirements are in effect for advance voting.

D. Provisional voting

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When there is any doubt about a voter's eligibility to vote at the precinct where the voter attempts to vote, a provisional ballot should be provided, even if the voter is apparently unqualified. The facts of the matter can be investigated after election day before the county canvass.

Procedure for administering challenged/provisional ballots

1. Before receiving a ballot, the voter completes a new voter registration application form, which is attached to a provisional ballot envelope.
2. The reason for the provisional ballot is written on the envelope, along with the voter's number in the poll book. Two election board workers must sign the envelope. One of the board workers writes the word "provisional" next to the voter's name in the poll book.
3. The voter marks a ballot. If electronic voting machines are normally used, the voter is given a paper advance voting ballot unless the electronic voting machine accommodates provisional ballots. The ballot is sealed in the provisional ballot envelope.
4. An election board worker gives the voter instructions on how to find out after the election whether the ballot counted, and if not, why.

✓ Every voter gets at least a provisional ballot.



E. Second chance voting

Beginning in 2006, HAVA requires second chance voting to ensure that each voter has the greatest possible opportunity to make his/her vote count. Second chance voting means the voter has an opportunity to privately review the ballot and correct any errors or overvotes before casting the ballot.

Second chance voting may be accomplished either of 2 ways:

1. The voting equipment either prevents mismarks and overvotes (electronic voting systems) or it detects them and notifies the voter before the ballot is cast (precinct count optical scan systems).
2. The voter must be notified of the effects of overvoting and receive instructions on how to review and correct the ballot. This is done in counties using central count optical scan and hand-counted paper ballot systems.

The CEO must determine which of the above options will be used in the county, based on the type of voting system used. Election board workers must be trained in the new procedures or in this aspect of the voting equipment.

F. Voting systems

The CEO must take into account the type of voting system used in the county when preparing for the election, equipping and supplying polling places, and training election board workers on voting procedures. Whether the county uses DRE voting equipment, an optical scan ballot system (precinct count or central count), or hand counted paper ballots affects procedures such as distributing ballots to voters, administering provisional ballots, conducting the original canvass, and tabulating and reporting results.

The CEO may adapt instructions provided by the state to fit the needs of the county.

Canvassing/Write-ins/Voter Intent

INTRODUCTION

A. Election Night Tabulation

B. Types of Canvasses

1. Original canvass
2. Intermediate canvass
3. Final canvass

C. Counting Provisional Ballots

1. Processing by the county election officer
2. Canvassing by the county board of canvassers

D. Write-in Votes

E. Voter Intent

F. Preparing for the County Canvass

1. Time/date/place of canvass
2. Polling place issues
3. Provisional ballots
4. Tabulated results

INTRODUCTION

Canvassing is the process of counting ballots, tabulating results, and determining how many valid votes were cast for each candidate or for each side of an issue in a question submitted election. There are a number of steps in the canvassing process and many people involved.

The canvassing process is done under public scrutiny and, often, some pressure for quick and accurate results. The process must be designed and operated so as to account for special situations and still respond to the public's and the media's desire to know the results quickly.

Most voters follow the instructions and cast their ballots properly, so their votes are easily canvassed. Some, however, raise questions about the validity of the vote and the intent of the voter. It is these situations that take the majority of the time to resolve and that may produce uncertainty in the results.

Two HAVA themes should be kept in mind here:

- Procedures should be simple and clear so that each vote is able to cast his/her vote with the greatest possible confidence that the vote will be counted.
- Voting and canvassing procedures should be consistent and uniform in every jurisdiction to the extent possible.

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A. Election night tabulation

Election night tabulation (ENT) refers to the counting of ballots and reporting of election results to the media and public on election night. This is done by CEOs and the secretary of state's office as a public service. There is no statutory requirement for election night reporting; it is customarily done in response to the intense interest by the media, candidates and public in knowing the results of the election.

Local elections

Local elections include county, township, city, school board, all other jurisdictions with elected officers, and special question submitted elections. For all these elections, ENT is handled entirely by the CEO. If the county uses hand-counted paper ballots or a precinct-count optical scan system, the ballots are counted at the precincts by election board workers, then the results are reported to the county election office where they are tabulated into district and county totals. At that point they are available for dissemination to the press and public. If the county uses a central-count optical scan system, the ballots are brought from the precincts to the county election office where a special board scans them and tabulates the results. If the county uses a direct recording electronic (DRE)



voting system, the precinct results may be tabulated at the precinct before being submitted to the central office, but the data may be sent on cartridges or electronically via modem to the county election office for tabulation. A special board at the county election office then tabulates and disseminates the results.

National and state elections

National and state elections include elections of all federal officers, state officers, constitutional amendment ballot questions, and certain other special elections, such as questions about changing the method of selection of judges in judicial districts. For these national and state elections, election night tabulation involves reporting to the secretary of state's office. Each county counts its ballots and tabulates them as usual, then reports the results to the secretary of state where the results are tabulated further into statewide totals and multi-county district totals. Counties may choose one of three options for reporting their results: (1) telephone, which involves reading the figures to an employee or volunteer in the secretary of state's office, who inputs the data into the computer, (2) fax, which also requires a data entry operator in the secretary of state's office to enter the data, or (3) Internet, which means the county election officer accesses the secretary of state's web site and enters the election results, and they are automatically loaded into the computer database.

The secretary of state's office encourages county election officers to adopt Internet-based reporting, and plans are to develop a system where counties can upload their files directly to the secretary of state's computer without requiring a separate data entry step in the process.

On election night, the secretary of state's office continuously updates the tabulated results and makes them available first to the media outlets who have paid for hookups. The office also maintains public access computer terminals which members of the public may use to track the results. Also, the results are posted on the web site after a 20-minute delay for anyone to access.

B. Types of canvasses

1. Original canvass

The original canvass is conducted either at the precinct or at the county election office. It is conducted at the precinct by the precinct election board workers in counties that use hand-counted paper ballots and counties that use precinct-count optical scan systems. It is conducted at the county election office in counties that use central-count optical scan systems and direct recording electronic voting systems.

At the original canvass the election board counts the votes for each candidate in each race and for each question on the ballot and produces precinct totals for inclusion in the countywide totals. The election board at the original canvass reviews all special cases such as write-in votes and voided and mismarked ballots to determine voter intent in each case. In instances where the board is able to determine voter intent, the board includes the results with the rest of the precinct election totals. The review of ballots is conducted as a group; under no circumstances should any one person, even the CEO, be allowed to handle or count ballots alone. In instances where the board is unable to determine voter intent, it challenges the ballots and refers them to the county board of canvassers for final determination at the county canvass. The original canvass board also refers to the county board of canvassers all provisional ballots and ballots that were challenged at the time they were cast at the poll.

The board conducting the original canvass does its work according to procedures established by the CEO. Instructions should be provided in written form to promote adherence to statutory requirements.

Special write-in boards

If the board conducting the original canvass fails to correctly tally and report write-in votes, the CEO is authorized to appoint a special bipartisan board to open sealed containers of ballots, review the ballots and tally the write-in votes. The board reports the write-in totals to the CEO for inclusion in the election results to be presented to the board of county canvassers. The special board is not authorized to perform functions other than counting write-in votes.

2. Intermediate canvass

The county board of canvassers, which is composed of the members of the board of county commissioners, conducts the final canvass in local elections and the intermediate canvass in national and state elections. In the case of intermediate canvasses, the CEO sends an abstract of the county election results to the secretary of state's office, where the figures are tabulated in preparation for the final canvass of national and state election results.

Voting and canvassing procedures must be as consistent and uniform as possible across the state.

During the days between the election and the county canvass, the CEO prepares the tabulated results from the original canvass and groups all provisional ballots, challenged ballots and issues referred by the original canvass boards in preparation for the county canvass.

The tabulated results are presented to the county canvassers along with issues that need to be resolved. The county board of canvassers has the statutory duty to make the final decisions as to which ballots are valid and which are invalid. This includes making all final decisions about voter intent on mismarked ballots, write-in votes, and provisional and challenged ballots. Neither the canvassing board nor the CEO is authorized to open sealed ballot containers or envelopes except challenged/provisional ballots referred to them by the counting boards. The canvassers sign and certify an official abstract detailing the exact number of valid votes received by each candidate in each race and the number of valid votes cast for or against any questions on the ballot.

After the canvass, the CEO transfers vote totals for national and state elections into the official state abstract provided by the secretary of state and transmits the state abstract to the secretary of state for preparation for the state canvass. The county abstract is stored as a permanent historical record in the county election office or the county historical archives. The CEO mails certificates of nomination (after the primary election canvass) or certificates of election (after the general election canvass) to the candidates who have been certified to have received the greatest number of valid votes.

If a recount has been requested in one or more races, the county canvass is not completed until the recount is completed. The other election results may be certified, but the canvassers must meet again after the recounts to certify the results of the recounted races.

3. Final canvass

In local elections for which the county board of canvassers conducts the final canvass, the certified results are official and final. They may not be changed except: (1) by court order as the result of an election contest in a general election, or (2) as the result of an objection to a primary nomination.

In national and state elections, the county abstracts are sent to the secretary of state within two weeks after election day. The secretary of state tabulates the county results into statewide and district results and prepares for the meeting of the state board of canvassers. The state board of canvassers conducts the final canvass for all national and state primary and general elections, including constitutional amendment questions and other state question submitted elections such as proposals to change the method of selection of judges in judicial districts.

The state board of canvassers is composed of the governor, attorney general and secretary of state. When the tabulated results are complete, the

secretary of state schedules the meeting of the state canvassers, which by law must take place by the first day of the next month following an election.



The state board of canvassers reviews the official county abstracts and the state abstracts prepared by the secretary of state and certifies the results. The results are published in the *Kansas Register* by the secretary of state and disseminated to the media and other interested parties.

✓ Voting procedures must be designed to give each voter the greatest possible chance of having his/her vote count.

C. Counting provisional ballots

Provisional ballots are set aside in sealed envelopes and remain uncounted until a decision is made whether each one is valid. The decision whether to count them is made by the county board of canvassers. It is only after a particular ballot is determined valid that it is opened and counted; invalid provisional ballots remain unopened and are stored unless and until they are ordered to be opened by a court.

Canvassing provisional ballots involves two steps:

1. processing by the CEO
2. canvassing by the county board of canvassers

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1. Processing by the county election officer

- a. First, the CEO should verify the number of challenged/provisional ballots by precinct to see if the number received agrees with each precinct election board's record of the number of challenged and provisional ballots distributed. Next, the CEO groups the challenged/provisional ballots according to the reasons for the challenges or provisional ballots.
- b. The CEO researches voter registration records and other sources in order to provide the necessary information to the county board of canvassers for them to determine whether each ballot should count.

2. Canvassing by the county board of canvassers

Ballots are provisional either because they were cast by the voters as provisional due to questions about the voters' qualifications or because the board conducting the original canvass challenged them due to a question about voter intent. In either case, the canvassers determine each ballot's validity according to the following process.



Determining validity of provisional ballots

- a. The CEO presents the groups of challenged/provisional ballots to the county board of canvassers at the regular canvass meeting after the election.
- b. The canvassers review the reasons why the ballots are challenged/provisional and decide whether to count them. Care should be taken that voters' names and the manner in which they voted are not disclosed to the public or the canvassers. The CEO might want to separate the voter registration forms from the ballot envelopes before the canvass to ensure voters' privacy, but some canvassers might want to review the registration forms in determining the validity of the ballots.
- c. The canvassers make the final decision as to whether each challenged/provisional ballot is valid. If the law addresses the issue, the ballot is valid and is counted. Other situations are decided on a case-by-case basis. Provisional ballots that are deemed valid by the canvassers are opened, counted and added to the official election results. Usually the canvassers instruct the CEO to open and count the ballots.
- d. Canvassers are required to count partial provisional ballots. If a voter cast a provisional ballot in a precinct other than the precinct in which the voter is registered but still within the same county, the canvassers should deem valid any votes for races or questions that are identical in both precincts. By the same token, any races or questions that do not appear on both precincts' ballots should not be counted. For instance, votes for the offices of president, governor, other statewide races, constitutional amendment questions, countywide races and questions, and some state or county district offices will be valid because the races or questions were common to both ballots—the ballot the voter cast for the wrong precinct and the ballot intended for the precinct in which the voter was registered. This situation arises due to poll book error, election board worker error, voter error, or instances where the voter attempts to vote at a polling place closer to the voter's home than the polling place in the precinct where the voter is registered.
- e. Provisional ballots that are deemed invalid are not opened. They remain sealed and are stored with the other ballots after the canvass. They may be opened under court order in an election contest, or, in some cases, the county canvassers may open ballot envelopes to retrieve forms necessary for determining the qualifications of the voters.

D. Write-in votes

In most elections, write-in votes are specifically provided for in law. Write-in votes take more time in canvassing than other votes, and they often raise the most questions regarding voter intent.

Voters may cast write-in votes in any official election except:

1. presidential preference primaries
2. a primary election where there is at least one candidate filed for the office
3. question submitted elections

Generally, the voter must make his/her intent known in order for the vote to count. The name must be written legibly enough and spelled correctly enough to make the voter's intent clear to the persons counting the ballots.

The persons determining the voter's intent may be the counting board in the precinct, a board convened for that purpose in the county election office, a special advance voting board, or the county board of canvassers. Ballots with unclear voter intent are challenged and referred to the county board of canvassers for determination.

The voter casting a write-in vote is instructed to write the candidate's name on the blank line and to mark the box or darken the oval next to the write-in blank on the ballot, but the law specifically states that failure to mark the box or darken the oval should not invalidate that portion of the ballot. The vote should count if the voter's intent is clear, regardless of whether the voter marked the box or darkened the oval.

During the ballot counting process after the polls close, persons counting ballots in counties using hand-counted paper ballots or optical scan ballots should be instructed to visually inspect each ballot, looking for write-in votes. The reason for this is that write-in votes are considered valid even if the voter fails to mark the box or fill in the oval next to the write-in blank.

Write-in votes are valid if the voters' intent is clear, and they may affect the outcome of the election, especially in local races. Thus, it is important to ensure that they are tabulated. If the original counting board fails



to produced write-in totals, the county election office is authorized to convene a special write-in board to open sealed ballot containers to search for write-in votes.

Voter intent is determined at the local level, not the state level, because often local knowledge of candidates is most helpful in determining voters' intent.

Write-in stickers or labels

In order to minimize problems with misspellings, abbreviations and illegible handwriting that obscure the voters' intent, some write-in candidates distribute stickers or labels with their names printed on them. The candidate asks the voters to take the stickers with them to the polling place and affix them in the appropriate place on the ballot. Stickers are neither prohibited nor specifically allowed in Kansas law. However, some CEOs in counties using optical scan ballots have adopted regulations, with the advice of their respective county attorneys, to prohibit stickers in their counties because of the possibility of jamming their optical scan ballot counting equipment. These regulations are adopted pursuant to KSA 25-2706(a), which authorizes the adoption of regulations controlling the voting procedure. Once adopted, the regulations must be filed with the secretary of state. Write-in candidates considering the use of stickers should consult the county election officer(s) regarding any requirements for stickers.

If stickers are applied to ballots by voters in a county which has adopted a regulation prohibiting stickers, it is recommended that the votes count despite the existence of the prohibitory regulation. The regulations often are successful in preventing the use of stickers, but if stickers are used notwithstanding a regulation, the voter's intent carries more weight than the county's regulation. Any ballots containing stickers should be separated from the other ballots and hand counted.

Fictitious names and unqualified candidates

A common question arising from write-in voting is how to handle write-in votes for fictitious names and unqualified candidates. Fictitious names include votes for such "persons" as Mickey Mouse, John Doe, Me, and None of the Above. Unqualified candidates include votes for persons who obviously are not candidates for the office (ex: George W. Bush for township clerk) or who do not meet the qualifications for the office (ex: a person who lives outside the city who receives votes for council member).

Write-in votes for fictitious names and unqualified candidates should be handled the same. The officials conducting the original canvass should tally all the votes and report them to the CEO.



Before the meeting of the county board of canvassers, the CEO must determine (1) if any such “candidates” received enough votes to win the office (or nomination), and (2) if the names are truly fictitious and the “candidates” truly unqualified.

For instance, it is possible, though unlikely, for a person named John Doe or Michael “Mickey” Mouse to live in the county or for a nonresident of the city to have moved into the city without re-registering before the election.

As always, questionable write-in votes may be challenged and sent to the county canvassers for decision. The intent of the laws is to allow the county canvassers to be presented with all relevant information so they are able to certify which candidate, person or other entity received the most valid votes.

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Nicknames

The use of nicknames by candidates and voters may sometimes make it difficult to determine voter intent. Candidates are not required to use their “official” names or the names on their voter registration records when campaigning; indeed, most use whatever names they are best known by and which will garner the most votes. “James” and “Robert” often become “Jim” and “Bob,” but often nicknames will be added, as in John “Smoky” Doe.

The rules for determining voter intent when nicknames are used are the same: the persons conducting the original canvass make the decisions, or they may challenge a ballot and refer it to the canvassing board if in doubt. Again, local knowledge is useful in determining voter intent.

E. Voter intent

The purpose of an election is to determine the will of the voters. In counting ballots, voter intent is the key! voters mark their ballots clearly, according to the rules, and their ballots are easily counted and tabulated. Some, however, misunderstand or fail to follow the instructions, or they mismark their ballots, or fold or tear them so that it is unclear for whom or what they intended to vote. Also, errors in ballot preparation and printing can make determination of voter



In counting ballots, voter intent is the key!



intent difficult. The statutory concept of voter intent is the fundamental consideration in deciding whether questionable ballots should count. Although the concept is mentioned more than once in the election statutes, it is not clearly defined.

Voter intent was raised as an issue in the presidential election of 2000. The U.S. Supreme Court ruled in *Bush v. Gore* that the constitutional guarantee of equal protection of the law means that each voter must have an equal opportunity to have his/her vote count. A related issue from the 2000 election is consistency. Standards for counting ballots and determining voter intent must be adopted and applied the same way in all voting jurisdictions in a state or election district.

Kansas law assigns the duty of counting all ballots to local election officers, first at the precinct level, then at the county level. The voters' intent on questionable (challenged) ballots is determined at the county level. Precinct and county officers are most familiar with relevant issues affecting the votes, such as qualifications and residence of individual voters, boundary lines of political jurisdictions affecting ballot styles, and the occurrence of write-in campaigns. Election boards and canvassing boards should use local knowledge when it is helpful in determining voter intent.

The persons conducting the original canvass make the first attempt to determine voter intent. If the voter intent is impossible to determine at the original canvass, the decision is referred to the county board of canvassers.

What constitutes a vote?

The ballot is the medium provided for the voter to express his/her intent. If the voter's intent is discernible, it is an easy matter to determine that it constitutes a vote. However, there are different voting systems in use, and different ballot forms, including hand-counted paper ballots, optical scan ballots, push-button electronic ballots, and touch screen electronic ballots.

No punch card ballots are certified or used in Kansas, so there are no issues to deal with in determining voter intent with hanging or dimpled chads. But, many ballots in use today have their equivalent of the hanging chad. A voter might make a check mark instead of an X in the box on a paper ballot, or make a mark outside the box. A voter might not completely fill in the oval on an optical scan ballot, or circle the oval instead of darkening it. An advance voter might use a pen or pencil that is not

easily read by an optical scanner. These types of instances require a special effort to determine the voter's intent, and different voting systems treat them differently.



F. Preparing for the county canvass

1. Time/date/place of canvass

The time and place for the county canvass, whether intermediate or final, is governed by KSA 25-3104. The place is the county election office, unless the canvassers decide to hold it at another location and the county election officer publicizes the change. The canvass begins between 8:00 and 10:00 a.m. on the Friday after the election unless the CEO moves the date of the canvass to the following Monday, in which case notice must be published in a newspaper of general circulation in the county. The election officer might move the canvass to Monday to allow more time for processing provisional ballots and making other arrangements for the canvass, or it might be because of scheduling conflicts which make it difficult to convene the canvassing board on Friday. Whichever day is chosen, the canvass is usually completed that morning or the afternoon of the same day, but on occasion the canvassers might recess and complete the canvass another day due to scheduling conflicts, the number of races to be certified, or requests for recounts.

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2. Polling place issues

Issues arising from advance voting or election day voting should be reviewed by the county election officer and reported to the county board of canvassers.

Such issues may include:

- reports of electioneering or other criminal activity
- problems in ballot design, printing or distribution
- provisional ballots
- emergencies such as power failures, equipment breakdowns, or natural or man-made disasters
- events that have generated unusual interest by the public or the media
- unexpected election results such as significant write-in campaigns or tie votes



Any such issues may be helpful to the canvassers as they conduct their statutory duty to “hear any questions which the county election officer believes appropriate for determination by the board” and to “do what is necessary to obtain an accurate and just canvass of the election.”

Knowledge of these issues might help the canvassers answer questions arising during and after the canvass or questions raised by an official complaint filed with the secretary of state.

3. Provisional ballots

Provisional ballots should be collected, sorted according to their reasons for being provisional, and presented to the county board of canvassers for determination as to their validity. Information in the Kansas Election Standards is helpful in deciding the validity of ballots.

4. Tabulated results

The principal duty of the county board of canvassers is to certify the results of the election. When the board certifies the results, they become the official county election results for that election. The tabulated results presented to the county board of canvassers are in the form of a preliminary abstract.

The preliminary abstract may have been tabulated by a canvassing board conducting the original canvass at the precinct level, or it may have been tabulated at the county election office in the case of DRE or central count optical scan voting systems.

For local elections, the election results certified by the county canvassers constitute the final abstract. For state and national elections it is referred to as the intermediate abstract because it is forwarded to the secretary of state for tabulation and certification by the state board of canvassers.

The logo features the letters 'CEO' in a large, white, sans-serif font, centered within a dark red rectangular box. To the left of this box is a blue rectangular shape, and to the right is a dark blue rectangular shape. The text 'County Election Officer' is written in white, sans-serif font on the dark blue background to the right of the 'CEO' box.

CEO

County Election Officer

Voting Equipment

INTRODUCTION

A. Types

B. Certification

C. HAVA-Compliant DREs

INTRODUCTION

For many years counties have been responsible for choosing, purchasing and deploying their own voting equipment. The only restriction was that they were required to choose from a list of systems certified by the secretary of state. HAVA changed the process somewhat and altered the roles performed by the secretary of state and the CEOs.



A. Types

There are five major types of voting systems:

1. direct recording electronic (DRE)
 - a. pressure sensitive push-button
 - b. touch screen
2. optical scan
 - a. precinct count
 - b. central count
3. hand-counted paper ballots
4. lever machines
5. punch card

Of these five types of voting systems, only three are currently used in Kansas: DRE, optical scan and hand-counted paper ballots. There is one lever machine system still certified, but it is not used in any county. There are no punch card systems certified for use in Kansas.

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Current county systems

Currently, three Kansas counties use DRE systems; two are pressure sensitive and one touch screen. Eighty-one counties use optical scan systems, fifty-two of them central scan systems and twenty-nine precinct scan systems. Twenty-one counties use hand-counted paper ballots.

B. Certification

Before any voting system, equipment or software may be purchased or used by a county, it must be certified by the secretary of state. Manufacturers and vendors apply directly to the secretary of state to have their systems reviewed and certified.

The certification process used by the secretary of state is as follows:

Procedure for certification of voting equipment



- The manufacturer or vendor sends a request for certification in writing to the secretary of state, accompanied by a \$500 examination fee.
- The secretary of state requires that the equipment first be tested by an independent testing authority (ITA). A copy of the ITA's report must be filed with the secretary of state.
- The secretary of state reviews the equipment to ensure that it meets standards established by the Federal Election Commission and the requirements of Kansas law.
- The secretary of state conducts a public meeting in Topeka at which the manufacturer or vendor displays the equipment and members of the secretary's staff and other interested persons test the equipment.
- The secretary of state may hire a private expert to review the equipment at the manufacturer's expense.
- The secretary of state contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.
- The secretary of state may grant temporary conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.
- If the above conditions are met, the secretary of state makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

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C. HAVA-compliant DREs

HAVA requires each polling place in each county to provide at least one DRE voting machine that allows disabled voters to vote independently. Before HAVA, visually impaired voters had to receive assistance from another person or from an election board worker in order to vote. The HAVA-compliant equipment allows such voters to cast their ballots in secret and without assistance through the use of an audio ballot. The HAVA-compliant DREs are scheduled for deployment before the 2006 election.

The secretary of state compiles a list of certified vendors authorized to sell HAVA-compliant DREs in the state. Counties choose their systems from the list. The secretary of state purchases on state contract the required number of DREs and arranges delivery to each county. The contracts include training for CEOs and their staffs, as well as maintenance and service for a limited time, after which counties will assume responsibility.



CEO

County Election Officer

Accessibility

INTRODUCTION

A. Language Accessibility

B. Polling Place Accessibility

C. Ballot Accessibility

D. Awareness and Sensitivity

INTRODUCTION

HAVA focuses attention on accessibility in voting and increases efforts at the state, county and precinct levels in improving accessibility. Other federal laws and regulations guarantee access to voting for language minorities.



Together, these laws have created three accessibility-related themes:

- language accessibility
- polling place accessibility
- ballot accessibility

A. Language accessibility

Some counties are required to provide voting materials in languages other than English. The CEOs in such counties must keep this factor in mind throughout the preparations for each election. It is optional for other counties.

1. Which counties?

According to the 2000 census, six counties are currently included: Finney, Ford, Grant, Haskell, Kearny and Seward counties are required to produce voting materials in Spanish.

2. What are the criteria?

According to Section 203 of the Voting Rights Act of 1965, a jurisdiction is required to produce alternative language voting materials if, based on the most recent federal decennial census, it meets one of the following criteria: (1) more than 5% of the voting age citizens are members of a single-language minority group who do not speak or understand English adequately to participate in the electoral process, or (2) the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have completed the fifth grade. (Completion of the fifth grade is the benchmark for literacy.)

The U.S. Department of Justice uses the census data to identify the jurisdictions that meet the criteria and publishes a list of those jurisdictions in a federal regulation. The Justice Department also notifies the jurisdictions and the chief state election officer by letter.



3. What languages?

Currently, only Spanish is required anywhere in Kansas. In other areas of the United States, jurisdictions provide assistance in Chinese, Vietnamese, Japanese, Korean, various American Indian dialects (Pueblo, Sioux, Navajo, Apache, Chickasaw, Tohono O'Odham, Yaqui, Yuiman, Ute, Seminole Paiute, Shoshone and Choctaw), various dialects spoken in Alaska (Aleut, Eskimo and Athabascan), and Filipino (Tagalog).

4. What is required?

Alternative language assistance is in the form of printed materials and oral language assistance. Community outreach and public relations programs must be conducted to notify the public of the assistance available and to identify translators and poll workers.

Printed materials include ballots, voter instructions, voter registration application forms, ballot application forms, Voter's Rights and Responsibilities posters, voter outreach materials, newspaper publications, candidate filing forms, petitions, confirmation notices, and notices of disposition.

Oral language assistance includes interpreters at polling places, interpreters in the election office to process voter registration and ballot applications and other materials, and language assistance at voter registration agencies.

5. What resources are available?

The secretary of state coordinates with the Hispanic and Latino American Affairs Commission (formerly the Kansas Advisory Committee on Hispanic Affairs) to translate most printed materials into Spanish. The Commission can assist the county election officer in recruiting interpreters, poll workers and local translators and can provide training in election procedures and sensitivity training.

The county election officer may find the local media to be of assistance in publicizing the program. Local Hispanic groups, colleges, churches and civic organizations may be contacted to assist in recruiting poll workers and translators. The U.S. Department of Justice has enforcement authority and offers guidance to the state and localities on the scope of the requirements and acceptable methods of addressing the needs of the non-English proficient voting public. The secretary of state offers the Spanish voting materials to any CEO who wishes to use them.

B. Polling place accessibility

Polling places are required to be accessible to all voters, including voters with disabilities. Accessibility means that any voter, including a voter with any combination of physical disabilities, should be able to enter the physical structure of the polling place and the voting booth area and to exit the polling place without assistance. KSA 25-2710 establishes standards of accessibility, and because they are public accommodations, polling places must meet the requirements of the federal Americans with Disabilities Act (ADA). This includes ramps and handrails, voting booths at wheelchair height, and doorways wide enough for wheelchairs.



Guidelines for assessing compliance of existing facilities with the ADA are provided by the National Institute on Disability and Rehabilitation Research. The guidelines and a helpful checklist, called “The Americans with Disabilities Act Checklist for Readily Achievable Barrier Removal,” are available by calling 1-800-949-4ADA.

C. Ballot accessibility

Beginning in 2006, HAVA requires each polling place to provide at least one fully accessible, HAVA-compliant voting machine to allow voters with disabilities to vote independently and secretly, the same as other voters.

Once the system has been selected by the county, the county election officer must ensure that election board workers are trained on the use of the equipment and on sensitivity issues.

D. Awareness and sensitivity

Part of the process of preparing for and conducting elections is providing access to voters who lack proficiency in English or who need accommodations in casting their ballots independently. CEOs and election board workers need to be aware of where individuals with accessibility needs live and where to focus efforts on improving access. Anyone dealing with the voting public needs to be sensitive to accessibility issues and how to meet the needs of voters.

Local and regional representatives of language minority groups and protection and advocacy groups can help identify resources and may even provide knowledgeable persons to assist in training election workers in awareness and sensitivity.

notes



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Keep the following points in mind:

- Offer to shake hands when introduced. At least offer the same greeting to everyone.
- Identify yourself and others who are with you when meeting a visually impaired person. Let the person know who and where you are.
- Listen attentively when talking to people who have difficulty speaking and wait for them to finish.
- Speak directly to the person with a disability rather than to the person's companion or sign language interpreter. Do not speak loudly to a visually impaired voter.
- Tap a deaf person on the shoulder or wave a hand to get their attention. Speak calmly, slowly and directly to a person with a hearing impairment. Don't shout or speak directly into the person's ear. Write a note if necessary.
- Place yourself at eye level when talking to a person in a wheelchair or on crutches. You might want to sit down.
- When assistance is requested, allow the person to take your arm and tell him/her if you are approaching steps or inclines.
- Allow the voter to receive assistance from a person of his/her choice if preferred.
- Be considerate of the extra time a voter with a disability or an elderly voter might need in getting into the polling place, marking the ballot, and exiting.
- Before pushing a voter in a wheelchair, ask if you may do so and how you should proceed.
- Treat adults as adults. Don't treat an individual with a disability like a child.
- Dogs who assist voters with disabilities are admitted to all buildings.
- Don't lean against wheel chairs, carts, or canes. Persons using such equipment consider them as extensions of their bodies.
- Relax. Don't be embarrassed if you use common expressions that seem to relate to a person's disability.
- Adjust the voting booth or voting machine as needed.
- If possible, provide seating outside the voting area for voters to wait for their rides or for their companions to vote.

✓ Polling places and ballots must be fully accessible to individuals with disabilities.

A voter may choose to receive assistance, but that is the voter's choice.

Some counties must provide alternative language materials.

Follow the rules on sensitivity.

Remember, everyone gets to vote!

INTRODUCTION

Much planning goes into a successful election, and many people working together are required to effectively conduct an election. However, no matter how complete and thorough the planning, unexpected situations often arise. Such situations might include emergencies or disasters, the sudden withdrawal or death of a candidate, the rise of a write-in candidate, intense public interest in a particular race or question, unanticipated levels of activity by authorized poll agents, media exit polling, and extremely close races resulting in recounts or contests or unusual scrutiny of procedures.

Expecting the unexpected becomes the practice of the experienced election administrator.

A. Media/public relations

There is often a give-and-take relationship between election officers and the media. Election officers are required to use the media to carry out certain parts of the administration of elections; for instance, newspaper publications are the recognized and required method of notifying the public about upcoming elections, voter registration sites, names of candidates, and polling place locations.

In an emergency or other unexpected occurrence, the media can be a great help in quickly disseminating information useful to the public in getting their ballots and casting informed votes.

On the other hand, the media play an investigative role when unexpected situations occur or when problems arise. In such cases media representatives may put the election officer on the defensive in their attempt to do their job of reporting the news.

A successful election administrator cultivates and maintains good relations with all media sources—radio, television, newspapers and other publications.

1. Using media to disseminate information

Besides the normal publications about upcoming elections, the media may be used to quickly and widely disseminate information when unexpected situations occur.



The media can help you do your job. Establish good relationships.

Such situations include:

- Moving polling places or reassigning voters to new polling places.
- Temporarily altering ballot distribution procedures in response to an emergency.

The media also may be used to publicize voting information that is not required to be published: how to obtain an advance ballot, special questions on the ballot, and factual information needed to offset rumors.

2. Responding to media inquiries

When fielding media inquiries, it is helpful to keep the following points in mind:

- Never say “no comment” or avoid the media. If you don’t know the answer, say so. Offer to find the answer and get back to reporters. It’s okay to say “I don’t know, but I’ll find out.”
- Get your facts straight—fast. And stick to them. Explain the basic who, what, when, where and how as soon as possible. Don’t worry about explaining why early in the situation.
- Avoid speculation. Reporters often throw out hypotheticals during a crisis. Don’t fall into this trap! Stick to the facts. If you’re not sure, don’t say it.
- Tell the truth, no matter how much it hurts. The price of deceiving the media or the public could be your reputation.
- Monitor media reports and correct errors immediately. Make sure you get a feel for what the media is saying and how the public is responding. Don’t assume reporters will always get the most accurate information, but don’t interpret errors as a sign they’re “out to get you.”
- Be patient with reporters. Don’t get annoyed with seemingly stupid or repetitive questions.
- Speak to the public. Show concern and empathy in any way possible. If you are the object of blame, offer a solution or apology.
- Avoid jargon, acronyms and technical terms. Don’t hide behind language others might not understand. Use emotive words and phrases to show your human side.
- Treat all media equally and never get emotionally involved with a reporter. If you play favorites, you could get burned. If you are having problems with a reporter, go around that reporter.
- Use a trained spokesperson (if you have one) at the scene, and then exercise your leadership as soon as possible. If you don’t give official information, reporters will find unofficial material to fill their stories.

(Thanks to Kay Albowicz, National Association of Secretaries of State.)

3. Media at the polls



Sometimes the media will request permission to be at one or more polling places, or in some cases they will show up unannounced. Usually the media's interest in being at the polls is for normal election day coverage: assessing turnout levels, monitoring the mood of the electorate, following candidates, photographing the voting process, and the like.

In such cases it is important to remember the following points:

- Every polling place is under the control of the county election officer and the supervising judge.
- Activities at the polling place must be strictly limited.
- Even so, election officials don't want to be seen as excluding people from the process or keeping the media from doing their job or, worse, hiding anything.

Photography—If the media wish to photograph activities at a polling place, it should be treated like any other request—it is up to the county election officer and the supervising judge whether to allow it. Generally it has been allowed with one important limitation: no one should ever be allowed to photograph a ballot or the face of a voting machine or the inside of an occupied voting booth. Also, photography should be limited to recognized media representatives.

Exit polls—One of the traditional methods used by the media in their election coverage is exit polling, or interviewing voters as they leave the polling place.

Exit polling is permissible within the following limits:

- Pollsters must follow normal rules imposed by the county election officer and the supervising judge.
- Electioneering is still illegal, and it is considered disorderly election conduct to “interrupt, hinder or obstruct any person approaching the voting place for the purpose of voting.”



One recognized exit polling organization is the National Media Pool (formerly Voter News Service), a national media organization that requests permission from the secretary of state and from individual CEOs to conduct exit polling in selected polling places each election year.

B. Emergencies and disasters

Part of the preparation for any election should be the development of emergency procedures. The term “emergency” as used here means any event or situation that disrupts, or threatens to disrupt, the normal voting procedure on election day or during advance voting. Emergencies might include fires, floods, tornadoes, loss of electrical power, equipment malfunction, loss of ballots or other election supplies, misprinted ballots, bomb scares or terrorist acts, failure of election boards to report for duty, or disruptions by voters or poll agents.

The principal goal of any emergency voting plan is to allow each registered voter qualified to vote at that election an opportunity to vote the correct ballot during regular voting hours.

Neither the secretary of state nor the CEO has the authority to cancel an election or postpone it until a later date in the event of an emergency. A court might order a new election if a contest is filed and the court determines that voters were not given a reasonable opportunity to vote or that the results of the election are incomplete or invalid for some reason.

However, a law passed in 2000 states: “The secretary of state may designate temporary alternative methods for the distribution of ballots in cases of war, natural or man-made disasters, equipment failures or other emergency conditions or circumstances which make it impossible for voters in a voting area to obtain ballots as provided by law.”

Emergencies might require the county election officer to coordinate with various other entities, including local law enforcement agencies and state agencies that have authority in emergencies. For instance, in 1998 many counties in the eastern part of Kansas experienced flooding that made normal ballot distribution impossible in certain areas. Some polling places were isolated by rising waters, while voters in some areas were unable to leave home to vote. CEOs in several counties contacted the secretary of state, and a plan was devised to deliver ballots to voting places using emergency vehicles, including boats, and in some cases to take voters to the polling places.

In such cases the secretary of state may request the governor to declare an emergency and direct the National Guard to assist in the election, although this is rare. Usually the situation is handled by local officials

✓ Expect the unexpected.

rection of the county attorney in coordination with the CEO.



An emergency plan should include the following items:

1. Identify the specific precincts or voting areas affected by the emergency, and the number of voters affected.
2. Determine the proposed action that would be most effective in responding to the emergency, such as alternative transportation, moving polling places, alteration of ballots, contacting voters, or issuing special instructions to precinct election board workers.
3. Contact the secretary of state's office at 785-296-4561 or 1-800-262-8683 to discuss the emergency and a plan of action.
4. Notify voters and the public at large as quickly as possible. Request the assistance of local media outlets, especially radio stations, to distribute information about how voting procedures are being altered.
5. If necessary, post notices at polling places of the changes in voting procedures. Election officers should notify election board workers, especially supervising judges, as quickly as possible. They might consider contacting individual voters if the number is small enough.
6. Implement the alternative voting plan quickly within normal voting hours if possible. Respond to inquiries from the media and voters as quickly and factually as possible.
7. At the county canvass, inform the board of canvassers and the county attorney/counselor of the nature of the emergency and the actions taken. If needed, update the secretary of state on the impact the emergency had on the election.

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C. Authorized poll agents

Elections are conducted as openly and with as much public access as possible, still recognizing the need for control to preserve the secrecy of individuals' ballots. At most points in the electoral process, interested individuals and groups may observe the proceedings at the precinct polling sites, at the county election office, or at the county or state canvass.

The principal means recognized in state law for public observation of electoral proceedings is the authorized poll agent.



1. Who are poll agents?

There are two ways to be designated as an authorized poll agent.

- a. Each of the following persons is automatically a poll agent because of the position they hold:
 1. state or county party chair
 2. chair of a committee formed to support or oppose a question submitted election
 3. candidate
 4. precinct committeeman or woman
 5. a write-in candidate for statewide office who has filed an affidavit of write-in candidacy with the secretary of state
- b. A person may be appointed to be a poll agent by one of the persons listed above.

2. How many?

Each person authorized to appoint poll agents may appoint one per polling place.

3. Appointment process

Appointments must be made in writing on a form approved by the secretary of state. Form PA is produced by the secretary of state's office for this purpose.

Poll agents must carry their authorization forms with them at any time they are acting as poll agents, and they must present the forms when asked by a precinct or county election worker.

When a candidate or precinct committee person is acting as an authorized poll agent, he/she must carry identification supplied by the CEO. In some counties this identification is a letter, but some counties supply a badge to be worn on the lapel.

4. What poll agents may do

Poll agents may observe the voting process at polling places and may observe the original, intermediate and final canvasses. They may request to have an election judge at the original canvass display a ballot to them, but the poll agent may not touch the ballot.

Poll agents may obtain election results at any point in the tabulation process when they are available. This depends on the type of voting system used in the county and the instructions from the CEO. If a tabulation is done at the precinct, poll agents may request and receive pre-



Poll agents have a right to observe, but not influence or participate in the voting or tabulation processes.

cinct totals. If the tabulation is done only at the central office, poll agents may obtain results then. any such tabulated results are unofficial. The official results are available only after the county canvass.



5. Limits on poll agents' activities

Poll agents must carry their appointment forms with them. Candidates and precinct committee persons acting as poll agents must carry identification supplied by the county election officer.

Poll agents must act in accordance with statutes, regulations adopted by the secretary of state, and directives of the CEO and supervising judge of any polling place. For instance, they are subject to the same statute prohibiting electioneering as anyone else.

Poll agents may not participate in the administration of ballots or the ballot counting and tabulating processes. They may not handle ballots.

D. Election crimes

The statutes specifying election crimes are contained in Chapter 25, Article 24 of the Kansas Statutes Annotated. They prohibit certain activities such as fraud, bribery, perjury, forgery, corrupt advertising and disorderly conduct. Most of these statutes deal with illegal actions on election day at polling places or during the voting or ballot counting processes. There are very few election crime statutes dealing with other parts of the electoral process such as voter registration and petitioning.

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Some of the election crime statutes prohibit certain inappropriate conduct that makes them applicable to everyone.

- No one may solicit, offer, or accept any benefit (bribe) as consideration to or from any person either to vote for or against any candidate or question submitted or to induce the signing of nomination papers.
- Anyone who intentionally and knowingly answers falsely to any questions regarding an application for registration to vote or qualification of a voter commits election perjury.



- If a person intentionally and knowingly signs a name other than his/her own to any petition or nomination paper, marks someone else's ballot, either without that person's consent or contrary to that person's directions, such person commits election forgery.
- No one may possess false or forged election supplies, print or circulate imitation ballots, mark ballots in any way for identification, or destroy election papers or supplies.
- In addition, there are various statutes not specific to election laws that may be relevant in certain election-related situations, such as statutes prohibiting false writings or signing false oaths or affidavits.

There are some statutes that apply only to election officials.

- No election official may accept a bribe in exchange for the improper performance of election duties.
- Election officials are prohibited from intentionally inducing a voter to vote contrary to that voter's inclination, changing the vote of a voter, or preventing a qualified voter from voting.
- No election official may intentionally hinder, prevent or defeat a fair election by fraudulent means, such as accepting votes from unqualified voters or any voter who has already voted in that particular election, receiving or counting any ballot which is fraudulent, counterfeit, or illegal, or declaring any false election result.
- Election officials are prohibited from election suppression, which is suppressing or failing to file nomination papers, petitions or certificates of nomination.
- It is unlawful for any election official to expose, or to induce any voter to disclose, the manner in which a ballot was marked.

Some statutes are specific to activities during the voting process.

- The election crime statutes prohibit anyone from engaging in disorderly conduct near any voting place on election day or during advance voting, and from threatening or otherwise intimidating voters.
- One of the more significant election crime statutes involving election day activities is the electioneering statute. It is a crime to campaign within 250 feet of the entrance of a polling place or an advance voting site. Campaigning refers to attempts to persuade voters to vote one way or another, including the wearing of buttons and clothing bearing political campaign slogans or names of candidates.

Investigation and prosecution

Because elections are conducted at the local level of government, illegal acts are normally prosecuted by the county or district attorney. A person



✓ Work with your local law enforcement—most election crimes are investigated and/or prosecuted at the county level first.

who alleges criminal activity may make a report to the local law enforcement officials (police, sheriff or county/district attorney) and present facts and evidence for the county/district attorney to consider in deciding whether to prosecute. Sometimes the attorney general may be notified of situations, and the Kansas Bureau of Investigation may be ordered by the attorney general to investigate and collect evidence for possible prosecution.

The secretary of state has no statutory authority to conduct official investigations or to initiate prosecutions, but the office often works with county election officers, other local officials and members of the voting public to make unofficial inquiries and collect information which may be used by local prosecutors or the Attorney General in deciding whether to prosecute.

The state has an administrative complaint procedure to remedy grievances, as required by HAVA. Complaints filed with the secretary of state may produce evidence of illegal activities that would be referred to the county or district attorney for prosecution.

Special Situations

INTRODUCTION

A. Media/Public Relations

1. Using media to disseminate information
2. Responding to media inquiries
3. Media at the polls

B. Emergencies and Disasters

C. Authorized Poll Agents

1. Who are poll agents?
2. How many?
3. Appointment process
4. What poll agents may do
5. Limits on poll agents' activities

D. Election Crimes



INTRODUCTION

All the planning for an election culminates in voters receiving ballots and making their choices, which is the critical point of the election process. The average voter may spend only a few minutes in the polling place, and the voter's experience with the members of the election board often defines how positive the experience is. Effective and well-trained election board workers can make the voting experience a positive one for the voters, make the voting process smooth and efficient, and reduce or eliminate errors that can affect individuals' constitutional right to vote.

A. Recruiting election board workers

The CEO is responsible for appointing, training and equipping members of the election board in each precinct or voting area. Each election board is usually composed of three or more members with one supervising judge, one or more judges, and the rest clerks. The board may be as small as two members in a precinct of fewer than fifty registered voters with a polling place more than ten miles from the nearest polling place. The members of the board, excluding the supervising judge, are required to represent a mix of political parties, but this requirement may be relaxed if it is impossible to obtain an adequate number of board members of different political affiliations.

Finding and keeping an adequate pool of trained election board workers is a perennial challenge for election officers everywhere. Some creative methods have been used successfully, such as sponsorships of polls, and HAVA has created some possible solutions.

1. Qualifications of election board workers

a. Election board workers must:

- have the qualifications of a Kansas elector
- be a U.S. citizen
- be 18 years of age or older
- be a resident of Kansas
- reside in the area served by the polling place where assigned (Unless it becomes necessary for the CEO to appoint them in another precinct due to a shortage. In such cases they are allowed to vote advance ballots due to their absence from their precincts on election day.)
- be trained



- b. Election board workers may:
 - be candidates for political party precinct committee positions on the ballot
 - be a spouse or relative of a candidate on the ballot
- c. Election board workers must not:
 - be candidates on the ballot at the election in which they work, except as noted above

2. Qualities of effective election board workers

Effective election board workers are:

- experienced
- dependable
- adaptable to changing situations

3. Sources of election board workers

a. County party chairs

County chairs of the two major political parties are directed by law to furnish names of board workers to the CEO. The CEO is required to appoint these nominees to the election boards in their respective precincts of residence, “if such persons can qualify and if such recommendations are timely.”

In case the number of recommendations from the county party chairs is insufficient to fill all the positions, or if one or more of the recommendations is unqualified or incapable of performing the duties required, the CEO maintains a pool of trained board workers for appointment as needed.

b. Retirees

As a practical matter, many election board workers are retired persons because they are able to commit the time to work at the election due to fewer job commitments and other constraints on their time.

c. Teenage board workers

The CEO is authorized to appoint one 16- or 17-year-old person to work on each election board. Any such teenage board workers must possess the other qualifications of being registered voters except age. Teenage board workers should be appointed based on an informal agreement between the CEO and school officials,

ensuring that the teenage volunteers are in good academic standing at school. Some schools have allowed students to receive credit on classroom projects for their work on election day. Each county decides whether or not to pay the students.

d. HAVA college and high school programs

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1. Help America Vote College Program—This program will encourage university and college students, including community college students, to serve as nonpartisan poll workers or assistants.
 2. Help America Vote Foundation—This program will encourage high school students, including home-schooled students, to serve as nonpartisan poll workers or assistants.



e. Sponsorship of polls

Some states and counties have found creative ways to find more good election board workers. Public and private entities have either provided workers or have undertaken the sponsorship of a polling place, providing workers as well as transportation and food for the election boards. Some workers may be supplied as volunteers, or if the office that employs them agrees to pay their regular salaries, the election office saves the cost of their election board wages.

Some examples are:

- county, city and other government agencies other than the election office
- service organizations such as Kiwanis, Lions and Rotary clubs
- chambers of commerce
- corporations

B. Managing election board workers

In addition to recruiting election board workers, the CEO maintains records of their employment, including:

- assignment to precinct
- training completed
- hours worked each election
- pay



The computerized voter registration system to be implemented by 2006 as part of HAVA includes an election board worker management component to automate recordkeeping.

Pay

Pay of election judges and clerks is set by a resolution adopted by the board of county commissioners. It may not be less than \$40 per day in counties using voting machines nor less than \$3 per hour in counties not using machines. Most counties pay at least the federal minimum wage. Supervising judges are entitled to receive additional pay, and they receive mileage expenses at the state rate.

Through a combination of federal and state laws, the first \$1,000 of each election board worker's pay each year is exempt from withholding for unemployment compensation, workers compensation, FICA and federal income tax. Annual wages up to \$600 are not required to be reported to the Internal Revenue Service.

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C. Training election board workers

CEOs are required by state law to provide training for election board workers. HAVA requires the state to increase the emphasis on training and the resources committed to it. HAVA creates large-scale changes in the training of election board workers, including state guidelines for training, the providing of training materials, and requirements as to the number of hours board workers spend in training. The training focuses on new laws governing the election process, voting equipment, ballots, and prescribed procedures for the voting place.



Recruit, reward and retain good poll workers!

Regular and consistent training is a must!

The training manuals provided by the state under HAVA must be used by CEOs in conducting their training of election board workers, but additions should be made to address the specific needs of the county, such as the type of voting and tabulation systems used.

The main thrust of the HAVA training requirements, and the state's involvement in local training programs, is to promote consistency and uniformity of procedures.

HAVA also requires renewed emphasis on certain aspects of voting, such as accessibility to polling places and voting machines. The CEO may need to provide specific instructions to the supervising judge at each polling place concerning the posting of disabled parking place signs,

path of travel directions, and instructions on the installation of temporary door handles or doorbells.



CEOs will find it useful to involve local independent living centers and protection and advocacy groups to help address their accessibility needs and in conducting sensitivity training where needed.

Chapter 1:

HAVA overview/impact on election board workers

INTRODUCTION

The election world was changed by the 2000 election and the resulting federal legislation, the Help America Vote Act of 2002 (HAVA). Election officials at the state, county and local levels, as well as the voters themselves, are affected by the changes brought about by HAVA. Training of election officials is more thorough and uniform. In Kansas, county election officers receive more frequent and more in-depth training directed from the state level. County officials in turn train their precinct poll workers in new HAVA procedures.

The training programs were developed by the office of the Kansas Secretary of State and representatives of the Kansas County Clerks and Election Officials Association with input from many other groups and individuals.

A. Origin of HAVA

The outcome of the 2000 presidential election was exceedingly close, and it took more than a month and a U.S. Supreme Court decision to determine the winner. The process highlighted certain inadequacies in the voting process in some areas that produced an erosion of public confidence in the election process and a demand for reform.

The U.S. Congress' response to the public outcry was the passage of HAVA, which was signed by the President on October 29, 2002.

B. Changes in polling place activities

Some of the changes brought about by HAVA affect the duties of election board workers serving in their respective precincts on election day. Election board workers must take note of these changes to ensure that the new rules are followed and that each voter has an equal chance of having his/her vote count.

Some of the noticeable changes at the polling place include:

- more items posted on the walls
- first-time voters in the county are required to show identification
- the provisional voting procedure is different
- accessibility is improved for voters with disabilities



New federal laws have changed voting procedures.

C. Training programs under HAVA

Election board workers still receive their training from their county election offices. As in the past, supplies, ballots, equipment and paychecks are still issued by the county election office.

 Training is important.

What has changed under HAVA is that the training program is required, and it is designed by the state, so all election board workers receive identical training in the basics, but each county election officer may adapt the program to fit the unique situation in the county.

D. HAVA and accessibility

The new federal law requires each polling place to have, by 2006, at least one HAVA-compliant DRE voting machine that allows voters with disabilities to cast their ballots privately and without assistance from another person. The DREs have an audio ballot component for visually impaired voters to hear the ballot read through headphones.

Although the HAVA-compliant DREs are designed to accommodate voters with disabilities, any voter may vote on them. The county election officer and supervising judge will decide how to use the DREs to maximize their effectiveness.

The existence of the DREs affects polling place setup and accessibility, the voting procedure and vote tabulation.

Chapter 2:

Polling place organization and management

INTRODUCTION

The polling place is organized and managed by the members of the election board under the direction of the county election officer. The election board's main duty is to administer the election procedure so that each qualified voter has an opportunity to vote, and to vote correctly, so the ballot will count. The board should be aware of who is in the polling place and what activities are occurring at all times. Procedures are outlined in written manuals and should always be followed. Board members should not be required to make policy decisions or to exercise wide discretion. Questions that are not addressed in the manual should be referred to the county election officer.

A. Roles of election board workers

Election boards are composed of judges and clerks and usually consist of three members, although they may have as few as two members and they may have more than three. One judge is designated by the county election officer to serve as the supervising judge.

1. Qualifications

a. Every election board worker must:

1. have the qualifications of a Kansas elector:
 - U.S. citizen
 - 18 years of age or older
 - resident of Kansas
2. reside in the area served by the polling place where assigned (Unless it becomes necessary for the county election officer to appoint them in another precinct due to a shortage. In such cases they are allowed to vote advance ballots due to their absence from their precincts on election day.)
3. be trained

b. An election board worker may:

1. be a candidate for a political party precinct committee position on the ballot
2. be a spouse or relative of a candidate on the ballot

c. An election board worker must not:

1. be a candidate on the ballot at the election in which they work, except as noted above

Party affiliation: members of the board, except for the supervising judge, should be half from each of the two major political parties to the extent possible.

2. Duties

a. The supervising judge:

1. has overall responsibility for the operation of the polling place
2. reports directly to the county election officer
3. oversees the activities of the other board members

b. Judges and clerks:

1. report to the supervising judge
2. distribute and collect ballots
3. in some cases, count ballots

B. Polling place setup

1. Supplies and equipment

The supervising judge receives the supplies and equipment for the polling place from the county election officer according to the schedule arranged by the county election officer. The supervising judge is responsible for seeing that everything arrives safely and securely at the polling place early enough so that the poll can open promptly at the prescribed time.

In some cases the county election officer may arrange to have voting equipment and/or supplies delivered by someone else.

Many polling place supplies are required; others are optional.

a. Required supplies:

- ballots
- poll book
- advance voter list
- ballot box
- voting booths
- voting equipment (in some counties)
- provisional ballot envelopes
- printed notices to provisional voters
- voter registration cards
- voter's Rights and Responsibilities posters
- voter instructions
- signs (Vote Here, Accessible Entrance, notice of election date and polling hours)
- sample ballots



Take an inventory of supplies and equipment.

- reference manual
- election board worker oath forms
- tally sheets (in some counties)
- pencils/pens

b. Optional supplies:

- flags
- precinct maps
- list of polling places in county
- “I Voted” stickers
- flashlight
- cellular phone
- election board worker name tags
- magnifying glass

2. Poll book

The poll book is important because it is the tool you will use to determine who is eligible to vote in the precinct at which you are working. It tells you which voters must show personal identification before voting. It must be kept at the table where voters check in and sign their names. It must not be allowed to leave the custody of the election board.

3. Advance voting list

The advance voting list is important because it is the main tool for ensuring that each voter votes once and only once. If a voter’s name is on the advance list it means he/she has already voted in that election, or at least the voter has already received a ballot. Any such voter who shows up at the polls on election day must be notified that he/she is on the advance voter list and issued a provisional ballot if the voter requests one.

4. Ballots

The ballot is obviously the key to the election. The purpose of the election is to allow eligible voters to express their preferences among the candidates and issues to be decided at the election. The ballot is the method for voters to make their choices known. Ballots should never be left unsecured and should never be in the sole custody of a single person. At the end of the day the number of ballots must equal the number issued to the polling place.

C. Activities during polling hours

The election board acts under the direction of the county election officer and according to rules established by federal and state law, state regulations and the county election officer to regulate all activities occurring at

to allow voters to cast their ballots privately and without interference from others.

1. Control of the polling place

Besides the act of voting, certain activities are allowed in the polling place, although they may be restricted and in many cases they will not occur at all.

- a. What is allowed
 - observation by authorized poll agents
 - media inquiries
 - exit polling

- b. What is prohibited
 - electioneering
 - disorderly conduct
 - unauthorized persons within three feet of a voting booth, machine or table used by the election board
 - unauthorized persons handling ballots

2. Categories of voters

Election board workers must be aware of the following categories of voters because they vote according to different rules:

- first-time voters who must show identification
- provisional voters
- former precinct voters
- advance voters
- voters with disabilities

3. Opening the polling place

Use this check list to open the polling place:

- a. Notify the county election office if board members are absent

- b. Post notices
 1. “Vote Here” signs outside
 2. directions to accessible entrances if needed
 3. voter’s Rights and Responsibilities posters
 4. sample ballots
 5. voter instructions

- c. Check for campaign signs and literature

- d. Set up voting booths

- e. Open container of supplies, check for completeness

- f. Prepare ballots
 - 1. this might mean organizing paper ballots or turning on voting machines
 - 2. follow instructions provided by election office
- g. Open poll promptly at 7:00 a.m. (or other designated time) and begin receiving voters
- h. Use the voting procedure in Chapter 3 below

D. Closing the poll

When the time arrives for closing the poll (usually 7:00 p.m.), use the following procedure:

- 1. Lock outer doors. Allow any voters who are in line at the time the polls close to enter the polling place and receive ballots.
- 2. Secure ballots, ballot boxes and voting equipment. Prevent unauthorized access.
- 3. Canvass the votes according to instructions provided by the county election officer. Note: This applies only to counties using hand-counted paper ballots and precinct count optical scan systems. In counties using central count optical scan systems or electronic voting, ballots or data disks/cartridges will be transported to the county election office for tabulation.
- 4. Count ballots and ensure the number of all types of ballots equals the number issued by the county election office.

 You control the poll!

Types of ballots:

- Regular
- Spoiled, voided
- Provisional
- Unvoted
- Advance ballots returned at poll

- 5. Take inventory of supplies, pack in containers.
- 6. Complete wage and mileage claim forms as appropriate.
- 7. Return all voting materials to county election office as instructed.

Chapter 3:

Voting

A. Party affiliation

When conducting the partisan primary election in August of even-numbered years, you must keep the following points in mind:

- Only Democratic and Republican voters may vote in the primary
- Registered voters who are shown as unaffiliated on the poll book may affiliate with either the Democratic or Republican Party and vote that party's ballot. They affiliate by completing a new voter registration application form. Some counties use a separate party affiliation form.
- Registered voters who are shown as affiliated with one of the recognized parties on the poll book may not change affiliation at the poll.
- If there is a special question submitted election on the same day as the primary, all voters regardless of party affiliation may vote on that ballot question. In such cases there should be a separate ballot for the question.

NOTE: These party affiliation rules also apply at presidential preference primary elections.

Party affiliation, or lack thereof, may be ignored at these elections:

- City/school elections
- November general election in even-numbered years
- Special question submitted elections

B. Voting procedure

1. Use the following procedure for each voter

- a. Ask the voter to state his/her name. Check the poll book for the name. Ask for the voter's residence address if needed to identify the voter.
- b. Instruct the voter to sign his/her name next to the printed name in the poll book.

2. Alternative forms of signatures

A voter who is unable to sign the poll book due to a disability may:

- a. Ask an election board worker to sign.
- b. Ask another person of the voter's choosing to sign.
- c. Apply a signature by using a "mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding."



Follow the written voting procedure.

3. Determine if the voter meets any one of the following characteristics

- a. The voter has a disability and needs assistance or instructions (see Chapter 4).
- b. The voter is a first-time voter who must provide identification (see Section C below).
- c. The voter needs to be issued a provisional ballot (see Section D below).
- d. In any of these cases, follow the special instructions provided.

4. Hand the voter the appropriate ballot (or set of ballots) if optical scan or paper ballots are used, and direct the voter to an unoccupied voting booth. The voter is limited to five minutes in the voting booth if other voters are waiting.

5. Provide any special instructions that are needed, such as information on the operation of voting equipment (if appropriate), special questions on the ballot, and races and questions printed on the back of the ballot. Never provide information to voters about specific candidates or issues, or about write-in candidates.

6. If there is a question about the voter's qualifications to vote in that precinct in that election, administer a provisional ballot.

7. A voter requiring assistance has these options

- a. Two election board workers may provide assistance to the voter upon request.
- b. The voter may receive assistance from a person of the voter's choice.
- c. The voter may have two election board workers bring a ballot to the poll entrance or to an outside location, as long as it is within 250 feet of the poll. Sometimes this is called "curbside voting."

Make notations on the poll book if assistance is provided.

8. If the voter tears, defaces, mismarks or in any way spoils the ballot, the voter may request a replacement ballot up to two times, for a total of no more than three ballots issued to the same voter.

9. When the voter is finished voting, instruct the voter to deposit the ballot(s) in the ballot box. Note: If the county uses electronic voting, this is not necessary.

10. Second chance voting instructions

Beginning in 2006, in counties using central count optical scan systems or hand-counted paper ballots, someone on the election board must instruct each voter to make sure the ballot is complete, no races were overvoted, and no stray marks were put on the ballot that might obscure the voter's intent or invalidate the ballot.

Whatever the situation, *never deny a voter a ballot*. Always give them at least a provisional ballot.



Don't send any voter away without having voted at least a provisional ballot unless they're being sent to another precinct.

C. Voter identification

1. Certain voters must provide identification before receiving a ballot. These voters, generally referred to as "first-time voters," have the following characteristics:

- a. They have never before voted in your county.
- b. They have not previously provided identification to the election office during registration or any other time before the election.

2. Voters who must show identification are marked with a special designation on the poll book.

3. Ask each first-time voter designated on the poll book to provide one of the following:

- a. current and valid driver's license or nondriver's identification card issued by the Kansas Division of Motor Vehicles
- b. current utility bill
- c. bank statement
- d. paycheck
- e. government check
- f. other government document showing the name and current address of the voter



Refer to your manual when in doubt.

4. If a first-time voter is unable or unwilling to meet the identification requirement, issue a provisional ballot.

D. Provisional ballots

When there is any doubt about a voter's eligibility to vote at the precinct where the voter attempts to vote, a provisional ballot should be provided, even if the voter is apparently unqualified.

If the voter is in the wrong precinct, send him/her to the correct precinct or to the county election office to receive the correct ballot. If you're unable to do so, or if the voter insists on voting in your polling place, issue a provisional ballot.

1. Procedure for administering provisional ballots

- a. Before handing out a ballot, instruct the voter to complete a new voter registration application form. Attach it to a provisional ballot envelope.
- b. Write the reason for the provisional ballot on the envelope, along with the voter's number in the poll book.
Then,
 1. Two election board workers must sign the envelope.
 2. One of the board workers writes the word "provisional" next to the voter's name in the poll book.
 3. The voter must sign the affirmation on the envelope. (The affirmation may be a separate form rather than printed on the envelope.)
- c. Instruct the voter to mark a ballot. If electronic voting machines are normally used, the voter is given a paper advance voting ballot unless the electronic voting machine accommodates provisional ballots. When the voter is finished voting, seal the ballot in the provisional ballot envelope.
- d. Hand the voter printed instructions for obtaining information about whether the voter's provisional ballot was counted. These instructions will tell the voter to telephone the county election office or visit an Internet web site to find out if the ballot counted and, if not, why.
- e. Set the envelope containing the ballot aside with other provisional ballots. Group them and deliver them to the county election officer with the other ballots after the polls close.

Former precinct voter

A voter who has moved anywhere in the state within 30 days of election day is entitled to vote a regular ballot after completing an Affidavit of Former Precinct Resident (Form FP1).

E. Second chance voting

Beginning in 2006, the federal HAVA law requires second chance voting to ensure that each voter has the greatest possible opportunity to make

his/her vote count. Second chance voting means the voter has an opportunity to privately review the ballot and correct any errors or overvotes before casting the ballot.

Second chance voting may be accomplished either of two ways:

1. In polling places using DRE (electronic) voting systems or precinct count optical scan systems, the second chance voting requirements are met. DRE voting systems prevent mismarks and overvotes. Precinct count optical scan systems detect the errors and notify the voter so the ballot can be corrected before it is cast.
2. In polling places using central count optical scan systems or hand-counted paper ballots, the voter must be notified of the effects of overvoting and receive instructions on how to review and correct the ballot. This is done either by having an election board worker verbally instruct each voter, by posting notices prominently where the voter will see them before depositing the ballot in the ballot box, or by handing each voter a printed notice.

Election board workers receive instructions from the county election officer that are specific to the type of voting system used in the county.

F. Write-in votes

Write-in votes are allowed in any election except

1. presidential preference primaries
2. a primary election where there is at least one candidate filed for the office
3. special question submitted elections

When counting ballots, election board members must constantly look for write-in votes. Any write-in votes must be tallied and reported with the other election returns to the county election office. If the intent of the voter is unclear in a write-in vote, the ballot should be challenged and referred to the county election office for resolution.



Contact the county election office with questions.

G. Advance ballots returned at poll

If a voter who has received an advance ballot before the election comes to the polling place during voting hours and returns his/her advance ballot, the voter should be issued a provisional ballot. This is done whether the voter marked the advance ballot or not. The advance ballot is voided and returned to the county election office with any other voided ballots.

Chapter 4:

Accessibility issues

INTRODUCTION

Polling places are public facilities, and thus they are required to be fully accessible. When conducting an election, this means three things:

1. physical access to the polling place
2. access to a ballot to allow voting in private
3. access to a ballot printed in a language the voter understands

A. Polling place accessibility

Polling places are required to be accessible to all voters. Accessibility means that any voter, including a voter with any combination of physical disabilities, should be able to enter the physical structure of the polling place and the voting booth area and to exit the polling place without special assistance. Temporary accommodations may be used to make polling places accessible for election day. If your polling place is located in a structure that is not fully accessible, instructions will be included as part of the normal polling place setup procedure. You may receive instructions specific to your polling place regarding the installation of a temporary ramp or wooden boardwalk, handles and doorbells, or the posting of special signs.

Some voters with disabilities may prefer to receive assistance from an election board worker or another person of their choice, but it is important to remember that the laws require that all voters, even those with disabilities, must be provided the means to vote privately and without assistance.

B. Ballot accessibility

Beginning in 2006, each polling place will have at least one electronic voting machine to allow voters with disabilities, including visually impaired voters, to vote independently and privately.

The voting machine is made fully accessible by adding an audio component that allows the visually impaired voter to hear the ballot choices read through headphones and make selections by pressing buttons.

Voters with other types of disabilities are provided ballots or voting machines at wheelchair height or with other accommodations to allow full access.

C. Language accessibility

Some counties (Finney, Ford, Grant, Haskell, Kearny and Seward) are required to provide the means to vote in Spanish. Other counties may choose to offer these services.

At the polling place, language accessibility means:

1. ballots printed in Spanish
2. all other required voting materials printed in Spanish
3. language assistance in the form of interpreters for voters who request it

Election board workers serving in precincts providing Spanish voting assistance will receive these materials with their other polling place supplies and will receive special instructions from the county election office.

D. Sensitivity

Anyone working in a polling place needs to be fully aware of the procedures for providing full access to the right to vote.

Keep the following points in mind when serving voters with disabilities:

- Offer to shake hands when introduced. At least offer the same greeting to everyone.
- Identify yourself and others who are with you when meeting a visually impaired person. Let the person know who and where you are.
- Listen attentively when talking to people who have difficulty speaking and wait for them to finish.
- Speak directly to the person with a disability rather than to the person's companion or sign language interpreter. Do not speak loudly to a visually impaired voter.
- Tap a deaf person on the shoulder or wave a hand to get their attention. Speak calmly, slowly and directly to a person with a hearing impairment. Don't shout or speak directly into the person's ear. Write a note if necessary.
- Place yourself at eye level when talking to a person in a wheelchair or on crutches. You might want to sit down.
- When assistance is requested, allow the person to take your arm and tell him/her if you are approaching steps or inclines.
- Allow the voter to receive assistance from a person of his/her choice if preferred.
- Be considerate of the extra time a voter with a disability or an elderly voter might need in getting into the polling place, marking the ballot, and exiting.

- Before pushing a cart, ask how you should push it.
- Treat adults like a child.
- Dogs who are on leashes.
- Don't lean on equipment such as equipment.
- Relax. Don't seem to relax.
- Adjust the volume.
- If possible, wait for the

- Before pushing a voter in a wheelchair, ask if you may do so and how you should proceed.
- Treat adults as adults. Don't treat an individual with a disability like a child.
- Dogs who assist voters with disabilities are admitted to all buildings.
- Don't lean against wheel chairs, carts, or canes. Persons using such equipment consider them as extensions of their bodies.
- Relax. Don't be embarrassed if you use common expressions that seem to relate to a person's disability.
- Adjust the voting booth or voting machine as needed.
- If possible, provide seating outside the voting area for voters to wait for their rides or for their companions to vote.



Polling places and ballots must be fully accessible to individuals with disabilities.

Follow the rules on sensitivity.

Remember, everyone gets to vote!

Chapter 5:

Special situations

INTRODUCTION

Expect the unexpected. The following situations could occur at any time while you are working at your polling place, or on the other hand you might work many elections without having any of them occur. When unusual circumstances arise, rely on common sense, the training you have received, the instructions you have been provided, and remember to report these situations to the county election officer.

✓ Polling places are for voters!

Usually, the only people in the polling place are the election board workers and voters who are either in the act of voting or waiting their turn. But on occasion, certain other people may be allowed.

A. Authorized poll agents

Elections are conducted as openly and with as much public access as possible, still recognizing the need for control to preserve the secrecy of individuals' ballots. At most points in the electoral process, interested individuals and groups may observe the proceedings at the precinct polling places, at the county election office, or at the county or state canvass.

The principal means recognized in state law for public observation of electoral proceedings is the authorized poll agent.

✓ You're in charge.

Who are poll agents?

There are two ways to be designated as an authorized poll agent.

1. Each of the following persons is automatically a poll agent because of the position they hold:
 - state or county party chair
 - chair of a committee formed to support or oppose a question submitted election
 - candidate
 - precinct committeeman or woman
 - a write-in candidate for statewide office who has filed an affidavit of write-in candidacy with the secretary of state
2. A person may be appointed to be a poll agent by one of the persons listed above.

How many?

Each person authorized to appoint poll agents may appoint one per polling place.

Appointment process

Poll agents should be registered with the county election office before they appear at the polling place.

Poll agents must carry their authorization forms with them at any time they are acting as poll agents, and they must present the forms when asked by a precinct or county election worker.

When a candidate or precinct committee person is acting as an authorized poll agent, he/she must carry identification supplied by the county election officer. In some counties this identification is a letter, but some counties supply a badge to be worn on the lapel.



Don't let others interfere with the voting process.

What poll agents may do

Poll agents may observe the voting process at polling places and may observe the original, intermediate and final canvasses. They may request to have an election judge at the original canvass display a ballot to them, but the poll agent may not touch the ballot.

Limits on poll agents' activities

Poll agents must carry their appointment forms with them. Candidates and precinct committee persons acting as poll agents must carry identification supplied by the county election officer.

Poll agents must act in accordance with statutes, regulations adopted by the secretary of state, and directives of the county election officer and supervising judge of any polling place. For instance, they are subject to the same statute prohibiting electioneering as anyone else.

Poll agents may not participate in the administration of ballots or the ballot counting and tabulating processes. They may not handle ballots.

Perhaps most important, poll agents may not interfere with, hinder or obstruct any voter during the act of voting, entering or exiting the polling place.

B. Election crimes

Of all the election crimes defined in state law, election board workers are most likely to encounter the following three: electioneering, disorderly election conduct, and voter intimidation.

1. Electioneering

Electioneering is any attempt made within 250 feet of the entrance of a polling place to persuade a voter to vote one way or another. This includes speaking to voters or wearing, distributing or exhibiting labels, signs, stickers or clothing bearing campaign messages.

Electioneering does not include bumper stickers on vehicles used to transport voters to the polling place.

2. Disorderly election conduct

Disorderly election conduct is any of the following activities done within 250 feet of a polling place:

- disturbing the peace
- leaving with a ballot
- approaching within three feet of a voting booth, voting machine or table at the polling place except for the act of voting
- interrupting, hindering or obstructing a voter from voting
- soliciting contributions or conducting unauthorized elections

3. Voter intimidation

Voter intimidation is any attempt to affect a person's right to vote as he/she chooses through the use of threats, intimidation or coercion.

What to do:

In clear cases of illegal activity, the supervising judge should:

1. instruct the offending party to leave the polling place and remain at least 250 feet from the entrance for the duration of voting hours
2. report the incident to the county election officer
3. report the incident to local law enforcement officials if instructed to do so by the county election officer

If election board members suspect certain activities occurring at the polling place are illegal but are unsure, the supervising judge should report the incident to the county election officer and ask for instructions.

C. Angry and frustrated voters

Some voters are more difficult to deal with than others. They may be angry, frustrated, demanding and accusatory.

In such cases, keep in mind the following:

- It's their constitutional right to vote that may be at stake, and many people feel very strongly about that.
- There's probably a reason for their behavior.
- It's probably not personal—they may be frustrated by the system or by someone else's (or their own) mistake.
- They might be right.

What to do:

- Be patient.
- Identify exactly what the problem is.
- Offer a solution, or a choice of solutions if possible.
- When in doubt, issue a provisional ballot.
- Inform the individual that official complaints may be filed with the secretary of state's office.
- Report extreme cases or abusive behavior to the county election office.

D. Media

Most dealings with the media (newspapers, journals, radio and television) go through the county election office. In dealing with the media at the polling place, follow instructions provided by the county election officer. Sometimes the media will request permission to be at one or more polling places, or in some cases they will show up unannounced. Usually the media's interest in being at the polls is for normal election day coverage: assessing turnout levels, monitoring the mood of the electorate, following candidates, photographing the voting process, and the like.

In such cases it is important remember the following points:

1. Every polling place is under the control of the county election officer and the supervising judge.
2. Activities at the polling place must be strictly limited.
3. Even so, election officers don't want to be seen as excluding people from the process or keeping the media from doing their job or, worse, hiding anything.

Photography

If the media wish to photograph activities at a polling place, it should be treated like any other request—it is up to the county election officer and the supervising judge whether to allow it. Generally it has been allowed with one important limitation: no one should ever be allowed to photograph a ballot or the face of a voting machine or the inside of an occupied voting booth. Also, photography should be limited to recognized media representatives.

Exit polls

One of the traditional methods used by the media in their election coverage is exit polling, or interviewing voters as they leave the polling place.

Exit polling is permissible within the following limits:

1. Pollsters must follow normal rules imposed by the county election officer and the supervising judge.
2. Electioneering is still illegal, and it is considered disorderly election conduct to “interrupt, hinder or obstruct any person approaching the voting place for the purpose of voting.”

Election results

In many counties election board workers do not have vote totals and therefore cannot give them out when members of the media request them. In counties where ballot tabulations are done at the polling place, however, the election board workers should never give out any election results, even partial results, to the media unless the county election office has explicitly authorized it.

 Follow the rules established by the county election office.

E. Emergencies

Election officers at all levels must be prepared for unforeseen emergencies. An emergency is any event or situation that disrupts, or threatens to disrupt, the normal voting procedure on election day.

Emergencies include, but are not limited to:

- fires
- floods
- tornadoes
- electrical outages
- equipment malfunctions
- loss of ballots or other election supplies
- misprinted ballots
- bomb scares or terrorist acts
- failure of election board workers to report for duty
- disruptions by voters, candidates, party and campaign workers, or poll agents

The election board may be notified of an emergency by the county election officer, and in such cases the board will receive special instructions. If an emergency arises at the polling place, the supervising judge should report it immediately to the county election office and ask for instructions.

The general procedure for dealing with an emergency is:

- Identify the nature of the problem.
- Define and limit the number of voters and ballots affected.
- Take appropriate steps to allow voters for the remainder of the day to receive and cast correct ballots.
- If voters have been unable to vote or have voted incorrect ballots, if possible contact them and issue correct ballots.

INTRODUCTION

Security of any computer-based system requires a combination of three factors. First, the computer must provide audit data that is sufficient to track the sequence of events that occur on the system and, to the extent possible, identify the person(s) that initiated the events. Next, there must be well defined and strictly enforced policies and procedures that control who can access the system, the circumstances under which they can access the system, and the functions that they are allowed to perform on the system. Finally, there must be physical security in place such as fences, doors and locks that control and limit access to the equipment. It is recommended that each county adopt the following policy and its six components, but each may have different procedures for adhering to the policy. Kansas counties currently use DRE, optical scan and paper ballots to conduct elections, and each requires different procedures to implement the security policy.

A. Overview of voting systems

Direct recording electronic (DRE): A standard personal computer running an executable software module is used to define the election, enter the candidates and questions, and format the ballots for the voting devices. This computer also accumulates the votes after the polls close and prints various reports and audits. Three Kansas counties currently use DRE systems, and a fourth uses a combination of DRE and optical scan.

Optical scan: A paper ballot is used to cast a vote and is then fed through a scanner. The device reads the voter's marks on the ballot, and tabulates number of votes cast for each candidate or question. Eighty-one Kansas counties currently use optical scan systems.

Paper ballot: Votes are recorded on paper ballots and counted by hand. Twenty-one Kansas counties currently use paper ballots.

B. Six components of voting system security

1. Access to the system

- stand-alone system
- no network connection
- no modem
- only operating system and voting software loaded
- controlled access with authorized users

The computer-based voting system should not be connected to any network and it should not have a modem. If it does have a modem, it shouldn't be connected to the Internet. The computer should have only the operating system and voting software loaded. Additional applications could jeopardize system security.

If the computer has no outside connections, it can only be accessed by county election staff or other authorized persons. Any such system should also have password requirements. There should be strict procedures that control who has access to the election system, when they can access the system, what components they can access, and what functions they are allowed to perform.

The computer portion of the election system contains features that facilitate overall security of the election system. Primary among these features is a comprehensive set of audit data. For transactions that occur on the system, a record is made of the nature of the transaction, the time of the transaction, and the person that initiated the transaction. This record is written to an audit log to allow the sequence of events surrounding the incident to be reconstructed.

A security program, similar to a virus detector program, should be run against the operating system and the election tabulation software before beginning the definition of an election to verify that the code has not been altered. This program should be repeated after the close of the election to verify that the code did not change during the election.

Permanent storage of media containing certified application programs should be within a secure, fireproof location such as a safe. Additional backup copies of application programs and media containing election data should be created and stored securely off site.

2. Transmitting data

- No data transmission by modem – from polling place to election office or from election office to state.

It is important that results from elections not be sent from polling places to election offices via modem, network, phone line, cable, or any other electronic form of file transmission. The same applies when sending results from the county election office to the Secretary of State's office. Results should be sent by fax, phone or by inputting the results in the SOS database directly using an IP address and/or using the state's secure Public Key Infrastructure (PKI) system.

3. Testing voting equipment

- public test five days prior to election
- test before public test
- test after canvass
- print zero totals
- end of day totals

Voting equipment should be tested when it is first received from the vendor. Tests should cover all functions that will be necessary to conduct an election. Prior to use in an election, each voting machine should undergo system diagnostics to ensure proper operation of certified components. A checklist confirms the outcome of acceptability. Any component failure should be logged and repairs to equipment performed as soon as practical.

4. Polling place security

- hardware security
- software security
- poll worker procedures

There are many polling places in Kansas that simply do not provide an ideal physical security environment. For instance, church lobbies, school gymnasiums and other places may not always be locked or secured. The county election officer should, to the extent possible, designate polling sites that afford the necessary security features and should maximize the use of whatever security features exist.

The memory cards in each touch screen voting station should be stored within a locked compartment. The supervising judge should be the only person with a key to this compartment. The memory cards and/or ballots from each voting location are transported from the voting location to the county elections office by a sworn election official or a sworn law enforcement officer.

The area of the voting location that contains the voting stations is secure. A voter is not allowed to enter this area until a voting station is available for his or her use. No person other than a voter, a person assisting a voter, or a poll worker may enter this area.

Voting machine protective counters should be observed and recorded with a date of record. Voting machines and ballot boxes should be sealed before delivery to polling place locations. Seals should be tamperproof and serialized with numbers. Logging of machine serial number, seal number and designated voting location is an essential part of the audit trail.

Equipment delivery:

Voting equipment delivery to polling place locations should be conducted with the same degree of control as applied to storage. A delivery person or company should continue the audit trail for the election officer. Documentation and daily reporting are essential.

- The delivery person or company, or in some cases the supervising judge, should provide documentation containing voting machine numbers, seal numbers and identification for each voting location where equipment has been delivered.
- A list of persons involved in equipment delivery should be maintained by the county election officer.
- Voting machines should remain locked and stored in a secure location. Multiple voting machines should be secured together by a keyed or combination lock and a single cable or chain. Additional supplies delivered with machines should be secured with the same cable or chain.
- Polling places should be in locked buildings or locations that are capable of monitoring secure storage of voting equipment.

Election worker security awareness and requirements:

All election judges are responsible for maintaining the security of the polling place, the integrity of the vote and the protection of voting equipment and supplies. Judges must be vigilant throughout election day and be aware of who is in the polling room. Frequent monitoring of voting machines and securing voting supplies ensures that any malicious attempt to compromise the accurate gathering and reporting of the vote is unsuccessful. The following steps should be taken to ensure that the voting equipment and the voting process are secure at all times in every precinct:

Supervising judges:

- Inspect voting machines for physical damage while setting up or closing units and record on maintenance log. Examples: damaged or broken lid hinges, cracked cases, and damage to equipment inside case.
- Control and secure keys to all voting machines.
- Assure that the election media slot (memory cartridge slot area) on every voting machine is locked.

- Report any suspicious activity in or around voting machines to the county election officer and call 911 if immediate help is required.

5. Equipment storage

- election computers should be kept in locked offices
- physical security during non-election times
- protective seals
- limited access

The first line of defense in any system is physical security. When not in use, all election equipment should be stored in a locked room. Access to the room should be limited to election officials and authorized county officials or technicians. A paper activity log should be maintained to record date, time, staff person, and reason for entering the secured computer room. A video camera is *recommended* to be installed in the locked office to monitor activity. All voting machine keys, voter cards, and storage media should be secured in a controlled access room. Staff should maintain a detailed inventory control of these supplies.

6. Voting equipment certification process

Kansas participates in the Federal Election Commission (FEC) voluntary voting systems standards program. This program defines three levels of testing that voting equipment must pass before it can be used: national qualifications testing, state certification, and local acceptance testing.

National independent testing authorities (ITAs) selected and monitored by the National Association of State Election Directors (NASSED) Voting System Board administer the qualifications tests. After ITA certification, any change to either the operating system or the election system requires retesting. A complete description of the qualification tests can be found in the FEC voting system standards section at <http://www.fec.gov>.

After the system has successfully completed qualification testing it is brought to the state for certification testing. Certification testing is conducted by the Secretary of State's office using the following procedure:

- The manufacturer or vendor sends a request for certification in writing to the secretary of state, accompanied by a \$500 fee.
- The secretary of state requires that the equipment be certified by an independent testing authority (ITA). A copy of the ITA's report must be submitted.
- The secretary of state reviews the equipment to ensure that it meets standards established by the Federal Election Commission and the requirements of Kansas law.
- The secretary of state conducts a public meeting in Topeka at which the manufacturer or vendor displays the equipment and members of the Secretary's staff and other interested persons test the equipment.
- The secretary of state may hire a private expert to review the equipment at the manufacturer's expense.
- The secretary of state contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.
- The secretary of state may grant temporary conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.
- If the above conditions are met, the secretary of state makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

The final level of tests, acceptance tests, is conducted in the county offices after the voting system has been delivered and installed. The purpose of these tests is to verify that the system as delivered and installed in the county is complete, is working properly, and is identical to the system that was previously qualified by the ITA and certified by the state.

The Help America Vote Act has given the National Institute of Standards and Technology (NIST) a key role in helping to realize nationwide improvements in voting systems by January 2006. NIST's Information Technology Laboratory (ITL) is coordinating the agency's HAVA efforts through its expertise in areas such as computer security and usability. NIST supports the Election Assistance Commission (EAC) as chair of the Technical Guidelines Development Committee (TGDC).

The TGDC makes recommendations to the EAC on voluntary standards and guidelines related to voting machines. As of this writing, NIST has not adopted guidelines or standards.

Conclusion

Adoption of this voting system security policy will increase the overall security of each county's system as well as the security of the electoral process across the state. Further, it will enhance preparation for the deployment of HAVA-compliant voting equipment in the next several years.

INTRODUCTION

Since HAVA was signed into law in October, 2002, there has been much discussion about voter registration and voter identification procedures. Voter identification has received particular attention in Kansas during the process of passing state legislation to comply with HAVA. Also, the issuance of a new voter registration application form to comply with HAVA requirements, including voter identification information, has altered registration procedures and the county election officers' processing of applications.

Following is a policy statement on voter registration and voter identification in Kansas, along with questions that have been posed to the office of the Secretary of State and responses to the questions.

A. Policy statement

Everyone involved in the election process in Kansas should take note of one important policy: Kansas law requires all first-time voters in the county to show valid identification to an election officer in the county election office or to the election board when voting. First-time voters constitute a slightly larger group than required by HAVA. HAVA requires, at minimum, identification of first-time voters in the state who registered by mail. In Kansas, the method of registration—at DMV, at SRS, at a third party registration drive, at a deputized outpost, or by mail—is not relevant to determining who must show identification. All first-time voters in the county, regardless of the method, date or place of registration, must show valid identification. Further, if a person who was previously registered is canceled for any reason (moving out of the county or state, felony conviction, etc.) and re-registers, that person is once again a first-time voter.

B. Voter registration questions

1. If a voter registers by mail, he/she is flagged as a HAVA voter. If that voter re-registers at DMV, should the HAVA flag be removed?

Under Kansas law (2004 Senate Bill 479), all first-time voters must show identification, regardless of the method, date or place of registration. The fact that the voter registered by mail, or re-registered at DMV, is irrelevant. The flag should not be removed unless and until the voter shows identification, which may be done at registration, at the time of voting, or any time in between.

2. If we have flagged HAVA voters (first-time voters who registered by mail) in preparation for conducting elections under HAVA, before state HAVA legislation passed, do those voters flagged as HAVA voters remain flagged as requiring identification, along with any new voters who register after the new state HAVA law is in effect?

Yes. HAVA says the state must require identification of at least all HAVA voters. However, Kansas law extends a little further and requires all first-time voters to show identification, regardless of when, where or how they registered. HAVA voters are a subset of first-time voters. In Kansas, all first-time voters must be flagged and required to show identification either during registration or when they vote the first time.

In deciding which voters must show identification, don't look at the method of registration. Look instead at the voter history. If they haven't voted before in the county, they must show identification.

3. If a voter registers properly and then submits a new application changing his/her name, address or party affiliation, but fails to check the citizenship box on the second application, should the application be rejected?

No. HAVA says that if a registrant fails to check the citizenship box, they cannot be registered and the CEO must reject the application and notify the applicant how to complete the application to be eligible for the next election. However, if a person registers correctly the first time and then fails to check the citizenship box on the second application, the second application is merely an update. The CEO should accept the updated information and make the necessary changes on the voter file. Most people will check the box each time they register or update their records.

4. The new voter registration application asks for a driver's license number or the last 4 digits of the social security number. If an applicant provides neither number, should the application be rejected?

If the applicant doesn't provide either number and doesn't check the box indicating he/she doesn't have either number, the application should be rejected [HAVA Sec. 303(a)(5)(A)(i)]. If the applicant doesn't provide either number and does check the box indicating he/she doesn't have either number, the application should be accepted and the state must assign an identification number. The latter category is a very small number of applicants.

5. HAVA says the voter identification requirements under federal law apply to all voters who register by mail after January 1, 2003. Is the date of registration significant for our purposes in Kansas?

No. HAVA said the states need to, at minimum, keep track of all HAVA voters (persons who registered by mail who have not previously voted in the state) who registered on or after January 1, 2003 and to require all such voters to submit valid identification. But states are allowed to establish their own rules and requirements for identification as long as the minimum HAVA requirements are met.

Kansas law requires all first-time voters in the county to provide valid identification, regardless of the date, place or method of registration. So, the CEO needs to determine which persons on the county voter registration list have never voted in any official election in the county, regardless of when or how they registered, and require them to show identification. The identification requirements can be met if the CEO is able to match the name, birth date and driver's license number or last four digits of social security number to the voter list verified by DMV.



Polling places and ballots must be fully accessible to individuals with disabilities.

Follow the rules on sensitivity.

Remember, everyone gets to vote!

C. Voter identification questions

6. If a voter registers for the first time and provides identification when registering or sometime before the first election, does that mean they will never be flagged as a first time voter who must be ID'ed?

Yes, as long as the identification they provided was valid. However, if the voter moves to another county, he/she is then a first-time voter in that county. Also, if the voter's registration is canceled for some reason and the voter then re-registers, he/she becomes a first-time voter again.

7. If a voter registers for the first time and provides only their driver's license number or the last 4 digits of his/her social security number, should they be flagged as a first-time voter who must be ID'ed?

Yes, until the system of DMV verification of the CVR file is established and that registrant's information can be checked against the DMV-verified list.

8. Is a HAVA voter one who has never registered and voted in the county?

No. Under federal law, a HAVA voter is one who registered by mail and has never voted in the state. But this definition is not used for voter identification purposes in Kansas. Kansas law requires identification of all first-time voters in the county. In Kansas, the method of registration is irrelevant.

Note that a person who has never registered is not eligible to vote and never has been eligible under Kansas law. If such a person attempts to vote, he/she should be given a provisional ballot, which should not count unless it is determined that the lack of registration was due to an error in the registration or election office.

The voter registration application which the provisional voter completes in order to receive a provisional ballot is used to register the person for subsequent elections. Such a person would then be a first-time voter. But, if the voter shows identification to the election board when applying for a provisional ballot, no further identification is required in order to vote in subsequent elections.

9. What utility bills meet the identification criteria?

This has not been determined. It will be defined by regulations adopted by the Secretary of State.

10. Are telephone bills acceptable forms of identification?

This has not been determined. If telephone bills are allowed, they will have to show the voter's name and residential address as shown on the voter registration list.

11. Is a person who is already registered but has never voted before considered a HAVA voter?

No, a HAVA voter (under federal law) is one who registered by mail and has never voted. But under Kansas law being a HAVA voter is not an important distinction for voter identification purposes. Under Kansas law the first-time voter in the county must show identification. The person described in the question would be required to provide identification under Kansas law.

12. Should CEOs be collecting identification now?

Yes, it is advisable because any first-time voter who shows valid identification when registering, or some other time before voting in their first election, will not have to show identification when voting. Collecting identification early reduces the size of the group required to show identification when voting.

13. Do voter registration applicants have to show identification at deputized outposts?

New applicants may show identification when registering. If they don't, then they must provide it when voting. Under Kansas law, the location or method of registration is irrelevant for voter identification purposes. All first-time voters in the county must show identification, regardless of when, where or how they registered. The laws providing for deputized outposts have little significance since NVRA was implemented in the mid-1990s. But if the CEO maintains deputized outposts, the registration procedure is the same there as in any other registration circumstance.

14. Who is required to show identification when registering?

Applicants who have not voted before in the county must show identification at some point before their ballots will count. If they don't provide identification when registering, they will have to show it when voting. All applicants must provide either their driver's license numbers or the last 4 digits of their social security numbers. The numbers provided on the registration application may be checked against the DMV-verified voter registration list, and if the information checks out they would not be required to provide further identification. If the information does not check out, identification will be required when the person votes.

It is helpful to collect identification from first-time voters in case the process of verifying voter registration records with DMV and the Social Security Administration is not completed, or is not completed with an acceptable level of accuracy, before the election.

15. Is the CEO required to keep copies of identification submitted by voters?

When a person shows identification in person in the CEO's office or shows it to a poll worker on election day, it is not necessary to make a copy and keep it on file. When a person submits a copy of identification during registration or after casting a provisional ballot, the CEO is not clearly required by law to maintain them for a specified length of time. However, the CEO may choose to maintain identification records until the person votes for the first time or for a period of two years, which is the standard length of record retention for many other types of election materials. The CEO may want to consult the county record retention schedule.

16. Is the CEO permitted to obtain copies of driver's licenses or records of the issuance of licenses from local DMV offices to satisfy the voter identification requirements of applicants?

This is permitted if the information is available at the local DMV office and if they are willing to provide it.

Registrants who have not voted before in the county are required to provide identification according to Kansas law. They may provide it during registration or any time after that, during voting, or after casting a provisional ballot.

The CEO may contact first-time registrants at any time to obtain identification. Or, if the local DMV office is able to provide copies or records of licenses issued to registrants that meet the requirements of HAVA, Kansas law and SOS regulations (to be adopted), the CEO may use such records to satisfy the identification requirements in Kansas.

NOTE: The local DMV office might not be able or willing to provide these records. Beginning in July, 2004, a new driver's license system will be implemented where a person applying for or renewing a driver's license will not receive the actual driver's license card at the time of application. Instead, the person will receive a temporary paper receipt with the person's photograph on it. The driver's license application is verified through DMV and social security records and a search for duplicates is conducted. When the application is verified, the state DMV office mails the official driver's license card to the applicant. Thus, it is possible the local DMV will not have records, at least immediately, to assist the CEO in identifying voters. If the CEO uses records from the local DMV office to satisfy identification requirements, it is important to use records of driver's licenses issued, not temporary receipts.

D. Advance voting question

17. How should the CEO process advance voting ballot applications received on the old version of Form AV1?

The SOS office is developing new advance voting ballot application forms to comply with the requirements of HAVA and the new state HAVA laws. They will include statements for the voters to complete regarding identification requirements.

If the CEO receives an application for a 2004 election on one of the old forms, the CEO should:

1. Determine if the applicant is a first-time voter in the county.
2. If the applicant is a first-time voter, attempt to obtain identification.
3. If the CEO cannot obtain identification from the voter, issue a provisional ballot and enclose a notice to the voter explaining the need to submit valid identification.
4. If the voter submits the provisional ballot and does not provide valid identification, the county canvassers should not count it.

GA

County Election Officer

Forms

forms

CEO

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Charts

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