

## 2023 Kansas Statutes

**25-3002. Rules for canvassers; validity and counting of ballots or parts thereof.** (a) The rules prescribed in this section shall apply to:

- (1) The original canvass by election boards.
  - (2) Intermediate and final canvasses by county boards of canvassers.
  - (3) Final canvass by the state board of canvassers.
  - (4) All election contests.
  - (5) All other officers canvassing or having a part in the canvass of any election.
- (b) The following shall be rules for canvassers:
- (1) No ballot, or any portion thereof, shall be invalidated by any technical error unless it is impossible to determine the voter's intention. Determination of the voter's intention shall rest in the discretion of the board canvassing in the case of a canvass and in the election court in the case of an election contest.
  - (2) The occurrences listed in this paragraph shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this paragraph shall apply are:
    - (A) Whenever a voting mark shall be made in the square at the left of the name of more than one candidate for the same office, except when the ballot instructs that more than one candidate is to be voted; and
    - (B) whenever a voting mark is placed in the square at the left of a space where no candidate is listed.
  - (3) When a registered voter has cast a provisional ballot intended for a precinct other than the precinct in which the voter resides but located within the same county, the canvassers shall count the votes for those offices or issues that are identical in both precincts. The canvassers shall not count the votes for those offices or issues that differ from the offices or issues appearing on the ballot used in the precinct in which the voter resides.
  - (4) A write-in vote for those candidates for the offices of governor and lieutenant governor shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto, and:
    - (A) Both candidates' names are written on the ballot; or
    - (B) only the name of the candidate for governor is written on the ballot.
  - (5) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto, and:
    - (A) Both candidates' names are written on the ballot; or
    - (B) only the name of the candidate for president is written on the ballot.
  - (6) A write-in vote for candidates for the offices of United States senator and United States house of representatives shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.
  - (7) A write-in vote for candidates for state offices elected on a statewide basis other than offices subject to paragraph (4), the state house of representatives, state senate, state board of education, district judges, district magistrate judges, district attorneys, any county officer or any city officer of a city of the first class shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.
  - (8) Any advance voting or mail ballot whose envelope containing the voter's written declaration is unsigned, shall be wholly void and no vote thereon shall be counted.
  - (9) No ballot cast shall be counted if the voter fails to provide valid identification as defined by K.S.A. 25-2908, and amendments thereto.
  - (10) When a registered voter who is unaffiliated with a political party has cast a provisional partisan ballot in a primary election, the canvassers shall count the votes for those offices or issues for which an unaffiliated voter may cast a vote. The canvassers shall not count the votes for those offices for which only a voter who is affiliated with a political party may cast a vote.

**History:** L. 1968, ch. 406, § 31; L. 1975, ch. 204, § 9; L. 1976, ch. 189, § 2; L. 1991, ch.

100, § 4; L. 1992, ch. 291, § 9; L. 1993, ch. 287, § 11; L. 1995, ch. 192, § 47; L. 2003, ch. 112, § 3; L. 2004, ch. 93, § 8; L. 2011, ch. 56, § 12; L. 2023, ch. 79, § 3; July 1.