

Chapter IV. Candidates

Revised 3/1/14

This chapter focuses primarily on candidates for national, state, county, township, city, school board, and community college offices. One must consult specific statutes for rules governing the election of other offices, such as boards of directors of drainage districts, water districts, fire districts and hospital districts.

A candidate must be nominated to run in the general election. Nominations occur in several ways, and filing as a candidate for nomination occurs in several ways.

a. Nominations

Partisan elections in even-numbered years

There are three ways for a candidate to be nominated to seek election in the general election. Two involve party nominations and the third is a nonpartisan, or independent, nomination.

1. Nomination at the primary election

The statutory definition of which parties may participate in the primary is: any political party whose candidate for governor polled at least 5% of the total votes cast in the most recent general gubernatorial election. Historically, this has applied only to Democratic and Republican candidates. By the same token, this is the only option for these candidates to be nominated to represent their respective parties in the general election.

Only voters who are officially affiliated with a given party may vote in the partisan primary election [KSA 25-202] unless a given party opts to allow other voters to participate in its primary, but the laws do not require candidates running for a given party's nomination to be affiliated with the party on the official voter registration/party affiliation list. In that sense, the voters in the party are free to nominate whomever they want to represent the party in the general election; they are not limited to nominating a member of their party.

2. Nomination by a minor party

Minor parties, or third parties, that have obtained official recognition nominate candidates at state conventions. The conventions are conducted entirely by the party organization and according to party rules. State laws say little about the conventions, other than establishing a deadline for candidate nominations to be certified to the Secretary of State. The certification to the Secretary of State includes all candidates nominated by the party's convention, including national, state, county and township offices. The statutory deadline is the same as the filing deadline for primary candidates:

noon on June 1 of the election year, or the next business day if June 1 is a weekend or holiday.

Minor party candidates do not run in the primary; they go directly onto the general election ballot, having already received their parties' nominations at the conventions.

[KSA 25-302]

3. Independent nomination

This option is for candidates who are not affiliated with any of the recognized political parties. Independent candidates must be nominated by petition. [KSA 25-303] The deadline for filing their petitions is noon the day before the primary election. The primary election is on the first Tuesday in August. Independent candidates do not run in the primary; they go directly onto the general election ballot. [KSA 25-305]

The filing deadline on the day before the primary election prevents so-called "sore loser" campaigns where a candidate who loses in the primary election runs as an independent candidate in the general election for the same office.

If no candidate files for the primary, a write-in candidate may be nominated by receiving write-in votes equal to 5% of the total number of registered voters in that election district, based on figures compiled by the Secretary of State. For purposes of determining ballot access requirements, such as candidate petition signature requirements, the Secretary of State uses voter registration figures as certified to the Secretary of State by the respective county election officers on August 1 of the year preceding the election year. The exception is for township offices, where only three write-in votes are required. No candidate may be required to receive more than 5,000 write-in votes to be nominated. [KSA 25-213]

If a person receives more than one nomination for the same office, the person must choose which nomination to accept. [KSA 25-306]

Nonpartisan elections in odd-numbered years

Elections for local school board and city offices are normally held in the spring of odd-numbered years. [KSA 25-2010, 25-2107] However, many cities have exercised their home rule authority and adopted charter ordinances establishing other schedules, including annual elections and even-numbered year elections. School districts do not have home rule power and thus must conduct their elections according to the schedule prescribed in law.

The spring city and school board elections are nonpartisan. [KSA 25-2009] Candidates file for these offices in January, and if there are three or fewer candidates for a particular office, no primary is held. In that case, the general election ballot contains up to three names and a write-in blank for each position to be filled.

If more than three candidates file for a position, a primary is required to reduce the number of candidates to two for the general election. The primary is held on the Tuesday five weeks preceding the April general election. [KSA 25-2021, 25-2108a]

b. Candidate Filings

(1) National and state offices

Candidates for national and state offices must file with the Secretary of State's office. Democratic and Republican candidates intending to run in the partisan primary in August have a choice of filing by fee or petition. Whichever method they choose, the filing documents and fee (if applicable) must be received in the Secretary of State's office before the filing deadline in order for the candidate to be on the primary election ballot. If they file by fee, they must complete a Declaration of Intention to be a candidate, sign it and have their signature attested by an official in the Secretary of State's office or by the county election officer or deputy. Therefore, the candidate may choose to complete their paperwork and have their signature attested in the county election office rather than traveling to Topeka, but it is still the candidate's responsibility to ensure that the proper documents are filed with the Secretary of State before the deadline. [KSA 25-205, 25-305]

(2) County, township and local offices

Candidates for county, township and other local offices file with their respective county election officers. First and second class city candidates file with their city clerk. Third class city candidates file with either the city clerk or the county election officer. [KSA 25-2110(a), 25-2110a(a)]

(3) Political party precinct committee positions

Candidates for precinct committeeman and committeewoman for the Democratic and Republican parties are elected at the national/state primary in August of even-numbered years. They file notarized Declarations of Intention with their respective county election officers. No filing fee is required. [KSA 25-3801]

Candidate Qualifications

The qualifications a person must possess to hold elective office vary widely. For some offices, such as Governor, Secretary of State and State Treasurer, there are no constitutional or statutory qualifications, while for some, such as state legislator or county commissioner, there are very specific qualifications found either in the Kansas Constitution or various statutes, or both.

One example of a county office with specific requirements that the county election officer must be aware of is sheriff. Each candidate for sheriff must be fingerprinted in the presence of the county election officer at the time of filing. The election officer sends the fingerprints to the Kansas Bureau of Investigation for a background check. If the background check exposes a felony conviction or liquor or narcotics violation, the person is not qualified to run for the office. [KSA 19-826]

When a prospective candidate for any office inquires about the qualifications for an office, or during the review process after the filing period, the specific constitutional or statutory provisions must be consulted in order to determine the validity of candidate filings.

(For more information on candidate qualifications for various offices, see the chart at the end of this chapter.)

Candidate Filing Deadlines

The deadline for party candidates to file for national, state, county and township offices is noon on June 1 of the year of the election. If June 1 is a weekend, the deadline is noon on the next business day. The June deadline applies to Democratic and Republican primary candidate filings and to minor party conventions, whose officers must certify their nominees to the Secretary of State by noon on June 1. [KSA 25-205, 25-305]

Independent candidates for national, state, county and township offices must file their nomination petitions with the appropriate officers by noon on the day before the August primary election. [KSA 25-305]

The filing deadline for candidates for city and school board and community college boards of trustees elections is noon on the Tuesday ten weeks preceding the April general election. [KSA 25-2007]

Following is a chart of filing requirements for most candidates. Each election year the Secretary of State’s office releases information containing specific dollar amounts for fees and signature requirements for petitions.

CANDIDATE FILING REQUIREMENTS

Office	Filing Fees			Petition Requirements	
	Fee	GEC/SOS Fee*	Total Fee	Party Candidates	Independent Candidates
US President/ Vice President	N/A	N/A	N/A	N/A	5,000
US Senator	1% of salary	\$20	1% + \$20	1% of party	5,000
US Representative	1% of salary	\$20	1% + \$20	2% of party	Lesser of 4% or 5,000
State Senator	\$75	\$55	\$130	2% of party	4% of voters
State Representative	\$50	\$55	\$105	2% of party	4% of voters
State Board of Education	\$25	\$55	\$80	200 voters	200 voters
Supreme Ct. / Ct. of Appeals	N/A	\$20	\$20	N/A	N/A
District Judge	1% of salary	\$55	1% + \$55	2% of party	4% of voters
Dist. Magistrate Judge	\$100	\$55	\$155	2% of party	4% of voters
District Attorney	1% of salary	\$55	1% + \$55	5% of vote for SOS	5% of vote for SOS
County Officers	\$5 or 1% of salary	\$35	\$40 or 1% + \$35	3% of party	4% of voters
Township Officers	\$1	N/A	\$1	3% of party	Lesser of 10 or 5% of voters

* The Governmental Ethics Commission receives a statutory \$35 campaign finance report fee from candidates for state and county offices except retention judges. The Secretary of State receives a statutory \$20 administrative fee from candidates for all state and national offices except president.

Note: In redistricting years (2012, 2022, 2032, etc.) the filing deadline may be set on a date other than June 1, depending on when redistricting is completed. See KSA 25-205(h). The redistricting process may also reduce the petition requirements for candidates who file by petition. See KSA 25-205(g).

Determining the Validity of Nominations

For many offices it is the responsibility of the county election officer to determine the validity of the filings. Determining the validity may include checking the Declaration of Intention for completeness, determining the sufficiency of a petition, determining whether a check written for a filing fee clears the bank, or determining whether a candidate possesses the necessary qualifications for office.

The county election officer has three days from the date of a candidate filing for county office, township office, precinct committee position, local school board, or city office to determine its validity. [KSA 25-208a(b)]

For national and state offices, the filings are made with the Secretary of State's office, and a period of ten business days is allowed for determination of their validity. [KSA 25-208a(a)]

If a filing is determined to be invalid, the candidate may file an objection pursuant to KSA 25-308. If a filing is determined to be valid, another person may file an objection if they believe the filing to be invalid. (See Section d below.)

Candidate Withdrawals

A candidate who has filed for any office may withdraw before the candidate filing deadline by submitting a notarized written statement of withdrawal. [KSA 25-306a] After the filing deadline and after the primary, a candidate for national, state, county or township office who does not wish to be a candidate must submit a notarized written statement declaring him/herself to be "incapable of fulfilling the duties of office" if elected. [KSA 25-306b(b)] Candidate withdrawals create vacancies in candidacies, which in the case of party candidacies are filled by party district convention. [KSA 25-3904, 25-3904a]

There is no provision in law for replacing independent candidates if they withdraw.

Likewise, there is no provision in law for replacing candidates in nonpartisan races.

Candidate Deaths

Whether a vacancy in a candidacy can be filled, and the procedure for doing so, depend on the timing of the vacancy. If a vacancy in a party candidacy occurs after the candidate filing deadline but before the primary, leaving the party with no candidate in the primary election, the party chooses a successor candidate. [KSA 25-2906]

After the primary, if a candidate who has been nominated for a national, state, county or township office dies, the candidate's party chair is directed by law to file a notarized written statement with the Secretary of State or county election officer causing the

candidate's name to be withdrawn from nomination and the name taken off the ballot. For national and state offices, the deadline to file the notice is seven days after the meeting of the state board of canvassers after the primary election. For county and township offices, the deadline is ten days after the meeting of the county board of canvassers after the primary election. [KSA 25-306b(c)]

The law does not contain special provisions for a death which occurs late in the process after ballots have been printed. Generally, if it is possible to reprint the ballots, the county election officer should do so. If it is too late to reprint but the ballots can be corrected by hand and voters can be instructed about the change in the ballot, that should be done. "Correcting by hand" usually means obliterating the incorrect information with a marker and hand-writing the correct information on each ballot. In such cases the election board workers should be instructed to inform voters of the ballot correction.

If ballots are not hand-corrected, it is left to the voters to decide which candidates are qualified and to vote for their choice.

There is no provision in law concerning the death of an *independent* candidate for national, state, county or township office or for the death of a candidate for city or school board or other nonpartisan office.

c. Write-in Candidates

At any general election, write-in blanks are provided on the ballot for each office. At primary elections, write-in blanks are provided only if no candidates filed for the office. [KSA 25-213]

In some cases where more than one position is filled on the same governing body (ex: local school board, city council, community college board of trustees), the number of write-in blanks equals the number of positions to be filled. [KSA 25-612] A person who is not a filed candidate who wishes to run as a write-in candidate may simply announce to the voters that he/she is a write-in candidate and conduct a campaign to secure their votes the same as any other candidate. Of particular concern is telling voters where on the ballot to write the candidate's name and spelling it correctly so that the voter's intent is not questioned.

No filing document is required of write-in candidates for most offices, the exception being certain statewide offices. The law requires write-in candidates for president/vice president and all state offices elected on a statewide basis to file affidavits of write-in candidacy with the Secretary of State by noon on the second Monday preceding the general election in order to have their write-in votes tabulated and reported as part of the official election results. This applies to the offices of President/Vice President of the United States, Governor/Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and Commissioner of Insurance. [KSA 25-305, 25-305b] It does not apply to U.S. Senator because it is not a state office. It does not apply to U.S. Representative because it is not a state office, nor is it elected on a statewide basis.

When a candidate files an affidavit of write-in candidacy with the Secretary of State, the county election officers are required to report write-in votes for the candidate, and the official election abstracts are prepared so as to include the candidate's name.

If a write-in candidate for statewide office does not file the affidavit, election officers are not required to tabulate and report the write-in votes cast for that candidate for that office. [KSA 25-3002(c), (d), (e)]

For local candidates and others not required to file affidavits of write-in candidacy, the county election officer and the Secretary of State must be aware of write-in candidacies as they occur, because write-in candidates can win elections. Write-in candidacies are recognized in Kansas law, and all that is required to win an election is to obtain more votes than the other candidates for that office.

Write-in candidates for any office are subject to the regular campaign finance reporting requirements of the office for which they are running. (See also Section IV e.)

d. Objections

An objection is a method to review the validity of a candidate filing or nomination. It may occur at either of two points in the election process:

- (1) after the candidate files for office, or
- (2) after the candidate wins a party's nomination. [KSA 25-208a, 25-308]

An objection at the time the candidate files for office may occur in one of two ways:

- (1) a person other than the candidate files an objection, or
- (2) the candidate files an objection if the election officer determines the candidate's filing to be invalid. [KSA 25-208a(c)]

Any person may file an objection after the candidate is issued a certificate of nomination after the primary.

The deadline for filing any objection is:

- (1) three days after the date of the candidate's filing, or
- (2) three days after the determination of invalidity by the election officer, or
- (3) three days after the date of the issuance of the certificate of nomination after a primary.

Note: The date of issuance of the certificate of nomination varies by office. Certificates for local offices are issued after the county canvass. Certificates for national and state offices are issued after the state canvass several weeks later.

[KSA 25-308(a)]

Objections to nominations for national and state offices are filed with the Secretary of State. Objections to nominations for local offices are filed with the county election officer.

The grounds for filing an objection are the same as the grounds for contesting a general election in court:

- (1) the candidate is ineligible to hold the office
- (2) one or more eligible voters were deprived of the right to vote
- (3) illegal votes were received or legal votes were rejected
- (4) error or fraud occurred in computing the results of the election which could change the outcome of the election
- (5) the candidate bribed an election officer, or
- (6) any other cause showing that a different candidate should have won.

[KSA 25-308(e), 25-1436]

For national and state offices, objections are decided by the state objections board, consisting of the Lieutenant Governor, Secretary of State and Attorney General. For county, township, city and school offices, objections are decided by the county objections board, consisting of the county election officer, county or district attorney and an elected county official whose position is not involved in the controversy. The latter official is designated by the county election officer. [KSA 25-308(c)]

Results of objection—

By their nature, objections are filed during the election process at a time when it is urgent that the matter be concluded and the process of printing ballots and preparing for election day continue without delay. According to the law, the objections board makes its decision by majority vote, and the decision is final. There is no provision in the law for appealing the decision except in extraordinary cases, which would involve quo warranto, mandamus or injunction. [KSA 25-308(c)] Courts have held that the objections board is a quasi-judicial body. This gives the objections board a more authoritative posture than a mere administrative body. It possesses broad powers to investigate facts, weigh evidence and draw conclusions as a basis for official action. The purpose is to decide cases as they arise and get on with the process of conducting the election.

e. Campaign Finance

Once a person files as a candidate or announces his/her candidacy, the candidate must follow all campaign finance rules pertaining to the office for which the candidate is running. The rules vary with the office, but they may limit the size of contributions, the source of contributions, the way funds are spent, and set the time and location of filing reports of receipts and expenditures.

Candidates for national offices file with the Federal Election Commission according to federal laws and regulations. The Secretary of State maintains access to the FEC reports via the Internet, as provided by federal law. The public may view the reports on computer equipment in the Secretary of State's office or via the Internet on their personal computers. [Public Law 104-79]

Candidates for state offices file periodic finance reports with the Secretary of State. [KSA 25-4148] Oversight of the campaign finance system for state candidates is exercised by the Kansas Governmental Ethics Commission. In campaign finance and ethics issues, the rules include candidates for first class city offices, school districts of more than 35,000 students (one district in Sedgwick County) and the Board of Public Utilities in Wyandotte County.

Candidates for local offices file their reports with the county election officer. [KSA 25-901] This includes county and township offices, all school districts except one in Wichita, and all second and third class cities. These candidates file reports 30 days after the primary and 30 days after the general election. If they anticipate receiving or spending less than \$500, they may file an affidavit of exemption no later than the ninth day before the primary election. In this case they do not have to file finance reports unless their receipts or expenditures rise above \$500, at which time they are subject to the reporting requirements. [KSA 25-904]

Electronic campaign finance

The Secretary of State maintains an electronic campaign finance system for use by state-level candidates, parties and political action committees. Candidates for statewide office are required to file reports electronically. Candidates for district offices (not statewide offices) have the option of filing electronically. If they choose not to file electronically, they may file on paper or by fax. The system was designed with assistance from the Governmental Ethics Commission and was deployed in 2008. The electronic system provides greater public access to the receipts and expenditures by allowing anyone with a computer and Internet access to view the reports free.

f. Political Parties

A political party must be officially recognized by the Secretary of State before being allowed to nominate candidates for elective office or participating in the Kansas electoral process. As of this writing there are five recognized parties: Democratic, Republican, Libertarian, Reform and Americans Elect. [KSA 25-302a]

Official Recognition

A party seeking official recognition in Kansas must submit a petition to the Secretary of State by noon on June 1 of the year of the first election in which they plan to participate. The petition must contain the signatures of registered voters in the state equal to two percent of the total votes cast for all candidates for governor at the most recent general election at which the office of governor was elected.

Upon submission of a petition, the Secretary of State sends photocopies to the county election officer in each county in which signatures were collected. The respective county election officers have 20 days to review the signatures, compare them to their signature files, and certify to the Secretary of State the number of valid signatures contained on their portion of the petition. The Secretary of State determines the overall sufficiency of the petition and informs the petitioners of the decision in writing.

[KSA 25-116, 25-117]

(For more on petitions to obtain official political party recognition, see Section V a 5.)

Loss of Official Recognition

A recognized political party must meet two requirements at each national/state general election in order to maintain its official status: (1) it must nominate a candidate for at least one office elected on a statewide basis, and (2) at least one such statewide candidate of the party must receive at least 1% of the total votes cast for the office. If a party does not meet either requirement in a given election, the Secretary of State notifies county election officers that the party is no longer recognized. Registered voters affiliated with the party are subsequently listed as unaffiliated on the county voter registration list.

[KSA 25-302b, 25-302c]

Party Contact Information

The following information may be used to contact any of the political parties currently recognized in Kansas. This information might become outdated at any time, and parties are not required to keep current information on file with the state.

**RECOGNIZED POLITICAL PARTIES IN KANSAS
CONTACT INFORMATION**

Party	Chair	Address	Phone	Fax	Email/ Website
Democratic	Joan Wagnon	P.O. Box 1914 Suite 706 700 SW Jackson Topeka, KS 66601	(785) 234-0425	(785) 234-8420	kdp@ksdp.org www.ksdp.org
Republican	Kelly Arnold	P.O. Box 4157 2025 SW Gage Blvd. Topeka, KS 66604	(785) 234-3456	(785) 228-0353	chairman@ksgop.org www.ksgop.org
Libertarian	Al Terwelp	12156 S. Stanley Rd Overbrook, KS 66524	(785) 665-7581		KCLibertarian@kc.rr.com www.lpks.org chair@lpks.org

g. Qualifications

QUALIFICATIONS OF CANDIDATES AND OFFICEHOLDERS

Office Sought	Statutes	Elector at Time of Filing	Resident at Time of Filing	Elector on Election Day	Resident on Election Day	Elector Upon Taking Office	Resident Upon Taking Office
National Offices							
U.S. President and Vice President	U.S. Const. Art. 2						
U.S. Senators and Representatives	U.S. Const. Art. 1				YES-resident of state		YES-resident of state
State Offices							
Governor and Lt. Governor	KS Const. Art. 1						
Secretary of State	KS Const. Art. 1						
Attorney General	KS Const. Art. 1						
Insurance Commissioner	40-109					YES	YES
State Treasurer	75-601 et seq.						
State Board of Education	25-1903, 72-7503	YES	YES				YES
Senators and Representatives	KS Const. Art. 2 Sec. 4	YES	YES	YES	YES	YES	YES
District Court Judges *See KSA 20-331(b) if district has established residency requirements	20-331, -334, 25-312a *KSA Chap. 4, Article 2 contains individual district qualifications.						YES Some district residency requirements, some county requirements.
District Magistrate Judges *See KSA 20-331(b) if district has established residency requirements	20-331, -334, 25-312a *KSA Chap. 4, Article 2 contains individual district qualifications.						YES Some district residency requirements, some county requirements.
District Attorney	22a-102	YES	YES				
County Offices							
Commission	19-202, -203	YES	YES	YES	YES	YES	YES
Clerk	19-301, -303						
Treasurer	19-501, -504						
Attorney	19-701, -715						
Sheriff	19-801b, 804,	YES	YES	YES	YES	YES	YES
Register of Deeds	19-1201, -1203						
Local Offices							
School Board	25-2020, -2022a	YES	YES		YES		YES

Kansas Election Standards

Office Sought	Statutes	Elector at Time of Filing	Resident at Time of Filing	Elector on Election Day	Resident on Election Day	Elector Upon Taking Office	Resident Upon Taking Office
Community College Board of Trustees	71-1407, -1414	YES	YES				YES
Township Offices	80-202			YES	YES	YES	YES

City Offices							
1st Class Cities							

Note: Most 1st class cities have exempted themselves from state election laws by invoking home rule under the Kansas Constitution, Article 12, Section 5. The city of Emporia is one exception. Most laws pertaining to 1st class city elections have been repealed. Candidate qualifications are established by the individual cities.

Second and third class cities also may individually charter out of statutory qualifications by invoking home rule. City charter ordinances must be consulted to determine if the following statutory provisions are in effect.

2nd Class Cities							
City Manager	12-1036b			YES	YES	YES	YES
Commission	14-1301			YES	YES	YES	YES
Mayor-Council	14-109, -204, -205			YES	YES	YES	YES
Modified Mayor-Council	12-10a02			YES	YES	YES	YES
3rd Class Cities							
City Manager	12-1036b			YES	YES	YES	YES
Commission	15-1401			YES	YES	YES	YES
Mayor-Council	15-209			YES	YES	YES	YES
Modified Mayor-Council	12-10a02			YES	YES	YES	YES
Political Party Precinct Persons	25-3801	YES	YES	YES	YES	YES	YES