

**PROCESS AND PROCEDURES  
OF THE JOHNSON COUNTY BOARD OF COUNTY COMMISSIONERS,  
SITTING AS THE COUNTY BOARD OF CANVASSERS,  
FOR THE CONDUCT OF THE ELECTION CANVASS**

- I. **General Authority.** Pursuant to Kansas statutes, members of the Johnson County Board of County Commissioners serve as the board of canvassers for elections occurring within Johnson County. The county board of canvassers conducts the final canvass in local elections and the intermediate canvass in national and state elections. The canvassing process is conducted by the board of canvassers under the general supervision of the Kansas Secretary of State and the Johnson County Election Officer.
- II. **General Canvass Process.**
- A. **Purpose.** The canvass is a meeting, authorized by state statute, in which the board of canvassers meet to review election results presented by the county election officer, to determine the validity of provisional or challenged votes, and to certify the election results, all according to legal standards and requirements. The county board of canvassers' duties are set forth by state statutes. The canvass board has the statutory duty to make determinations, consistent with state and federal laws, as to which provisional and challenged ballots are valid and able to be counted, by law, and which, by law, are not able to be counted.
- B. **Original Canvass.** The original canvass for all returns is conducted by an appointed election board. The election board counts the votes for each candidate in a race and for each question on the ballot and produces vote totals. The election board also reviews all special cases such as write-in votes, and voided or mismarked ballots, in compliance with its statutory duties, and may challenge any ballot, according to statutory requirements. Upon completion of its canvass, the election board refers all ballots which it has challenged, together with provisional ballots and ballots challenged at the polls, to the county board of canvassers.
- C. **Intermediate and Final Canvass.** The county election officer prepares the tabulated results from the original canvass and groups all provisional ballots and challenged ballots, as well as other election issues, referred to the county board of canvassers from the original canvass, into categories by issue. The tabulated results, presented as the preliminary abstract of election returns, are presented to the county canvassers, along with other issues that need to be resolved, including the provisional and challenged ballots.
- D. **Preliminary abstracts.** The county board of canvassers finalizes the preliminary abstracts of election returns by making any necessary changes, and then certifies the authenticity and accuracy of the abstract.

### III. County Board of Canvassers.

- A. **Composition.** The county board of canvassers shall be composed of the members of the Johnson County Board of County Commissioners, who shall serve through their official term of office.
- B. **Presiding Officer.** The county board of canvassers shall convene under the general supervision of the county election commissioner or, in his or her absence, a deputy county election commissioner. The Chairman of the Board of County Commissioners, if present, shall serve as the presiding officer of the board of canvassers for purposes of conducting the proceedings of the canvass board. If the Chairman is not present, the Vice-Chairman of the Board of County Commissioners shall preside at the meeting. If neither the Chairman or Vice-Chairman is present, the presiding officer for the meeting shall be determined by the rules of succession for the Board of County Commissioners. If no member of the Commission is present, the county election officer will designate one of the surrogate members to serve as presiding officer.
- C. **Absence or Vacancy.** If a member of the county board of canvassers is absent or is otherwise unable to serve as a canvasser, the board member shall notify the Office of the Board of County Commissioners as soon as practicable. The remaining members of the canvassing board shall select an elector of the County to serve in his or her place and, whenever possible, the replacement shall be selected using the following procedure. Board of County Commissioners staff, with concurrence of the County Manager, shall be and hereby are authorized to select and designate a management-level official of the Johnson County Government, who is a registered Johnson County elector pursuant to state statute, to serve as a surrogate member of the board of canvassers for the absent commissioner. A surrogate shall be selected for each absent board member, for each canvass. The surrogate shall act as a member of the board of canvassers, shall sign the abstract as the board member, and shall initial the signature.

### IV. Canvass Proceedings.

- A. **Open Meeting.** The county board of canvassers will meet as provided by statute. All proceedings of the county board of canvassers shall be conducted in an open public meeting, except when an executive session is warranted and properly called. Notice of the time and place of the meeting will be given and published by the county election officer, pursuant to statute. Unless a different place is agreed upon by the board of canvassers and the election commissioner, and is announced by the election officer, the canvass shall be conducted at the county election office located at 2101 E. Kansas City Road in Olathe, Kansas.

- B. **Participation.** Members of the public, candidates and their representatives, poll watchers, and other interested persons may attend the canvass and observe the procedures; however, they may not participate in the canvass, or in any discussions or deliberations of the canvassing board, and they may not disrupt or interfere with the proceedings. Only members of the canvassing board or their surrogates, the election officer and staff, and the board's legal representatives may participate in the proceedings of the canvass.
  - C. **Record.** A record of the open meeting of the canvass board shall be made and kept in the county election office, and will be made available, upon proper request, for public inspection and copying.
  - D. **Actions and Decisions.** All members of the county board of canvassers, or their surrogates, shall be present and participate at canvass. Actions and decisions shall be taken or made by the board upon proper motion, second, and a majority vote of the members or surrogate members. The board of canvassers may direct or delegate actions to the election board or election officer when necessary to meet statutory responsibilities. All members of the board of canvassers, or their surrogates, shall execute the abstract of election results.
- V. **Conduct of Canvass.** The canvass of votes shall be conducted consistent with state statutes and regulations and guidance established by the Secretary of State, as follows:
- A. The county election officer will convene the board of canvassers.
  - B. The presiding officer of the board of canvassers shall introduce the board and provide instructions on the proceedings.
  - C. The county election officer will present the preliminary abstracts and note any issues that are before the board for consideration. The board of canvassers shall review the abstract and consider the issues before it for consideration.
  - D. The county election officer will present the provisional and challenged ballots to the board of canvassers. The ballots will be presented in groups and categories based upon the reasons for challenge or for designation as provisional. Voters' names and the manner in which they voted should not be disclosed, but the category and reasons for the challenge or provisional status shall be announced by the election officer.

- E. The board of canvassers shall review each group and category of provisional and challenged ballots. The board may inspect the ballot envelope, as permitted by law, but shall not open any ballot envelope unless required by law. The county election officer shall provide his or her recommendation regarding whether each group or category should be counted, based upon federal and state law. The board of canvassers shall make a final decision, by majority vote, for each group and category of ballots, and shall determine which are valid, by law and, therefore, eligible to be counted, and which are invalid, by law, and, therefore, not eligible to be counted.
- F. The decisions of the board of canvassers shall be guided by the Kansas Election Standards for canvass, as published and as amended, by the Secretary of State. The board of canvassers shall endeavor to count each ballot whenever the intent of the voter can be reasonably determined, the eligibility of the voter can be legally recognized, and validating the ballot is consistent with state and federal law.
- G. The board of canvassers shall then authorize and instruct the election board and the county election officer to count those ballots which were determined to be valid. The election board, under supervision of the county election officer, shall open and count the ballots, as provided by law. A partial count, where permitted by law, is allowed when the voter was not eligible to vote for all races or questions on the voted ballot. In those cases, only those races or questions for which the voter was authorized to vote shall be counted.
- H. Provisional or challenged ballots that are deemed invalid shall not be opened. They shall remain sealed and shall be stored with other ballots after the canvass is completed, according to Kansas statutes.
- I. The board of canvassers may recess the canvass proceeding, as necessary and as permitted by statute, to allow the election board to open and count the valid ballots, and to update the abstract to include the counted ballots in the official tabulation.
- J. Upon completion of the count of the validated provisional and challenged ballots by the election board, the board of canvassers shall reconvene the canvass. The election officer shall present the revised abstract to the board. The board shall review the abstract and shall execute the certificate, certifying the authenticity and accuracy of the results. The certified abstract shall be the official record of the results of the election within the County. The county abstract shall be stored in the county election office as a permanent record of the election. The vote totals for national and state elections are transmitted by the election officer to the Kansas Secretary of State for state canvassing and certification.
- K. The presiding officer shall adjourn the meeting.

## **VI. Other Functions.**

- A. **Recount.** The county board of canvassers shall oversee the recount of votes cast in a race or races, as provided by law. The recount shall be performed as required by Kansas statutes and pursuant to procedures established by the Secretary of State.
- B. **Tie Vote.** A tie vote in any election for which the board makes the final canvass shall, pursuant to state statute, be decided by lot, to determine which person will be nominated or elected.
  - 1. Unless otherwise required by Kansas statute, court ruling, or rule promulgated by the Kansas Secretary of State, a two-way tie vote shall be decided by the county board of canvassers by the toss of a coin.
    - a) Reasonable notice shall be given, as provided by statute. If one of the candidates whose results are tied is present at the canvass for the coin toss, he or she shall be permitted to call "heads" or "tails" of the coin. If more than one of said candidates is present, the first-named on the ballot abstract shall be permitted to call "heads" or "tails" of the coin. If none of said candidates are present, the call shall be made by a member or surrogate member of the board of canvassers.
    - b) The coin will be tossed in a flip by a member or surrogate member of the board of canvassers. The coin will be allowed to fall to the floor and alight as "heads" or "tails." The person nominated or elected shall be the individual with the choice of "heads" or "tails" that matches the visible side of the flipped coin.
  - 2. Unless otherwise required by Kansas statute, court ruling, or rule promulgated by the Kansas Secretary of State, a tie vote between three or more candidates shall be decided by the county board of canvassers by drawing of a name from the names of the candidates in the tie.
    - a) All names shall be written on paper of uniform size and color, which shall be folded similarly and placed in a container and mixed.
    - b) A member or surrogate member of the board of canvassers shall draw a name from the container. The candidate whose name is drawn shall be the person nominated or elected.
    - c) In the case of a question submitted election, a tie shall never be deemed to have occurred. Whenever the same number of votes are cast for both "yes" and "no" on a ballot question, the "no" vote will prevail, and the question will have failed.