

KRIS W. KOBACH
Secretary of State



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U.S. ELECTION ASSISTANCE COMMISSION 120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564
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STATE OF KANSAS

November 17, 2015

Brian Newby
Executive Director
U.S. Election Assistance Commission
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

Dear Mr. Newby,

On October 2, 2015, Kansas Administrative Regulation (“KAR”) 7-23-15 was updated to require county election officers to designate a voter registration application as incomplete if it lacks information required by law, including satisfactory evidence of United States Citizenship, and to maintain a list of incomplete applications for voter registration. KAR 7-23-15(a). A voter may complete the voter registration application by providing the absent information within 90 days after the application was received by the county election office. KAR 7-23-15(b). If an applicant does not complete his voter registration application within the 90 day period, the applicant must then submit a new, completed application to register to vote. KAR 7-23-15(c).

We have reviewed the instructions for the State of Kansas in the National Mail Voter Registration Form and we request the following revisions.

We request the insertion of an additional bullet point after the third bullet point in the “Signature” section of the Kansas state-specific instructions: “have provided a document, or copy thereof, demonstrating United States citizenship within 90 days of filing the application with the secretary of state or applicable county election officer.”

We also suggest inserting an additional bullet point after the final bullet point under the “Signature” section: “Acceptable documents demonstrating United States citizenship as required by K.S.A. § 25-2309(l) include the following:

- (1) A driver’s license or non-driver state identification card indicating on its face that the holder has provided satisfactory proof of United States citizenship;
- (2) A birth certificate indicating birth in the United States;
- (3) Pertinent pages of a valid or expired United States passport identifying the applicant and the applicant’s passport number;
- (4) A naturalization document indicating United States citizenship;
- (5) A document issued by the federal government pursuant to the Immigration and Naturalization Act of 1952, and amendments thereto, indicating United States citizenship;

- (6) A Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number;
- (7) A consular report of birth abroad of a citizen of the United States;
- (8) A certificate of citizenship issued by the U.S. Citizenship and Immigration Services;
- (9) A certificate of report of birth issued by the U.S. Department of State;
- (10) An American Indian card with KIC classification issued by the U.S. Department of Homeland Security;
- (11) A final adoption decree showing the applicant's name and United States birthplace;
- (12) An official U.S. military record of service showing the applicant's United States birthplace;
- (13) An extract from a U.S. hospital record of birth created at the time of the applicant's birth indicating the applicant's United States birthplace.

If one does not possess any of the listed documents, the person may alternatively prove his or her citizenship through the process described in KSA § 25-2309(m).”

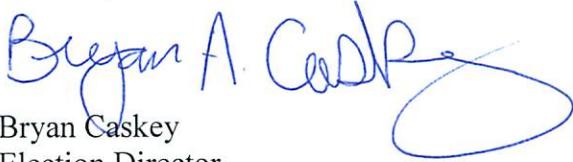
Additionally, our office is providing the attached spreadsheet which identifies eighteen noncitizens who registered or attempted to register in Sedgwick County, Kansas—just one of Kansas's 105 counties. Prior to the January 1, 2013, effective date of the Kansas requirement that a voter registration applicant provide proof of citizenship to register, at least seven noncitizens successfully registered to vote in Sedgwick County—one of which voted in four different Kansas elections. Sedgwick County officials learned of most of these noncitizen registrants many years after they registered because Sedgwick County officials attend naturalization ceremonies to register new citizens to vote.

Fortunately, the Kansas proof-of-citizenship requirement has succeeded in enabling Sedgwick County to prevent similar registrations. After the proof of citizenship law went into effect on January 1, 2013, at least eleven noncitizens were prevented from becoming registered voters. These eleven applicants attempted to register but failed to provide proof of citizenship. At least one attempted to register using the National Mail Voter Registration Form. When Sedgwick County officials contacted these eleven applicants, it was learned that they were not United States citizens. Thus, the proof-of-citizenship requirement of Kansas's state voter registration form has proven effective in preventing noncitizens from registering to vote. As they are currently worded, the Kansas-specific instructions on the National Mail Voter Registration Form include no such requirement; consequently, noncitizens can use that form to unlawfully register to vote in federal elections.

The attached spreadsheet demonstrates that a proof-of-citizenship instruction on the Kansas State Specific Instructions of the National Voter Registration Form is necessary to enable Kansas county election officers to assess the eligibility of an applicant, because a mere oath will not suffice to effectuate Kansas's citizenship requirement. The State of Kansas has attempted to use other mechanisms to prevent noncitizens from voting, such as attempting to identify noncitizens on the voter rolls and determining if the voter rolls include the names of individuals who decline jury duty because they are noncitizens. These alternative mechanisms are fraught with problems and have been wholly ineffective in ensuring that noncitizens do not become registered to vote in

Kansas. Accordingly, we request the revisions to the Kansas-specific instructions on the National Mail Voter Registration Form detailed above.

Sincerely,

A handwritten signature in blue ink that reads "Bryan A. Caskey". The signature is fluid and cursive, with a large, sweeping loop at the end of the last name.

Bryan Caskey
Election Director
Kansas Secretary of State's Office

**SEDGWICK COUNTY, KANSAS, ALIENS WHO REGISTERED PRIOR TO 1/1/2013 OR
WERE SUCCESSFULLY PREVENTED FROM REGISTERING AFTER 1/1/2013**

Date original registration application submitted	Reg ID	Source of Registration	Current Citizenship Status	Date of Naturalization	Voted	Note
ALIENS WHO SUCCESSFULLY REGISTERED						
4/16/2003	4296515	DMV paper address change	Citizen	2/27/2015	No	Was registered for nearly 12 years prior to being a citizen. Was sent ballot for 4 elections but never voted.
10/12/2004	1447321	By Mail - Paper	Non Citizen	NA	Yes	Voted 4 times, GN2004, CG2005, SP2007, GN2008. Voter called Sedgwick County Election office because while applying to become a citizen of the United States she realized she had voted and was registered to vote here in Sedgwick County. She was requesting her voting history (she has voted 4 times) and a voter ID card along with a cancellation form. Her statement was that she "was a permanent resident of the U.S. and did not know she wasn't allowed to vote until after 2008 when one of her friends told her she couldn't, she then stopped voting."
10/07/2006	5053234	Voter Registration Drive	Citizen	9/11/2015	No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/15/2006	5055911	Voter Registration Drive - Paper	Citizen	1/16/2015	No	Was registered for over 8 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
10/19/2006	5063593	Mandated Public assistance - Paper	Citizen	3/28/2014	No	Was registered for over 7 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
8/30/2010	5401038	Motor Vehicle Offices - Electronic	Citizen	7/17/2015	No	Was registered for almost 5 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
6/5/2010	5381681	Motor Vehicle Office	Citizen	10/2/2015	No	Was registered for over 5 years before becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
ALIENS WHO ATTEMPTED TO REGISTER						
2/13/2013	5613774	DMV Online - Electronic	Non Citizen	NA	No	Sedgwick County Election Office contacted applicant via phone on 06/27/2013. He admitted that he was not a citizen.
8/20/2013	5637865	Motor Vehicle Offices - Electronic	Citizen	9/27/2013	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizen at naturalization ceremony.
1/24/2014	5657157	Motor Vehicle	Non Citizen	NA	No	Applicant returned Proof of Citizenship notice with note saying

**SEDGWICK COUNTY, KANSAS, ALIENS WHO REGISTERED PRIOR TO 1/1/2013 OR
WERE SUCCESSFULLY PREVENTED FROM REGISTERING AFTER 1/1/2013**

		Offices - Electronic				that the applicant was not a citizen.
2/20/2014	5660352	Federal Form	Non Citizen	NA	No	Applicant attempted to register even though she was a noncitizen. Applicant signed affirmation of United States citizenship but failed to check boxes on the form. Sedgwick County Election Office called the applicant, and the applicant stated that she was not a United States citizen.
2/21/2014	5660218	Motor Vehicle Offices - Electronic	Non Citizen	NA	No	Applicant called Sedgwick County Election office to report that he is not a citizen. 04/21/2014.
3/4/2014	5662650	Motor Vehicle Offices - Electronic	Citizen	9/14/2014	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
4/23/2014	5668920	Motor Vehicle Offices - Electronic	Non Citizen	NA	No	Applicant's niece called Sedgwick County Election office to report applicant is not a citizen, Sedgwick County Election office mailed a cancelation form, but hasn't received it back. Due to the notification not being from the applicant, this file was left pending as "incomplete."
8/6/2014	5685971	Motor Vehicle Offices - Electronic	Citizen	1/16/2015	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizen at naturalization ceremony.
4/14/2015	5733764	Mandated Public Assistance Agency	Citizen	9/18/2015	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election office discovered this when registering new citizens at naturalization ceremony.
6/12/2015	5735793	Motor Vehicle Offices - Electronic	Citizen	11/13/2015	No	Applicant attempted to register prior to becoming a citizen. Sedgwick County Election Office discovered this fact when registering new citizens at naturalization ceremony.
9/23/2015	5642186	Motor Vehicle Office- Electronic	Non Citizen	NA	No	Applicant came into the Sedgwick County Election Office on 10/2/2015 to provide proof of citizenship. Applicant provided a "Residential Alien" card. Sedgwick County Election Office asked if applicant was a U.S. Citizen. Applicant said No.