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Secretary of State



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STATE OF KANSAS

Dear Governor Colyer:

Thank you for your correspondence. While I am certain that your motivation in writing me is sincere, unfortunately your campaign letter expresses incorrect allegations that my office has given inaccurate advice to local election officials regarding the handling and counting of mail-in and provisional ballots.

Although the Kansas secretary of state does not participate in the counting of ballots-which is done at the county level-state law does establish the secretary of state as the chief elections official of Kansas. As the duly elected secretary of state and Kansas's chief elections official, I am obligated by state and federal law to provide our election officials with uniform guidance and advice concerning the administration of elections. No other state office is permitted to exercise these responsibilities under law. Your letter suggests that I should violate those laws and transfer those responsibilities to the attorney general. I will not breach the public trust and arbitrarily assign my responsibilities to another office that is not granted such authority by the laws of Kansas.

Your letter also suggests that you are not familiar with the details of how elections in Kansas are conducted. Several critical stages of this process are outside my direct authority. The care, custody, control, and processing of voted ballots remain the sole responsibility of the 105 county election officers. Counting ballots and determining intermediate election results for state and federal offices are the responsibility of the 105 county boards of canvassers (the county commissioners). Our local election officials have earned a reputation of providing Kansans with honest and accurate elections. I have every confidence that these local officials will carry out their obligations in this tradition of excellence. I assume that, as an elected official, you would have the same confidence. However, your suggestion that these same county election officials need to be reminded by you to abide by federal and state election laws does nothing to increase the public's trust in the elections process and is beneath the office of governor.

Guidance from my office has been issued to county election officials regarding the processing of mailed ballots and provisional ballots. This guidance is consistent with the guidance provided in years past and is in accordance with state law. Any guidance given to the county election officials regarding these matters is available to you upon request.

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Your suggestion regarding the Kansas Rules of Professional Responsibility for attorneys is particularly puzzling. You appear to believe that an attorney cannot serve in any role concerning an election in which he is a candidate. Your imagined rule would effectively mean that an attorney could never be secretary of state and run for re-election or for another office. It would also mean that neither the attorney general nor a governor could be an attorney, because Kansas law makes them members of the State Board of Canvassers. As governor of Kansas, your unrestrained rhetoric has the potential to undermine the public's confidence in the election process. May I suggest that you trust the people of Kansas have made the right decision at the polls and that our election officials will properly determine the result as they do in every election.

Prior to your letter, I had already stated publicly that I would recuse myself if asked. Although I would discharge my duties ethically, impartially, and responsibly, I have carefully considered your request and have decided that it is in the best interest of the citizens of Kansas that I permit another to perform the duties of the secretary of state until the conclusion of the 2018 primary election process. Kansas statute permits the assistant secretary of state to perform the tasks of the secretary of state in certain circumstances. Therefore, Assistant Secretary of State Eric Rucker will carry out my election responsibilities, including membership on the state canvassing board and the state objection board. Mr. Rucker has served ably as Assistant Secretary of State during the eight years of my administration. He also served Kansas Secretary of State Jack Brier as his Deputy Assistant Secretary of State for Elections. I have full confidence in Mr. Rucker's ability to carry out these responsibilities.

Finally, I would like to remind you that you also have a role in the election process. As you are well aware, you are a member of the state canvassing board; and the Lieutenant Governor is a member of the state objection board. I have confidence that Lieutenant Governor Mann and you would discharge your duties in a fair and impartial manner; therefore I will not take the step of publicly asking you to step down from these positions. However, should you decide to follow my lead and address any appearance of a conflict of interest by removing yourselves from these boards, please let my office know immediately and let my office know who will serve on these boards in your place.

Cordially,

Kris W. Kobach