

Disclaimer:

This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Election Protection Coalition does not warrant any information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to pursue legal advice or decision making.

Questions Involving Access to the Ballot:

1. It is after the time to open (7 AM) and the polling place is not open.

Immediately contact the Department of Elections County Offices to report the problem. You can find information on County Election Offices at <http://elections.delaware.gov/locations.shtml>.

If the polling place is open 7:00 a.m. but the voting machines have not arrived, call headquarters immediately. Voters should be permitted to vote by paper ballots (preferably) or by provisional ballots if there are no machines available. Provisional ballots are a LAST resort.

2. It is 8 PM and my polling place is closed or closing and will not let me vote.

Immediately contact the Department of Elections County Offices to report the problem. You can find information on County Election Offices at <http://elections.delaware.gov/locations.shtml>.

3. There are equipment problems at my polling place and I cannot vote. What should I do?

Encourage the voter to ask to vote by a back-up paper ballot or by provisional ballot. If a caller reports problems with the machines, immediately contact the Electronic Frontier Foundation representative at the call center to walk you through the appropriate steps to solve the machine problem.

Identification and Provisional Ballots:

1. I do not have any identification with me. Can I vote?

Most people who do not have identification with them can vote a REGULAR ballot. The election official will provide an affidavit that you are the person listed on the election district record for you to fill out prior to being allowed to vote.

However, if the voter registered to vote by mail on or after January 1, 2003, and has not voted in Delaware in an election for federal office, that voter will have to show one identifying document if the voter did not provide identifying documents with the mail-in-registration. Identifying documents include a current and valid photo ID, copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. If the voter cannot provide identifying documents, the voter may vote by PROVISIONAL ballot.

If the caller is not permitted to vote, alert a commander so that a lawyer can be assigned to go to the precinct immediately. An attorney will contact the county election officials to report the problem.

2. I am a registered voter but election officials tell me I am not eligible to vote. Can I vote?

First, if the voter's right to vote is challenged, the voter has the right to have the inspector and the two election judges at the polls make a finding on whether the voter is eligible to vote. If a majority finds the voter is eligible, then the voter may vote a REGULAR ballot.

Second, if the voter is not permitted to vote, the voter has the right to cast a PROVISIONAL ballot. The voter may cast a provisional ballot, even if he or she does not have identification with him or her.

3. Poll workers are turning away voters if they don't have photo ID.

Alert a commander immediately to report the problem. An attorney will be dispatched to the polling place. Identification is required to vote, but if voters do not have ID, they may fill out an affidavit stating that they are the person on the voter list and then will be permitted to vote. Next, encourage the voter to go back into the polling station and demand the right to vote by REGULAR ballot. Only two groups of voters have to provide ID. First-time voters who registered after January 1, 2003 and registered by mail have to provide some form of identifying document if they did not provide one with the registration. Those identifying documents are a current and valid photo ID, copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. The second group of voters who have to provide identification are those who have changed address without updating their registration. Only those voters who cannot provide ID or who election officials tell are not eligible should vote by PROVISIONAL ballot.

4. I have been offered a provisional ballot. What should I do?

Provisional ballots are a LAST resort. There are separate rules for counting provisional ballots. The day following an election in which provisional ballots were used, the Department of Elections for each county meets to examine the ballots, determine which of them should be tallied in accordance with the rules, and then tally those ballots.

Where to Vote:

1. Where do I vote (for voters who have not moved)?

Registered voters can look up polling locations at <http://pollingplace.delaware.gov/> . Voters also may also contact the election office of the county in which they reside. Contact information maybe found at <http://elections.delaware.gov/locations.shtml>.

2. I have moved from one address to another in state and have not re-registered to vote. Where do I go to vote?

By statute, change of address or residence within the state of Delaware does not disqualify any person as a voter.

You may go to your old polling place, where the election official will have you fill out an eligibility affidavit. Then the election official will determine your correct polling location, put the affidavit in an envelope and return it to you with the address of the new polling location written on it. You then will

go to the new polling place to cast your vote. You will need to show proof of identity and address at the new polling place. The election official will take the affidavit and permit you to vote. (If you have also changed your name, the election official will place a completed voter registration application with the affidavit to return to the state.)

You may also go to the new polling place. You will be allowed to vote once you fill out and return to the election official an eligibility affidavit and after the election official receives authorization from the state Department of Elections. (As before, if you have also changed your name, the election official will place a completed voter registration application with the affidavit to return to the state.)

If the caller is not permitted to vote, alert a commander so that a lawyer can be assigned to go to the precinct immediately. An attorney will contact the county election officials to report the problem.

3. I recently moved in state from out of state. Where do I go to vote?

If you are unable to vote in another location and have lived in Delaware for three months, the Delaware Constitution grants you the right to vote for President and Vice President. Go to your polling place <http://pollingplace.delaware.gov/>.

If the caller is not permitted to vote, alert a commander so that a lawyer can be assigned to go to the precinct immediately. An attorney will contact the county election officials to report the problem.

Assistance at the polls:

1. I am a physically disabled voter. Will my polling place be accessible?

Delaware law does not specifically address the accessibility of polling places. However, by statute, Delaware does require election officials to allow a physically disabled voter to bring 1 or 2 people of the voter's choosing to assist the voter. Also, the Supreme Court in a recent decision stated that denial of the right to vote because of handicap is a violation of the due process clause of the 14th amendment to the U.S. Constitution. See *Tennessee v. Lane*, 541 U.S. 509, 124 S. Ct. 1978, 1989 n.13, 1990 (2004). Moreover, it is the policy of Delaware to provide accessible polling places and voting machines. Thus, election officials should make efforts to accommodate handicapped voters.

If a voter reports that a polling place is not handicap accessible, alert a commander so an attorney can get in touch with the responsible election official to report the problem immediately. Where there is no Legal Command Center, call the election official's office for that county. Election official contact information is available at the end of this document.

2. I am blind, physically disabled, cannot read English, or cannot mark the ballot and require assistance at the polls in order to vote. Can I get assistance at the polls?

Yes. A voter requiring assistance at the polls for any the reasons above can receive the assistance of one or two people of his or her choice. If the voter does not bring a person with him or her, election officials may direct two election officers from opposite political parties to accompany the voter to the polls to help the voter.

If a poll worker refuses to allow a disabled or language minority voter to bring a person of his or her choice into the voting booth, alert a commander. Election official contact information is available at the end of this document.

Delaware is not covered by the language minority provisions of the Voting Rights Act of 1965.

Miscellaneous Issues:

1. I have been approached by candidates or others at the polls.

All poll watchers, including Election Protection volunteers, must stay at least 50 feet from the entrance to the building in which the polling place is located; any poll watcher can solicit you if they comply with this rule. An election official may clear the passageway, prevent obstruction, or arrest any individual obstructing the passageway to the polling place. If anyone is violating the 50-foot requirement, alert a commander to report the problem, let them know the extent of the problem and work with them to assess if calling an election official is necessary.

2. There are people at the polls trying to intimidate voters.

By statute, voters cannot be intimidated or coerced by threat of loss of employment or occupation. Alert a commander immediately. An attorney will be dispatched to the polling place. If the voter agrees, put him or her on hold while you call the Legal Command Center so they can send an attorney to the location immediately. Then, gather as much information from the voter as possible. After hanging up with the caller, call back the Legal Command Center and fill the attorneys there in on the details. Also, alert the call center manager.

3. I have a felony conviction. May I vote?

Yes, under certain circumstances the Delaware Constitution restores the caller's right vote. First, if the caller has been convicted of the following:

- a felony of murder or manslaughter (except vehicular homicide)
- a felony against public administration involving bribery or improper influence or abuse of office anywhere in the United States,
- a felony that constituted a sexual offense or similar crime

The caller's right to vote **CANNOT BE RESTORED**. For other felony convictions, if the caller has been pardoned or five years have passed since (1) the caller fulfilled all provisions of his or her sentence, including suspended sentence, probation, or parole, and (2) the caller satisfied all financial obligations, such as restitution, and has registered to vote by the deadline, then the caller has the right to vote.

4. I am a college student. Can I vote where I go to school?

Yes. College students may register and vote where they go to school, provided they meet the state's residency requirements. Students must be held to the **SAME** eligibility requirements as any other voter in the jurisdiction. If a student has been turned away at the polls, find out if he or she has fulfilled all the registration requirements (age, residency requirements – 3 months if voting for President and Vice President and not permitted to vote in another state, or 1 year in state and 3 months in one election district if voting in other races) and that he or she registered on time for this election. If so, alert a commander to dispatch an attorney to the location and contact the appropriate election official. Where there is no Legal Command Center, call the election official for that county.