

2008 Election Protection Manual

DELAWARE



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This manual was prepared with the *pro bono* resources of one or more law firms together with the Lawyers' Committee for Civil Rights Under Law. The Lawyers' Committee is indebted to this generous contribution of time and effort – the Election Protection program would not be possible without law firm support.

TABLE OF CONTENTS

SECTION I—STATE AND LOCAL ELECTION OFFICIALS	2
I. STATE ELECTION COMMISSIONER.....	2
II. DEPARTMENT OF ELECTIONS.....	2
III. ELECTION OFFICERS	2
IV. TRAINING ELECTION OFFICERS.....	3
SECTION II—VOTER REGISTRATION.....	4
I. INFORMATION FOR REGISTRANTS	4
II. INFORMATION FOR THIRD PARTY REGISTRATION GROUPS	7
III. STATEWIDE VOTER REGISTRATION DATABASE: MAINTENANCE AND REMOVAL OF VOTERS.....	9
SECTION III—POLLING PLACES AND PREPARATION FOR ELECTION DAY	12
I. PREPARATION FOR ELECTION DAY.....	12
II. POLLING PLACE PROCEDURES DURING VOTING.....	14
III. POLLING PLACES: CONDUCT, RULES AND PROHIBITIONS ON INTIMIDATION AND DECEPTION OF VOTERS.....	15
SECTION IV—ABSENTEE VOTING	22
I. ABSENTEE VOTING GENERALLY	22
II. ABSENTEE VOTING FOR OVERSEAS AND MILITARY VOTERS	23
SECTION V—VOTING AND ELECTION DAY INFORMATION	25
I. GENERAL INFORMATION	25
II. ASSISTANCE TO VOTERS AT THE POLLING PLACE.....	25
III. INFORMATION REGARDING VOTERS WHO HAVE MOVED	26
IV. PROVISIONAL VOTING	26
V. CHALLENGES.....	27
SECTION VI— POST-ELECTION PROCEDURES.....	29
I. CLOSING THE POLLS	29
II. COUNTING THE BALLOTS	29
APPENDIX A: AUTHORITIES	31
APPENDIX B: VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS	80
APPENDIX C: DEPARTMENTS OF ELECTION	81
APPENDIX D: 2008 ELECTION CALENDARS.....	82
APPENDIX E: RESTORING YOUR RIGHT TO VOTE.....	83
APPENDIX F: PROVISIONAL BALLOT AFFIRMATION FORM AND VERIFICATION STATEMENT	84
APPENDIX G: CHALLENGE QUESTIONS.....	85

Contact info@nationalcampaignforfairelections.org with comments or questions.

SECTION I—STATE AND LOCAL ELECTION OFFICIALS

I. STATE ELECTION COMMISSIONER

The State Election Commissioner is the chief election official. The State Election Officer is appointed by the Governor for a four-year term, and is confirmed by a majority of the members elected to the Senate. [Source: DEL. CODE, tit. 15, § 301.](#)

The Commissioner's duties include the following:

- Making reasonable rules and regulations with respect to the functions of the Commissioner's office and the manner of making entries in registration and election records;
- Having the sole responsibility for the security of the records in the Commissioner's office;
- Supplying necessary instruction and assistance to each department and all registration and election officers to insure uniform operation throughout the State;
- Being a member of each county department of elections;
- Attending each county department of elections meeting, where the Commissioner may participate in discussions and cast a vote in the event of a tie;
- Collecting unofficial results of the general election at each election district, and tabulating, reporting, and disseminating the results.

[Source: DEL. CODE, tit. 15, § 302.](#)

The Commissioner's Office is the lead agency for the Department of Elections, which consists of the Commissioner's Office and a Department of Elections office located in each county. See <http://elections.delaware.gov/aboutagency.shtml>.

II. DEPARTMENT OF ELECTIONS

There is a Department of Elections for New Castle County, Kent County, and Sussex County. The Department of Elections consists of the board of elections, whose members are appointed by the Governor, and such staff as the board shall appoint. The department in each county, under the direction of the board, administers the election laws of the State. [Source: DEL. CODE tit. 15, §§ 101, 202-205.](#)

The contact information for each Department of Elections is listed in Appendix C.

III. ELECTION OFFICERS

Election officers include the inspector of election, two judges of election, and the clerks of election who are appointed for each election district. All election officers are nominated by the county executive committee and appointed by the Department of Elections. [Source: DEL. CODE tit. 15, §§ 101, 4701.](#)

IV. TRAINING ELECTION OFFICERS

The three Departments of Elections shall train all appointed election officers on their duties for each election. This training shall include instruction on applicable election law, the proper conduct of the election and operation of the voting machines. Further, prior to the day of the election, the Departments of Elections shall file a report with the Commissioner of Elections stating the number of election officers who were trained for the election. This report shall be maintained as a public record.

[Source: DEL. CODE, tit. 15, § 4741.](#)

SECTION II—VOTER REGISTRATION

I. INFORMATION FOR REGISTRANTS

A. Eligibility

In order to be eligible to register to vote in Delaware an individual must be:

- A US citizen.
- At least 18 years old on or before the date of the next general election.
- A resident of Delaware.
- Not currently serving a felony sentence, or within five years of the expiration date of such sentence.
- Not mentally incapacitated.

Source: [DEL. CODE, tit. 15, § 1701](#); see also <http://electionsncc.delaware.gov/faqs.shtml>.

You may vote in a primary election if you have registered with the political party in whose primary election you desire to vote at least 21 days prior to the day of the primary election. [Source: DEL. CODE, tit. 15, § 3110.](#)

College Student Eligibility

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees the rights of student voters to register and cast a ballot on equal terms as non-student residents in the location where they go to school. Consequently, election officials may not prohibit students from registering, nor require students to complete any additional registration materials based on their status as students.

Felony Conviction and Restoration of Voting Rights

A resident of Delaware who has been convicted of a felony and is incarcerated may not vote in Delaware elections. The right to vote is automatically restored if five years have passed since the completion of all provisions of a sentence, including any suspended sentence, probation, parole and payment of restitution. However, an automatic restoration of voting rights is not available to those individuals who were convicted of the following felony offenses: (a) murder or manslaughter, excluding vehicular homicide; (b) an offense against the public administration involving bribery, improper influence, abuse of office or other similar offense; and (c) sexual offenses. The only other option for a felon is to request a pardon from the Governor of Delaware. [Source: DE CONST. art. V, § 2; see also DEL. CODE tit. 15 § 6104.](#)

Uniformed Services and Overseas Citizens

A Delaware citizen or permanent resident absent from the State, who is not registered to vote in another state, and is eligible to vote in accordance with the federal Uniformed Overseas Citizens

Absentee Voting Act, is eligible to register to vote in Delaware. [Source: Del. Code tit. 15, § 1901.](#)

B. Requesting Registration Applications

In person

You may register to vote by visiting one of the Department of Election's offices, the Division of Motor Vehicles, the Department of Health and Social Services or the Department of Labor.

[Source: DEL. CODE tit. 15, § 2031;](#)

<http://elections.delaware.gov/services/voter/placestoregister.shtml>.

By mail or telephone

Applications to register to vote may be requested by mail or telephone from any one of the Department of Election's offices. A person may request an application for someone other than himself or herself. Once this application is made to the Department of Elections for the county in which the qualified elector resides, the department shall mail the required forms and a set of instructions to the applicant within 3 days. [Source: DEL. CODE tit. 15, § 2031;](#)

<http://elections.delaware.gov/services/voter/placestoregister.shtml>.

Online

In Delaware, voters may also register online. [Source: DEL. CODE tit. 15, § 1302\(g\);](#)

<http://elections.delaware.gov/services/voter/placestoregister.shtml>. The online application is located at <https://registertovote.elections.delaware.gov/VoterRegistration/TermsAgreement>.

C. Submitting Registration Applications

Registration Deadline

No person shall be permitted to register during the period beginning 20 days before each general election through election day. [Source: DEL. CODE tit. 15, § 2011.](#)

Submitting the Registration Application

- In person: An applicant may return a completed registration form at one of the Department of Election's offices, the Division of Motor Vehicles the Department of Health and Social Services or the Department of Labor. The application must be received no later than the fourth Saturday prior to the date of the election. [Source: DEL. CODE tit. 15, § 2036.](#)
- Through another person: Any person may return another applicant's completed registration form at one of the Department of Election's offices, the Division of Motor Vehicles the Department of Health and Social Services or the Department of Labor. The application must be received no later than the fourth Saturday prior to the date of the election. [Source: DEL. CODE tit. 15, § 2036.](#)
- By mail: An applicant may return a completed registration form to one of the Department of Election's offices by mail. The application must be postmarked on or before the fourth Saturday prior to the date of the election. [Source: DEL. CODE tit. 15, § 2036.](#)

Accessibility of Registration Places

Access to all registration places in Delaware shall be open and unobstructed. Source: [DEL. CODE tit. 15, § 2006](#). Further, Delaware also allows voters to request a voter application by telephone, by mail, through another person or to fill out a voter application online.

Assistance with Registration and Other Election Documents

Another person may assist a voter in requesting or filling out the registration form. If a person applies for registration by mail for someone other than himself or herself, he or she shall give the name and address of such person and shall sign an appropriate form declaring that he or she is requesting such registration forms be mailed to the applicant. Source: [DEL. CODE tit. 15, § 2031](#).

If an applicant is unable to sign the registration application, the applicant shall make his or her mark on the application. If the applicant is unable to sign or make his or her mark because of physical disability, the registration officer shall indicate that fact in the space provided for the signature of the applicant, and the registration officer shall write the phrase “Witnessed by” followed by the registered officer’s initials in the space provided for the signature of the applicant. Source: [DEL. CODE tit. 15, § 2011](#).

D. Processing Applications

Time limit for processing applications

The voter registration applications received by the Department of Elections shall be reviewed for accuracy, completeness and for eligibility to vote; once the determination is made that the applicant is eligible to register to vote, a pending registration record shall be completed. The Department of Elections shall then, within 5 business days, mail a nonforwardable notice by first-class mail to the applicant that confirms both the voter’s address and that the department is satisfied as to the truth of the statements made in the form. If the notice is not returned to the department as undeliverable within 10 days, then the applicant shall then be added to the list of registered voters.

If a person is not added to the list of registered voters, as outlined above, that person may still be permitted to vote at the polling place upon presentation of proof of identity and address at the polling place, completion of a voter registration application at the polling place and the approval of the respective department’s administrative director and deputy administrative director. The forms of identification that will be accepted in this circumstance are as follows:

- A Delaware drivers license;
- A Delaware identification card;
- Work identification, provided it has a photograph and address; or
- U.S. postal material.

If the voter’s application is rejected, the department shall promptly notify in writing each person whose voter registration application has been rejected and shall state in such notice the specific reason(s) for such rejection. Source: [DEL. CODE tit. 15, § 2014](#).

Technical Error on Applications

It does not appear that Delaware has a provision that allows for a registrant to correct a registration form. Rather, if a registration application is rejected, the Department of Elections shall promptly notify in writing each person whose voter registration application has been rejected and shall state in such notice the specific reason(s) for such rejection. [Source: DEL. CODE tit. 15, § 2014.](#) Thereafter, a registrant can submit a new application, with the necessary corrections or additions.

Verification of Information

If applying in person, an applicant must present proof of identity and residence to the registration officer. [Source Del. Code tit. 15, § 2011.](#)

If applying by mail, and the applicant has not previously voted in Delaware in an election for federal office, the applicant must submit a copy of a current photo identification, a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter prior to voting. [Source: Del. Code tit. 15, § 2033.](#)

Applications Received After the Deadline

Applications received before a primary or general election but after the deadline will be held and processed following the date of that primary or general election. [Source: DEL. CODE tit. 15, §2038.](#)

E. Change of Residence and/or Name

Any registered voter who changes residence within the State or changes his or her name may apply to transfer his or her registration to the new address or name by completing a voter registration application and submitting it to the department of elections. [Source: Del. Code tit. 15, § 2041, 2048.](#)

II. INFORMATION FOR THIRD PARTY REGISTRATION GROUPS

A. General Assistance with Registration and Other Election Documents

Application

Both governmental and private entities may apply to the Commissioner of Elections to register people to vote on a continuing basis or during an organized voter registration drive. Such an application must be made at least 30 days prior to the start of the voter registration activity or the drive, and the application shall include:

- Name and address of the entity, and the location(s) where the voter registration activity will take place;
- The name, address and telephone number of the chief official of the entity;
- The date that the voter registration activity shall commence, and if applicable, the inclusive dates of the proposed drive;
- The target audience and/or scope of the drive;

- The name, address and telephone number of the person responsible for the voter registration drive;
- The names of the individuals who shall serve as temporary registrars;
- Attestations by the chief official of the entity that it has authorized the voter registration drive, assumes responsibility for the voter registration drive, shall insure that only individuals trained as prescribed by the Commissioner of Elections shall serve as temporary registrars, and shall insure that all individuals involved in planning, organizing and conducting the voter registration drive shall adhere to this title and such regulations promulgated by the Commissioner of Elections; and
- The number of applications requested.

[Source: DEL. CODE tit. 15, § 2060.](#)

Applications received by the Commissioner of Elections shall be approved as long as the application is received more than 30 days prior to the start of the voter registration activity or proposed voter registration drive, the requested training date is prior to the start of the proposed voter registration activity or drive and the applying entity has not violated Delaware's election laws. [Source: DEL. CODE tit. 15, § 2062.](#)

Training

The individuals involved in the voter registration drive must be prepared to attend a training class on the first Thursday of a month or they must make alternative arrangements with the Commissioner of Elections. Individuals who complete the training required by the Commissioner shall be certified as a temporary registrar for a period of 1 year or for the duration of the proposed voter registration drive, whichever is shorter. [Source: DEL. CODE tit. 15, § § 2060, 2061.](#)

Procedure

Once the application has been made and approved, and training has occurred, the entity shall pick-up the voter registration applications, forms and other required materials as directed by the Commissioner of Elections. Once the drive is complete, the entity shall deliver all completed applications, unused applications, voided or damaged applications, completed forms and all excess materials to the location directed by the Commissioner of Elections within 5 days. If an entity is operating a continuing voter registration activity, then completed applications and any voided or damaged applications must be delivered to the Commissioner of Elections at least once every 5 working days. When the applications are received, they shall be stamped by the agency's time stamp, and that shall be the date of the application. Further, the entity conducting the voter registration drive must inform each person who applies to register to vote at the drive that they are not registered to vote until the respective Department of Elections has verified and accepted the application. [Source: DEL. CODE tit., § § 2063-2065.](#)

B. Use of Information and Copying Voter Registration Applications

There do not appear to be any legislative prohibitions in Delaware that bar individuals or groups from copying blank or completed voter registration applications before they are submitted. All registration records shall be and remain in the custody of the department except as otherwise provided. The registration records shall, during normal business hours of each department, be open to the inspection of anyone desiring to examine the same, without fee or reward, and anyone desiring to do so may be permitted to make copies or partial copies of the registration records. Note that Social Security numbers, dates of birth, driver's license numbers and telephone numbers on registration applications are not subject to inspection. [Source: DEL. CODE tit. 15, § 1305.](#)

C. Registration Information Brochure

The Commissioner of Elections is required to supply necessary instruction and assistance to each Department of Elections, and all registration and election officers, sufficient to ensure uniform operation of Delaware's election laws. To this end, the Commissioner may develop standards and operating procedures for the purpose of having a statewide uniform election system. These standards shall be directed toward ensuring consistency in the redistricting process, the use of technology and the conduct of general, primary special and school elections. [Source: Del. Code tit. 15, § 302.](#) However, there does not appear to be a requirement in Delaware that the Commissioner or the Department of Elections prepare a Registration Information Brochure.

III. STATEWIDE VOTER REGISTRATION DATABASE: MAINTENANCE AND REMOVAL OF VOTERS

A. Generally

Although there are not any statutory provisions that require Delaware to maintain a statewide voter registration database, Delaware has maintained a statewide voter registration database since 1990. The database is maintained by the Commissioner of Elections and continually added to and updated by the Departments of Elections. This list contains the name and registration information for every legally registered voter in the State of Delaware and allows election officials to have immediate electronic access to the computerized database. See 2004 HAVA Annual Report, <http://hava.delaware.gov/hava.shtml>.

B. Removal of Voters from Registration Lists

Generally

Delaware has a permanent registration system, which allows all persons who have registered to vote to remain on the voting rolls as long as their permanent place of residence is within the state of Delaware, the voter has not been disenfranchised and the voter's registration has not been canceled for any reason. [Source: Del. Code tit. 15, § 1101.](#)

However, once a voter is registered, the name of that voter may be removed from the registration books if the Board of Elections determines that there is a valid reason to believe a person is no longer a duly qualified elector. [Source: DEL. CODE tit. § 1702.](#)

Program for the Removal of Voters Who Have Changed Residence

On or before April 1 of each calendar year, the Commissioner of Elections shall compile a list of registered voters who no longer reside at the address at which they are registered to vote. After this is completed, the Commissioner of Elections shall send an address verification request, via forwardable first class mail, to each person on the list. The request shall ask the person to sign the return card and:

- Authorize cancellation of their Delaware voter registration because they are no longer permanent residents of the State;
- Provide the address of their permanent place of residence if they still reside within Delaware; or
- Certify that the address at which they are currently registered to vote is their correct address and place of permanent residence.

The address verification request shall include a postage-paid return card or envelope preaddressed to the Department of Elections in the county in which the person is registered to vote.

If the person fails to respond, on June 1 the Commissioner of Elections shall place such persons who failed to reply into “inactive status.” After a person is placed on “inactive status,” they shall be returned to “active status” if they subsequently:

- Return the address verification card with a new Delaware address or certification that the person has not changed their address;
- Complete any other voter registration application; or
- Vote in any election.

If a person remains on “inactive status” for 2 consecutive general elections, then the Commissioner of Elections shall remove that person from the voting rolls. [Source: DEL. CODE tit. 15, § 1704.](#)

C. Correcting the Registration List: Applications and Challenges

At any duly called meeting of the Board of Elections for each county, the board may sit to consider the removal of names from the voter registration records if there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which he or she is registered. In these circumstances, the board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases. [Source: DEL. CODE tit. 15, § 1702.](#)

Any interested person may appeal the decision of any of the departments or the registration officers to:

- grant registration;
- refuse registration;
- remove names from the registration records; or
- refuse to remove names from the registration records.

[Source: DEL. CODE tit. 15, §2101.](#)

In the event any appeal is taken or remains undetermined within 30 days before the date of the general election, the court must hear and determine the appeal and enter an order on or before the tenth calendar day preceding the last registration day. [Source: DEL. CODE tit. 15, §2106.](#)

Moreover, any person who asserts that he or she properly registered but has been denied the right to vote may appeal such denial to the court up to and including the day of the election. [Source: DEL. CODE tit. 15, § 2114.](#)

SECTION III—POLLING PLACES AND PREPARATION FOR ELECTION DAY

I. PREPARATION FOR ELECTION DAY

A. Polling Place Locations/Changes

Each Department of Elections shall designate and procure for each election district a polling place, which shall be the same as its registration place, wherever possible. The suitability, convenience and accessibility of the polling place to the voters of the election district must be given prime consideration in its selection. Each Department of Elections shall designate only conveniently located and readily accessible polling places for each election district. Each Department of Elections shall publish in a newspaper of general circulation, either as an advertisement or as a separate insert, a listing of all polling places by district, at least once during the week preceding the election. [Source: DEL. CODE tit. 15, §4512.](#)

If at any time it becomes impracticable to hold an election in the designated polling place, the Department of Elections may designate another location as near as possible to the place previously selected, and sufficient public notice of the change shall be given by suitable news media. [Source: DEL. CODE tit. 15, §4513.](#)

B. Ballot Design

The party emblem adopted by each political party and its name shall appear on the ballot, along with the names of its candidates, arranged in line with the titles of the offices for which they are contesting. There shall also be a space for the voter to write in the name of any candidate of the voters choice.

All ballots should be of uniform size and of paper sufficiently thick that the printing cannot be distinguished from the back. [Source: DEL. CODE tit. 15, § 4502.](#)

C. Election Day Resources

Voting Equipment

In general elections, the polling place for every election district shall be supplied with at least 1 voting machine for every 600 registered voters. In primary and special elections, the polling place for every primary voting district or election district shall be provided with at least 1 voting machine for every 750 registered voters. [Source: DEL. CODE tit. 15, §5004.](#)

Voting machines must comply with the following requirements:

- Each voting machine shall have a serial number permanently attached to or stamped on the machine;
- Each voting machine shall secure to the voter secrecy in the act of voting for or against as many questions as may be submitted;
- Each voting machine shall permit the voter to vote for the candidates of 1 or more parties, or to write in the name of any candidate of that voter's choice for any office;
- Each voting machine shall permit the voter to vote for as many persons for an office as the voter is lawfully entitled to vote for, but no more;
- Each voting machine shall prevent the voter from voting for the same person more than once for the same office;
- Each voting machine shall permit the voter to vote for or against any question the voter may have the right to vote upon, but no other;
- Each voting machine used in primary elections, it shall be so equipped that the election officials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine;
- Each voting machine shall correctly register or record and accurately count all votes cast for any and all candidates of a political party, and for or against any and all questions, and correctly register or record the names of all candidates written in by voters;
- Each voting machine shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- Each voting machine shall be provided with a counter which will show at all times during any election the total number of persons who have voted;
- Each voting machine shall be so equipped that it shall prevent the voter from voting for all of the candidates of one party by the use of a single lever; however, it shall be provided with one device for each party, for voting for all presidential electors of that party by one operation.
- Each voting machine shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.
- Each voting machine shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast a ballot if the voter was otherwise unable to change the ballot or correct any error).

Further, every voting machine shall be furnished with a means of providing sufficient light to enable voters while in the voting booth to read the ballots and they shall provide the voter the opportunity to make selections and cast a ballot in secrecy through placement of the devices in the polling place or through the use of curtains. [Source: DEL. CODE tit. 15, §5001.](#)

Certification of Voting Machines

Voting machines purchased by the State must be certified by the National Association of State Election Directors or the Election Assistance Commission prior to delivery to and acceptance by the State. [Source: Del. Code tit. 15, § 5001.](#)

II. POLLING PLACE PROCEDURES DURING VOTING

A. Hours of Operation and Protocols for Opening and Closing the Polling Place

The general election shall be opened in every election district at 7:00 am and shall close at 8:00 pm. However, if a voter is in line at 8:00 pm, he or she must be allowed to vote. [Source: DEL. CODE tit. 15, § §4931, 4947.](#)

B. Information Posted at Polling Locations

The following voting information shall be contained on a poster that must be posted in every polling place on the day of every election:

- The date and hours during which the polling place will be open;
- Instructions on how to vote;
- Instructions for mail-in registrants who are first-time voters;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

[Source: DEL. CODE tit. 15, §4910.](#)

2 sample ballots shall also be available and posted in a conspicuous place in each polling place on each election day. [Source: DEL. CODE tit. 15, §4910.](#)

Additionally, while the polling place is open, there shall be displayed near the entrance of each polling place a flag or poster bearing the words “POLLING PLACE.” [Source: DEL. CODE tit. 15, §4911.](#)

Finally, individual, large-size wall maps shall be displayed in a prominent location at each polling place that show the boundaries of all election districts within each representative district, with every polling place therein plainly marked on the map. [Source: DEL. CODE tit. 15, § 4911.](#)

C. Who May Be Present

Generally

In the polling place, only certain people are allowed entrance. Specifically, the following persons shall be admitted to the voting room:

- Members and employees of the Departments of Elections identified by a badge or written authorization, and anyone accompanying the members and employees;
- The Commissioner of Elections and the Commissioner's employees identified by a badge or written authorization, and anyone accompanying the Commission and his or her employees;
- Persons voting and waiting to vote, and a child lawfully accompanying such persons;
- One challenger from each political party with a candidate on the ballot;
- Persons with business in the building that is not connected to the election; however, such persons shall remain outside of the voting room except to pass through or by the voting room in the conduct of their business; and
- A person or persons deemed necessary to the conduct of the election by majority vote of the inspector and judges.

No other persons shall be permitted within 50 feet of any entrance to the building used by voters. Media and persons conducting exit polls shall be permitted within the 50-foot exclusion zone, but may not talk to persons who have not voted while in the 50-foot exclusion zone. [Source: DEL. CODE tit. 15, §4933.](#)

Observers/Challengers

Each of the political parties may appoint and accredit a suitable person as a “challenger.” The appointed challenger from each political party may then be present inside the polling place, and shall be permitted to observe the conduct of the election and all the election records.

The challengers shall be peace officers with the same powers to preserve the peace as election officers and the challengers shall be protected in the discharge of their duty by the election officers. However, a challenger shall not create any disturbance or obstruction and shall not unreasonably prolong any challenge or inquiry. The inspector and judges shall each have the duty to caution a challenger concerning the foregoing and, if the challenger persists, he or she may be ejected by a majority vote of the judges and the inspector. If a challenger is ejected, another challenger may be substituted in place of the ejected challenger. [Source: Del. Code tit. 15, §4934.](#)

III. POLLING PLACES: CONDUCT, RULES AND PROHIBITIONS ON INTIMIDATION AND DECEPTION OF VOTERS

A. Campaigning at the Polling Place

No person within the polling place, or within 50 feet of the entrance to the polling place, shall

electioneer during the duration of the election. “Electioneering” is defined as a political discussion of issues, candidates or partisan topics; the wearing of any button, banner or other object referring to issues, candidates or partisan topics; the display, distribution or other handling of literature or any writing or drawing referring to issues, candidates or partisan topics; and/or the deliberate projection of sound referring to issues, candidates or partisan topics from loudspeakers or otherwise into the polling place or the area within 50 feet of the entrance to the building in which the voting room is located.

Whoever violates this rule shall be fined not more than \$200 or imprisoned not more than 90 days, or both. [Source: DEL. CODE tit. 15, §4942.](#)

B. Voter Intimidation; Interference with Voters; Unlawful Practices

Immediately report any intimidation or other unlawful practice to the county board of elections. Also contact Election Protection at 1-866-OUR-VOTE.

- If any person hinders, coerces or intimidates an election officer from qualifying and performing their duties, that person shall be liable for a penalty of \$500. [Source: DEL. CODE tit. 15, §5161.](#)
- If any person hinders, controls, coerces or intimidates any qualified elector from exercise of the elector’s right to vote, by means of bribery or by threats, every elector so aggrieved may sue for and recover from the offender the sum of \$500. [Source: DEL. CODE tit. 15, §5162.](#)
- If an election officer (a) attempts to influence, persuade, intimidate, bribe or coerce any voter in the marking of the voter’s ballot, or in the making of the choice of the persons for whom the voter votes, or (b) discloses the manner in which any person has voted, he or she shall be deemed to have knowingly and willfully violated his or her official duty, shall be guilty of willful and deliberate perjury, and, in addition to the penalties and disabilities annexed to such crime, be fined not more than \$500 and may be imprisoned not more than 2 years. [Source: DEL. CODE tit. 15, §5123.](#)
- If any member of a Department of Elections willfully neglects any duty or executes his or her duties in a corrupt or fraudulent manner, they shall be fined not more than \$200 or imprisoned not more than 2 years, or both. [Source: DEL. CODE tit. 15, §5111.](#)
- If a person who is appointed an inspector or judge of election refuses to serve, he or she shall be fined \$50. [Source: DEL. CODE tit. 15, §5112.](#)
- If a person who has been appointed a clerk of election refuses to qualify or fails or refuses to perform any of the duties of his or her office, he or she shall be fined not less than \$50 nor more than \$100. [Source: DEL. CODE tit. 15, §5113.](#)
- If the printer of the ballot or envelope: (a) knowingly gives ballots or envelopes to any person other than the Department of Elections; or (b) prints any ballot or envelope in any

form other than the one prescribed by the Department of Elections, he or she shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 1 nor more than 5 years, or both. [Source: DEL. CODE tit. 15, §5114.](#)

- If a person forges an official endorsement of any ballot or envelope; or prints an imitation ballot or envelope; or conspires with other persons to commit such acts, he or she shall be fined not less than \$100 nor more than \$500 or may be imprisoned not more than 5 years. [Source: DEL. CODE tit. 15, §5115.](#)
- If a person tampers with, disarranges, defaces, impairs in any manner or destroys a voting machine or the ballots, he or she shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years. [Source: DEL. CODE tit. 15, §5116.](#)
- If an unauthorized person enters the voting room on the day of an election other than to vote, he or she shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 30 days nor more than 2 years, or both. [Source: DEL. CODE tit. 15, §5117.](#)
- If an unauthorized person enters the voting room on the day of an election for the purpose of disrupting the election, he or she shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not less than 1 year nor more than 5 years. [Source: DEL. CODE tit. 15, §5117.](#)
- If a person enters or attempts to enter the voting room for the purpose of interfering with the election officers in the discharge of their duties; or attempts to molest, disturb or prevent the election officers from proceeding regularly with any general or special election; or takes charge or attempts to take charge of any voting room, he or she shall be fined not less than \$500 nor more than \$1,000, and imprisoned not more than 3 years. [Source: DEL. CODE tit. 15, §5118.](#)
- If an unauthorized person enters or attempts to enter the election room or remains within 30 feet of the polling place, he or she shall be fined not more than \$200. [Source: DEL. CODE tit. 15, §5118.](#)
- If a person resists a challenger, he or she shall be fined not more than \$100 or imprisoned not more than one year. [Source: DEL. CODE tit. 15, §5118.](#)
- If an elector feigns a physical defect or disability in order to be permitted to bring another person into the election room or voting booth, he or she shall be fined \$100 and shall be imprisoned not more than 2 years. [Source: DEL. CODE tit. 15, §5119.](#)
- If an elector selected to assist any person by reason of such person's physical defects, reveals how such elector has voted, he or she shall be fined \$100 and imprisoned not less than 1 nor more than 3 years. [Source: DEL. CODE tit. 15, §5119.](#)
- If a person secretes or attempts to secrete himself or herself in any part of the polling room during the hours of the election for any purpose whatsoever, he or she shall be fined

not less than \$100 and may be imprisoned not more than 1 year. [Source: DEL. CODE tit. 15, §5120.](#)

- If a person removes or destroys any of the supplies or other conveniences placed in the booths or delivered to the voter for the purpose of enabling the voter to prepare his or her ballot; or removes the cards printed for the instruction of the voters; or removes any booth, railing or other conveniences provided for such election; or tampers with the use of or destroys any voting machine or the ballots on the face of a voting machine, he or she shall be imprisoned not less than 6 months nor more than 1 year. [Source: DEL. CODE tit. 15, §5121.](#)
- If an election officer reveals to any person how any elector has voted or gives any information concerning the appearance of any ballot voted or envelope used, he or she shall be fined not more than \$500 and imprisoned not less than 2 nor more than 5 years. [Source: DEL. CODE tit. 15, §5122.](#)
- If a person induces or attempts to induce any elector to write, paste or otherwise place on his or her ballot the name of any person by which to indicate to any other person how such elector has voted, he or she shall be imprisoned not more than 2 years. [Source: DEL. CODE tit. 15, §5124.](#)
- If a person induces or attempts to induce any election officers to violate any election laws, he or she shall be imprisoned not more than 5 years. [Source: DEL. CODE tit. 15, §5125.](#)
- If a clerk of the peace wilfully violates an election law in the performance of any duty imposed upon him or her for the violation of which no other punishment is provided by law, he or she shall be fined not less than \$300 nor more than \$500 and may be imprisoned not more than 3 years. [Source: DEL. CODE tit. 15, §5126.](#)
- If any person bribes or attempts to bribe anyone expecting to hold any official position under the election laws of this State to perform any service for any political party in this State or to favor any candidate for political office, he or she shall be fined not more than \$1,000 and may be imprisoned not more than 6 months. [Source: DEL. CODE tit. 15, §5127.](#)
- If any person falsely personates any elector and votes or attempts vote in or the name of such elector; or votes or attempts to vote in the name of any other person upon any false, assumed or fictitious name; or knowingly, willfully or fraudulently votes more than once for any candidate at any election for the same office; or votes or attempts to vote in any election district without having a lawful right to vote therein, or to vote more than once or to vote in more than 1 election district; or having once voted, votes or attempts to vote again; or fraudulently delivers to an election officer more than a single ballot; or knowingly, willfully or fraudulently does any unlawful act to secure an opportunity for himself or herself or for any other person to vote, he or she shall be fined not less than \$50 or more than \$200, or imprisoned not less than 30 days or more than 2 years, or both. [Source: DEL. CODE tit. 15, §5128.](#)

- If a clerk of an election willfully keeps a false poll list; or knowingly inserts in his or her poll list any false statement, or any name, statement, check, letter or mark, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5129.](#)
- If an election officer willfully excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election; or receives a vote from any person who has been duly challenged in relation to such person's right to vote at such election without exacting from such person such oath or other proof of qualification as may be required by law; or omits to challenge any person offering to vote whom he or she knows or suspects not to be entitled to vote and who has not been challenged by any other person, he or she shall be deemed to have violated his official duty. [Source: DEL. CODE tit. 15, §5130.](#)
- If an election officer willfully makes any false count of votes cast at any election, or makes, signs, publishes or delivers any false return of such election or any false certificate or statement of the result of such election, knowing the same to be false, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5131.](#)
- If an election officer at any election knowingly and willfully puts any ballot or into any box used at such election for the reception of votes; or knowingly and willfully permits any ballot to be in the ballot box before voting shall have commenced; or knowingly or willfully or fraudulently puts any ballot into any ballot box unless the same is offered by an elector and the elector's name has been found and checked upon the Election District Record; or fraudulently before, during or after the reading and count of the ballot, in any manner changes, substitutes or alters any ballot; or removes any ballot from, or adds any ballot to, the ballots found in any such ballot box upon the closing of the polls; or knowingly and willfully causes or permits any vote to be registered on a voting machine, unless the vote is cast by an elector whose name has been found and checked upon the books of registered voters and who has not previously voted, or knowingly or willfully enters or permits anyone to enter a voting machine booth, unless the person is an elector whose name has been found or checked upon the books of registered voters and who has not previously voted or is an election officer or member or employee of the department of elections whose entrance into the voting machine booth is required by the provisions of this title, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5132.](#)
- If an election officer willfully neglects any duty or executes his or her duties in a corrupt or fraudulent manner, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5133.](#)
- If an election officer having the custody of any election records that should be filed, steals or willfully destroys the whole or any part thereof, or fraudulently makes any alteration

therein, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5134.](#)

- If a person is convicted of willful false swearing or affirming in taking any oath or affirmation prescribed by or upon any examination provided for in this title, that person is guilty of perjury. [Source: DEL. CODE tit. 15, §5135.](#)
- If a person willfully or corruptly instigates, advises, induces or procures any person to swear or affirm falsely, or attempts or offers so to do, that person is guilty of subornation of perjury. [Source: DEL. CODE tit. 15, §5135.](#)
- If a person fraudulently changes or alters the ballot of any elector, or otherwise defrauds the elector of the elector's vote, he or she shall be fined not more than \$200 or imprisoned not more than 2 years, or both. [Source: DEL. CODE tit. 15, §5136.](#)
- If a person willfully disobeys any lawful command of any election officer, given in the execution of such officer's duty as such at any election, he or she shall be fined not more than \$200 or imprisoned not more than 1 year, or both. [Source: DEL. CODE tit. 15, §5137.](#)
- If a person causes any breach of the peace whereby any such election is impeded or hindered, or whereby the lawful proceedings of election officers or challengers at such election are interfered with, he or she shall be fined not more than \$200 or imprisoned not more than 2 years, or both. [Source: DEL. CODE tit. 15, §5138.](#)
- If a person knowingly or willfully interferes with any election officer or challenger in the performance of any duty required of him or her or which he or she may by law be authorized or permitted to perform, or unlawfully threatens or attempts to do, he or she shall be fined not more than \$200 or imprisoned not more than 2 years, or both. [Source: DEL. CODE tit. 15, §5139.](#)
- If an inspector of election willfully neglects to exercise the powers conferred on him or her to preserve order, he or she shall be deemed to have knowingly and willfully violated his or her official duty. [Source: DEL. CODE tit. 15, §5140.](#)
- If a person steals or willfully destroys any ballot box used at any election; or willfully or fraudulently conceals any ballot box from the custody of the election officers; or alters any ballot or envelope which has been deposited in any ballot box, he or she shall, for each such offense, be fined not more than \$200 or imprisoned not more than 2 years, or both. [Source: DEL. CODE tit. 15, §5141.](#)
- If a person administers or causes to be administered to any legal voter any oath or affirmation not authorized by the Constitution or laws of this State for that purpose as a prerequisite or condition of voting at any election, except when such oath or affirmation is administered in order to satisfy such election officer or other person that such vote is a legal vote according to the Constitution and laws of this State, he or she shall for each such offense be fined not less than \$500 nor more than \$1,000 and imprisoned 10 days. [Source: DEL. CODE tit. 15, §5142.](#)

- If a candidate for State Senator or Representative in the General Assembly makes any written pledge to give or withhold his or her vote on any proposed law or legislation, he or she shall be fined not less than \$50 nor more than \$1,000, or imprisoned not less than 1 month nor more than 2 years, or both. [Source: DEL. CODE tit. 15, §5143.](#)
- If a person knowingly or intentionally permits or facilitates the distribution of information relating to the number of absentee votes cast in favor or against any particular candidate or measure prior to the close of the polls on the day of an election, he or she is guilty of the unauthorized release of absentee vote information in the first degree and shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years. [Source: DEL. CODE tit. 15, §5144.](#)

SECTION IV—ABSENTEE VOTING

I. ABSENTEE VOTING GENERALLY

A. Who May Vote by Absentee Ballot

Any qualified elector may cast an absentee ballot in an election if he or she is unable to vote in person at a polling place for any of the following reasons:

Specifically, for any of the following reasons, a person may be eligible to vote by absentee ballot:

- Because such person's service to the United States or to the State of Delaware prevents him or her from going to his or her polling place (spouses or dependants of such person are also eligible to vote by absentee ballot); or
- Because of the nature of such person's business or occupation; or
- Because such person is sick, physically disabled or providing care to a parent, spouse or that person's child who is living at home requires constant care due to illness or injury; or
- Because such person is absent from the district while on vacation; or
- Because such person is unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion; or
- Because such person is otherwise authorized pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to vote by absentee ballot.

[Source: DEL. CODE tit. 15, §§ 5501, 5502.](#)

B. Requesting an Absentee Ballot

If a voter wishes to vote by absentee ballot, the qualified elector may request an absentee ballot from the Department of Elections for the county in which the elector is domiciled by filing a hand written or electronically prepared affidavit before 12:00 noon the day before the election. The affidavit may be filed by mailing or delivering it to the Department of Elections for the county in which the elector lives, or if special circumstances exist, the elector may deliver it to a Department of Elections for another county. [Source: DEL. CODE tit. 15, § 5503.](#)

Such an affidavit shall include the following information:

- The election or elections for which the elector is requesting an absentee ballot;
- The elector's name;
- The elector's Delaware address;
- The address to which the elector requests that the absentee ballot be mailed;

- The elector’s date of birth;
- The elector’s social security number (optional);
- The elector’s political party affiliation;
- The elector’s expected location on election day;
- The reason that the elector cannot appear at the regular polling place for the elector’s election district on the day of the election;
- A telephone number, if available, to assist in resolving any challenge;
- An e-mail address, if available, to assist in resolving any challenge; and
- The elector’s signature.

In addition, the affidavit must be subscribed and sworn to by the elector, before an officer authorized by law to administer oaths affirming that under penalty of perjury, the information on the affidavit is correct and true. [Source: DEL. CODE tit. 15, § 5503.](#)

C. Returning an Absentee Ballot

For an absentee ballot to be counted, a voter shall return the marked ballot to the Department of Elections of the county where the voter resides before the polls close on the day of the election. [Source: Del. Code tit. 15, § 5508.](#)

D. Casting a Ballot on Election Day After Having Previously Requested an Absentee Ballot

If an elector has requested an absentee ballot, whether or not the elector has received the absentee ballot, he or she may cast a provisional ballot on Election Day. If an absentee ballot is not received by the applicable deadline, then the provisional ballot will be counted, as long as election officials determine that it is otherwise valid. See section V(IV).

II. ABSENTEE VOTING FOR OVERSEAS AND MILITARY VOTERS

A. Single Federal Postcard Application

If an elector will be outside the United States during an election, the Board of Elections will accept a single federal postcard application. The single application will be treated as an application for each election for which the elector will be absent, and the Board of Elections will mail to the applicant any special, primary, or general election ballot as is necessary without further application. [Source: DEL. CODE tit. 15, § 1902.](#) The Uniformed Overseas Citizens Absentee Voting Act requires Delaware to accept these postcard applications for elections for Federal office. [Source: 42 U.S.C. §§ 1973ff-1\(4\).](#)

A copy of the federal postcard application can be found at <http://www.fvap.gov/resources/media/fpca.pdf>.

B. Armed Services Absent Voter’s Ballot

Any person serving in the armed forces of the United States, or the spouse or dependent of any

person serving in the armed forces of the United States who resides outside the state for the purpose of being with or near such service member, who will be eighteen years of age or more on the day of a general, primary or special election and who is a citizen of the United States, may cast an armed service absent voter's ballot. [Source: DEL. CODE tit. 15, §§ 1901, 1902.](#)

The deadline for the Department of Elections to receive an application to register to vote from such person is the third Monday prior to a primary or general election. Applications received after a deadline will be held and processed on the first business day following that election. [Source: DEL. CODE tit. 15, § 1902.](#)

However, if a voter has been discharged or separated from a uniformed service, the Merchant Marine, or from employment outside of the territorial limits of the United States too late to register to vote for a primary or general election but within 60 days of the date of a primary or general election, he or she is entitled to register for the purpose of voting in the ensuing primary or general elections after presenting documentation of that individual's discharge, separation or termination of employment to the Department of Elections for the county in which that individual resides up to and including the date of the election. This also applies to any accompanying family members who are otherwise eligible to register to vote. [Source: DEL. CODE tit. 15, § 1903.](#)

The Departments of Elections shall immediately notify any person whose application to register to vote was rejected and provide such person the reason or reasons for rejection and information on how to appeal the rejection. [Source: DEL. CODE tit. 15, § 1902.](#)

C. Delaware State Militia

There do not appear to be any special rules or regulations that govern the voting rights of members of the Delaware State Militia.

SECTION V—VOTING AND ELECTION DAY INFORMATION

I. GENERAL INFORMATION

A. Voters In Line When The Polls Close

The election will close at 8:00 p.m. One-half hour before closing the election, the inspector shall make a proclamation that the election will be closed in that time. Anyone in line prior to 8:00 p.m. must be permitted to vote. [Source: DEL. CODE tit. 15, §4947.](#)

B. Casting a Ballot

No voter may remain in the voting machine booth for longer than 3 minutes unless granted a longer period of time by the election officers in charge. Once the voter has cast a vote and emerged from the booth, he or she may not re-enter the booth and must leave the room immediately. If the voter refuses to leave, he or she may be removed by the election officers. Any parent, guardian or caregiver may be accompanied in the voting area and voting machine booth by children who are 17 years of age or younger. [Source: DEL. CODE tit. 15, § 4937.](#)

C. Identification

When an elector appears at the polling place, he or she must provide proof of identity, in the form of either a current and valid photo identification, a copy of a current utility bill, paycheck, or other government document that shows the name and current address of the elector. In the event that the voter does not have proof of identity with them, he or she shall sign an affidavit of affirmation that he or she is the person listed on the election district record. [Source: DEL. CODE tit. 15, § 4937;](#) see also How to Vote in Delaware, http://electionsncc.delaware.gov/pubs/bro_how_to_vote.pdf.

If the voter is properly registered, the election officer shall hand to the voter a voter signature card for the voter to sign. If for some reason the voter is unable to sign the voter signature card, then the election officer shall sign the voter's name on the voter signature card and the election officer's name and make note that the voter is unable to personally sign the card. [Source: DEL. CODE tit. 15, § 4937.](#) The elector may also be eligible to cast a provisional ballot, although a provisional ballot should be cast only if there are no other available options. See Section V(IV).

II. ASSISTANCE TO VOTERS AT THE POLLING PLACE

A. Voters Unable to Enter--Accessibility to Voters with Disabilities

Handicapped accessible polling places and voting machines are to be available. Voters with special needs may bring someone with them to help in the voting process, and Election Officers are to offer assistance to voters with disabilities. Voters who believe that their polling place is not accessible to them should contact the Department of Elections for their County before the day of the election to make other arrangements to vote. See Voters with Special Needs at <http://elections.delaware.gov/services/voter/specialneeds.shtml>.

B. Assistance in Languages Other than English

Delaware is not covered by the language minority provisions of the Voting Rights Act of 1965, so it is not required to provide ballots or materials in non-English languages. However, Section 208 of the Voting Rights Act, which applies to all states and political subdivisions, provides that any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. [Source: 42 U.S.C. § 1973aa-6.](#)

C. Assistance in the Voting Booth

Any voter who requires assistance to vote by reason of blindness, disability, or other reason, may be accompanied into the voting booth and aided by any person of the voter's choice.

In addition, an election officer may provide instruction or information for a voter through use of one of the sample ballots posted in the voting room. If a voter requests further instructions in the manner of voting or the operation of the voting machine after having entered the voting machine booth, two election officers of opposite political parties shall jointly give instructions. In doing so, the officers shall take care not to assist the voter in any manner that might influence his or her vote. After giving instructions, both officers shall leave before the voter begins to register his or her vote. [Source: DEL. CODE tit. 15, § 4943.](#)

D. Attorney in Fact

Delaware does not have a provision that allows an attorney-in-fact to sign the voter's name on any election document. Rather, if a voter is unable to sign his or her name, the election officer shall sign the voter's name on the voter signature card and the election officer's name and make note that the voter is unable to personally sign the card. [Source: DEL. CODE tit. 15, §4937.](#)

III. INFORMATION REGARDING VOTERS WHO HAVE MOVED

A. Moving Within the State

A person registered to vote in Delaware who has moved within the State of Delaware shall be permitted to vote at the polling place for their new residence or address, as long as they appear with an eligibility affidavit, proof of identify, proof of address and they sign a blank signature card. [DEL. CODE tit. 15, §§ 1101, 2047, 4941.](#)

IV. PROVISIONAL VOTING

A. Procedures for Casting a Provisional Ballot

When a person is casting a vote on a provisional ballot, that person shall present proof of identity and address to the election officers. The type of ID shown by the voter shall be annotated on the provisional ballot envelope. If the person does not show proof of identity or address, the person shall still be permitted to vote by provisional ballot; however, the fact that the person did not show proof of identity and/or address shall be annotated on the provisional ballot envelope. Election

officers shall give whatever assistance is requested by a voter who is voting by provisional ballot. When that assistance includes marking or assisting in marking the person's ballot, 2 election officers with different political party affiliations shall provide that assistance.

The format for a provisional ballots shall be, to the extent possible, in the same form as absentee ballots, except that only federal offices shall be listed and they shall be labeled as provisional ballots. The Department of Elections for each county shall provide to each election district provisional ballots for 6% of the registered voters in the election district as of 45 days prior to the date of the election, or 15 provisional ballots, whichever is greater. [Source: DEL. CODE tit. 15, § 4948.](#)

B. Voters Permitted to Cast a Provisional Ballot

A person shall be entitled to vote by provisional ballot, in a primary or general election, if that person claims to be properly registered, yet the voter's eligibility to vote at that election district cannot be determined. Election officers shall inform a voter who is not being permitted to vote by regular ballot, for whatever reason, that the person may cast a provisional ballot in that election. Additionally, if the Superior Court or another court of competent jurisdiction orders that some or all polling places in a county of the state be kept open beyond the normal time for closing, all persons who arrive to vote at that polling place(s), after the normal time for closing, shall vote by provisional ballot. [Source: DEL. CODE tit. 15, § 4948.](#)

V. CHALLENGES

A. Procedure When Challenged--Before Election Day

At any duly called meeting of the Board of Elections for each county, the board may remove a name from the voter registration records if there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which he or she is registered. In these circumstances, the board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice to the voter and provide the voter with an opportunity to be heard and a right to appeal. [Source: DEL. CODE tit. 15, § 1702.](#) Any interested person may appeal the decision of any of the departments or the registration officers. [Source: DEL. CODE tit. 15, § 2101.](#)

In the event any appeal is taken or any appeal remains undetermined within 30 days before the date of the general election, the court must hear and determine the appeal and enter an order on or before the tenth calendar day preceding the last registration day. [Source: DEL. CODE tit. 15, § 2106.](#)

Any person who asserts that he or she properly registered but has been denied the right to vote may appeal such denial to the court up to and including the day of the election. [Source: DEL. CODE tit. 15, § 2114.](#)

B. Procedure When Challenged--On Election Day

Any elector may be challenged at the polling place regarding the identity of the voter or the residency of the voter. If such a challenge occurs, then the voter's right to vote shall be determined by a majority vote of the inspector and the 2 judges of the election. [Source: DEL. CODE tit. 15, § 4937.](#)

If such person's vote is refused, that person shall be offered the right to vote by provisional ballot. If the person refuses to vote by provisional ballot, that person shall immediately stand aside, give place to the person next in line and leave the polling place. [Source: DEL. CODE tit. 15, § 4936.](#)

SECTION VI— POST-ELECTION PROCEDURES

I. CLOSING THE POLLS

Elections are closed at 8:00 p.m. One-half hour before closing the election, the inspector shall make a proclamation that the election will be closed in that time. Anyone in line prior to 8:00 p.m. must be permitted to vote. [Source: DEL. CODE tit. 15, §4947.](#)

After the polls have closed and the last voter has exited the polling place, the inspector shall verify that each voting machine has been deactivated. The election officers shall then enter the absentee vote totals into one of the voting machines. The election officers will then close the polls on each voting machine and remove the paper tape containing the results and the memory cartridge from each voting machine. [Source: DEL. CODE tit. 15, §4975.](#)

Once the paper tapes are removed, the inspector will read aloud the write-in votes. Two clerks will keep tallies of the names voted for and the number of votes cast for each person. [Source: Del. Code tit. 15, § 4976.](#)

II. COUNTING THE BALLOTS

A. Generally

The Superior Court for each county convenes on the second day after the general election at 10:00 a.m. in order to publicly ascertain the outcome of the election by calculating the aggregate amount of all the votes using the voting machine recording tapes, voting machine certificates, absentee vote tally sheets, and write-in tally sheets for each election district. [Source: DEL. CODE tit. 15, § 5701.](#)

B. Counting Provisional Ballots

The day after the election, the Department of Elections for each county shall meet to examine the provisional ballots, determine which of the ballots should be tallied, and then tally those ballots. The Departments of Elections for each county shall sit until the disposition of every provisional ballot has been determined.

Where the provisional ballot affidavit lacks either a full name, complete address, political party affiliation (primary elections only), and/or date of birth, the ballot shall be set aside and not tallied. In addition, provisional ballots cast by persons who are not registered to vote in the state or who are not registered to vote in the election district in which they were cast shall be set aside and not tallied. A provisional ballot cast by a person who is registered to vote and who has moved into the election district shall be counted if the person voted at the correct polling place for that person's

new address.

As soon as practical, but not later than 30 days after the election, the Department of Elections for each county shall enter the appropriate data into a free access system so that a person who voted by Provisional Ballot may determine whether or not that person's ballot was counted, and if it was not counted, the reason(s) for which it was not counted.

The Department of Elections shall use the provisional ballot affidavit as authority to register a person to vote, provided that the minimum information required to register a person to vote is provided. The provisional ballot envelope shall also be used to transfer a registered voter's address or update the registered voter's name, if it differs from the voter registration record. [Source: DEL. CODE tit. 15, § 4948.](#)

C. Counting Absentee Ballots

After all absentee votes have been voted, the inspector, in the presence of the other election officers and the challengers authorized to be in the voting room, shall remove the ballots from their envelopes one by one. Each of the judges and the inspector will examine the ballots. If the ballot is not disputed or disqualified the inspector will read out the office for which voted and the name of the candidate for whom the vote was cast.

Two clerks shall keep count of the votes announced by the inspector. When all of the ballots have been counted, the clerks will compare their tallies and add up the total number of votes cast for each candidate. The total number of votes cast for each candidate will not be announced and will remain secret until a later time after the count shown on the voting machines is announced. [Source: DEL. CODE tit. 15, §4971.](#)

APPENDIX A: AUTHORITIES

SECTION I – STATE AND LOCAL ELECTION OFFICIALS

THE STATE ELECTION COMMISSIONER:

DEL. CODE, tit. 15, § 301 provides that the “State Election Commissioner shall be appointed by the Governor for a term of 4 years and confirmed by a majority of the members elected to the Senate.”

DEL. CODE, tit. 15, § 302 provides that:

The Commissioner shall have the following powers and duties:

- (1) To furnish, by purchase, lease, or otherwise, such equipment, supplies and services that may be required in order to conduct his or her powers and duties prescribed in this title;
- (2) To order any department, board, commission or agency of Delaware to transfer to the Commissioner any equipment or supplies to the Commissioner’s custody that are owned by the State and not in use by the department, board, commission or agency concerned, which may be used by the Commissioner in conducting the functions of the Commissioner’s office;
- (3) To select and maintain in the City of Dover, preferably in a building owned by the State of Delaware, suitable office space;
- (4) To make reasonable rules and regulations with respect to the functions of the Commissioner’s office and with respect to the manner of making entries in registration and election records to be followed by each department and all registration and election officers;
- (5) To have the sole responsibility for the security of the records in the Commissioner’s office, which shall not be delegated to anyone;
- (6) To prescribe the form of the registration and election records which under this title are to be uniform throughout Delaware, so long as they are not in conflict with this title;
- (7) To supply necessary instruction and assistance to each department and all registration and election officers in order to insure uniform operation of this title throughout the State of Delaware. In addition, the Commissioner may develop standards and operating procedures for the purpose of having a statewide uniform election system. These standards shall be directed toward ensuring consistency in the redistricting process, the use of technology and the conduct of general, primary special and school elections. The Commissioner shall consult with the respective county departments of elections in developing these standards;
- (8) Such other powers and duties as may be necessary in order for the Commissioner to carry out his or her functions under this title;
- (9) To be an ex officio member of each county department of elections;
- (10) To attend each county department of elections meeting at which time the Commissioner may do the following:

- a. Participate in any and all discussions; and
- b. Cast a vote only in the event of a tie; and

(11) To collect unofficial results of the general election at each election district in Delaware and to tabulate, report and disseminate the results of the election as soon as possible to the public.

DEPARTMENT OF ELECTIONS:

DEL. CODE tit. 15, § 101(6) provides that:

“Department” means the department of elections in each county of this State, consisting of the board of elections and such staff as the board shall appoint under this title. The department in each county, under the direction of the board of elections, shall administer the election laws of this State as defined in this title.

DEL. CODE tit. 15, § 201 provides that “[t]here shall be a Department of Elections for New Castle County, Kent County and Sussex County.”

DEL. CODE tit. 15, § 202 provides:

(a) The Board of Elections for New Castle County shall consist of 10 members and each of the 2 principal political parties shall be represented at all times by not fewer than 5 members and at all times both principal political parties shall have equal representation.

(b) In carrying out this section, the Governor shall appoint 10 members. The Governor shall appoint 5 members, with at least 2 from each of the 2 principal political parties, for a term of 2 years each, and 5 members, with at least 2 from each of the 2 principal political parties, for a term of 4 years each.

(c) Upon the expiration of the term of any member of the Board, such member's successor shall be appointed by the Governor for a period of 4 years; provided, however, that such member shall hold office until that member's successor shall be duly qualified and provided, further, that the term of such successor shall commence on the date the successor is duly qualified. In the event a vacancy occurs in the Board from any cause, other than expiration of the term of a member, the Governor shall fill the vacancy for the residue of the term.

(d) The 10 members required to be appointed by the Governor from the 2 principal political parties under subsections (b) and (c) of this section shall be appointed from a list of not fewer than 3 nominees for each member to be appointed, which list shall be submitted by the state chair of the political party from which the appointment must be made. Seven of the members to be appointed must reside in a different senatorial district in rural New Castle County and 3 of the members to be appointed must reside in a separate senatorial district of the City of Wilmington. Such lists shall be submitted to the Governor within 30 days of the expiration or vacancy of any term herein when such expiration or vacancy leaves fewer than 5 members of the principal political party. The Governor shall submit the Governor's own appointments from the names on the lists within 30 days of the date the Governor receives the lists. If a state chair

does not submit a list to the Governor as provided in this subsection, then the Governor shall submit the Governor's own appointments for any vacancy.

(e) All members shall be appointed by and with the consent of the majority of the members elected to the Senate.

(f) In the event that a vacancy exists on the Board of Elections, the Board of Elections can still meet to canvass any election it shall be prescribed to canvass provided that a quorum of its members are present and § 209 of this title shall be met.

DEL. CODE tit. 15, § 203 provides:

(a) The Board of Elections for Kent County and the Board of Elections for Sussex County shall each consist of 6 members appointed as provided in this section. Each of the 2 principal political parties shall at all times be represented by not fewer than 3 members of each board.

(b) In carrying out this section, the Governor shall initially appoint for the Board of Elections of Kent County 2 members for a term of 2 years each and 2 members for a term of 4 years each, and for the Board of Elections of Sussex County, 3 members for a term of 2 years each and 3 members for a term of 4 years each.

(c) Upon the expiration of the term of any member from either board such member's successor shall be appointed by the Governor for a term of 4 years; provided, however, that such member shall hold office until that member's successor shall be duly qualified and provided, further, that the term of such successor shall commence on the date the successor is duly qualified. In the event that a vacancy occurs in either board from any cause, other than expiration of the term of a member, the Governor shall fill the vacancy for the residue of the term.

(d) The members to be appointed by the Governor under subsections (c) and (d) of this section shall be appointed from a list of not fewer than 3 nominees for each member to be appointed, which list shall be submitted by the state chair of the political party from which the appointment must be made. Each senatorial district in Kent and Sussex Counties must be represented by 1 member and no senatorial district may be represented by more than 2 members. Such lists shall be submitted to the Governor within 30 days of June 25, 1969, and within 30 days of the expiration or vacancy of any term herein when such expiration or vacancy leaves fewer than 3 members of the principal political party. The Governor shall submit the Governor's own appointments from the names on the lists within 30 days of the date the Governor receives the lists.

(e) All members shall be appointed by and with the consent of the majority of the members elected to the Senate.

(f) In the event that a vacancy exists on the Board of Elections, the Board of Elections can still meet to canvass any election it shall be prescribed to canvass provided that a quorum of its members are present and § 209 of this title shall be met.

DEL. CODE tit. 15, § 204 provides:

No person shall be appointed as a member of any board of elections who is not a citizen of the United States and a resident of the county for which that person is appointed and who has not resided therein for 1 year next preceding that person's appointment. No member of any board shall hold or be a candidate for any:

(1) Federal, state, county, city or incorporated municipality elective office;

(2) Elective office or appointed position of a political party, nor shall a member be an appointed official to any federal, state, county, city or incorporated municipality commission or administrative body.

DEL. CODE tit. 15, § 205 provides that “[t]he Senate shall either confirm or reject any appointment under § 202 or 203 of this title within 10 legislative days of its receipt or said appointment is deemed confirmed.”

ELECTION OFFICERS:

DEL. CODE tit. 15, § 101(9) states that “[e]lection officers’ means the inspector of election, the 2 judges of election and the clerks of election who are appointed for each election district under § 4701 of this title.”

DEL CODE tit. 15, § 4701 further provides that:

(a) The county executive committee of each of the 2 principal political parties shall submit to the department no later than February 1 of each general election year a list containing the names of 8 registered voters for each election district in the county. The department shall appoint all election officers, including clerks, from these lists; provided, however, that if the lists are not filed with the departments by February 1 or if the number of names submitted are not sufficient, the department shall select, notwithstanding paragraphs (b)(1) and (2) of this section, some qualified person or persons shown on its records to be registered to vote in the election district (or in the absence of such persons, the representative district), provided that no more than a bare majority of such persons are members of the same political party.

(1) The county executive committee of each of the 2 principal political parties may nominate Delaware citizens who are full-time students and who will be at least 16 years of age on or before November 1 in the year of a general election and who will be less than 18 years of age on or before the day of the general election to serve as clerks of election. Such nominations shall be accompanied by an authorization signed by the person's parent or guardian as well as the principal of the school the student attends. The authorization shall be on a form promulgated by the Commissioner of Elections. The county Departments of Election may recruit United States citizens who are full-time students and who will be at least 16 years of age on or before November 1, in the year of a general election and who will be less than 18 years of age on or before the day of the general election to serve as clerks of election. Persons recruited by county Departments of Elections shall present an authorization, on the form promulgated by the Commissioner of Elections, to the respective county Departments of Elections prior to being appointed. Notwithstanding any law or regulation to the contrary, the county Departments of Elections may appoint no more than 2 persons under the age of 18 as clerks in any Election District where 2 or fewer voting machines are assigned. In Election Districts where 3 or more voting machines are assigned, 1 person under the age of 18 may be

appointed as a clerk for each voting machine assigned. Persons nominated by a political party on or before February 1 in the year of a general election shall be given priority over persons recruited by the Departments of Elections unless such persons demonstrate that they are unable or unwilling to perform election officer duties. The Commissioner of Elections, after consultation and coordination with the county Departments of Elections, shall promulgate the nomination form for the purpose of this subsection no later than January 1, 2004.

(2) Notwithstanding any law or regulation to the contrary, the county Departments of Elections may appoint Delaware residents who are registered voters and who are enrolled as at least half-time students in colleges or universities within the respective county as election officers for that county. College or university students recruited by county Departments of Elections and who will be less than 18 years of age on or before the day of the general election shall present an authorization signed by a faculty member or dean of the school they attend, on the form promulgated by the Commissioner of Elections, to the respective county Departments of Elections prior to being appointed.

(b)(1) During the month of April in each general election year, each department shall appoint for each election district in its county 1 inspector; 2 judges of election, 1 from each of the 2 principal political parties; and 2 clerks of election, 1 from each of the 2 principal political parties, provided that where the election district has fewer than 100 voters of a principal political party, the department may appoint such party's clerk or clerks of election from a different election district within the same representative district. The terms of the inspectors, judges, and clerks of election shall extend from the day of their appointment to April 1 of the next general election year.

(2) Whenever an election district is to be provided more than 1 voting machine, 2 additional clerks, 1 from each principal political party, shall be appointed for each additional voting machine. These additional appointments shall be made in April whenever the number of additional voting machines is known to the department. Subsequent additional appointments shall be made as soon as practicable after the department determines the need for additional voting machines in an election district.

TRAINING ELECTION OFFICERS:

DEL. CODE tit. 15, § 4741 provides:

(a) The departments of elections shall train the appointed election officers on their duties for each election conducted in accordance with this title. This training shall include instruction on applicable election law, the proper conduct of the election and operation of the voting machines.

(b) The departments of elections shall prior to the day of the election file a report with the Commissioner of Elections stating the number of election officers who were trained for the election. This report shall be a public record.

SECTION II— AUTHORITIES REGARDING VOTER REGISTRATION

REGISTRATION ELIGIBILITY:

DEL. CODE tit. 15, § 1701 states that

Every application for registration shall be a qualified voter if such applicant is a citizen of this State of the age of 18 years and upwards, or who will be 18 years old on or before the day of the next general election next succeeding the applicant's registration, and is a bona fide resident of this State. No person in the military, naval, or marine service of the United States shall become a resident of this State by being stationed in any garrison, barrack or military or naval place or station within this State; and no person adjudged mentally incompetent, person convicted of a crime deemed by law a felony, or person who shall have been rendered incapable of voting by reason of violated § 7 of Article V of the Constitution of this State for 10 years next following his or her conviction and sentence thereunder, shall be a qualified voter. For purposes of this chapter, the term "adjudged mentally incompetent" refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear convincing evidence that the individual has severe cognitive impairment which precludes exercise of basic voting judgment.

Primaries:

DEL. CODE tit. 15, § 3110 provides that

An elector may vote in the primary election of a political party only if the elector is a duly registered voter and if it appears upon the elector's original permanent registration record that the elector's party affiliation is the same as the party which is holding the primary election and that the elector was registered 21 days prior to the day of the primary election.

RESTORATION OF VOTING RIGHTS:

DE. CONST. art. V, § 2 states, in relevant part,

Any person who is disqualified as a voter because of a conviction of a crime deemed by law a felony shall have such disqualification removed upon being pardoned, or five years after the expiration of the sentence, whichever may first occur. The term "sentence" as used in this Section shall include all periods of modification of a sentence, such as, but not limited to, probation, parole and suspension. The provision in this paragraph shall not apply to (1) those persons who were convicted of any felony of murder or manslaughter, (except vehicular homicide); or (2) those persons who were convicted of any felony constituting an offense against public administration involving bribery or improper influence or abuse of office, or any like offense under the laws of any state or local jurisdiction, or of the United States, or of the District of Columbia; or (3) those persons who were convicted of any felony constituting a sexual offense, or any like offense under the laws of any state or local jurisdiction or of the United States or the District of Columbia.

DEL. CODE tit. 15, § 6104 further provides that

(a) If the applicant has not been convicted of a felony within the 5 years preceding the date of the application, the Commissioner of Elections shall request that both the Office of the State Court Collections Enforcement (OSCCE) and the Department of Correction separately conduct a review and data search of all records relating to the applicant.

(b) Upon request by the Commissioner of Elections, the OSCCE shall review its records to determine if the applicant has paid all financial obligations assessed against such applicant. Upon request by the Commissioner of Elections, the Department of Correction shall review its records to determine if all sentences of imprisonment and community supervision imposed upon the applicant have been fully discharged.

(c) Where it has been determined that the applicant was convicted of a felony which is not disqualifying, has fully discharged all imposed sentences, and otherwise meets all constitutional requirements, the applicant shall be permitted to register as a qualified voter. Each stage of the review process shall be completed within a reasonable time.

(d) Where the Commissioner of Elections determines from information received from OSCCE or from the Department of Correction that there are financial obligations which have not been paid; or that not all sentences have been fully discharged; or that other questions or issues relating to the applicant's eligibility are still unresolved, the Commissioner shall deny the application for registration. Upon denial of an application under this section, the applicant shall be notified by mail.

UNIFORMED SERVICES AND OVERSEAS CITIZENS:

DEL. CODE tit. 15, § 1901 states that:

(a) A Delaware citizen absent from the State, not registered to vote in another state and eligible to vote in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) [42 U.S.C. § 1973ff et seq.] as amended shall be permitted to register to vote under the provisions of this chapter if that person is a citizen and permanent resident of the State of Delaware. For purposes of this section, this includes:

(1) A citizen and permanent resident of the State of Delaware who became ill or who was injured while a member of a uniformed service;

(2) A citizen and permanent resident of the State of Delaware who is a member of a service organization such as the American Red Cross attached to and serving with a uniformed service; or

(3) A spouse or dependent of a person meeting the criteria in this section.

REQUESTING REGISTRATION APPLICATIONS:

DEL. CODE tit. 15, § 2031 provides, in relevant part, that

(a) Every qualified elector who is a resident of this State and who is not registered may, as an alternative to other methods of registration, apply to the department of elections for the county in which the qualified elector resides by mail, telephone or in person, for registration forms. Within 3 days, the department shall mail the required forms and a set of instructions to the applicant. In the years of the general election, voter registration applications postmarked less than 20 days prior to the day of the general election shall be date-stamped upon receipt and held and processed after the general election.

(b) If a person applies for registration by mail for someone other than himself or herself, that person shall give the name and address of such person and shall sign an appropriate form declaring that the person is requesting such registration forms be mailed to the applicant.

DEL. CODE tit. 15, § 1302(g) further provides that the “Commissioner of Elections shall make the State’s Voter Registration Application available on the internet by January 1, 2006.”

DEADLINE FOR SUBMITTING REGISTRATION FORMS:

DEL. CODE tit. 15, § 2011(a) states, in relevant part, that “[n]o person shall be permitted to register during the period beginning 20 days before each general election through election day.”

In addition, **DEL. CODE tit. 15, § 2036** provides that:

The last date to register to vote for any presidential primary, primary and general election shall be the fourth Saturday prior to the date of the election.

(1) Mail applications postmarked on or before the deadline shall be considered to be on-time and shall be immediately processed by the departments of elections; and

(2) Applications taken by agencies in accordance with subchapter VII of this chapter on or before the deadline shall be considered on-time and shall be processed by the departments of elections immediately upon receipt.

ACCESSIBILITY OF REGISTRATION PLACES:

DEL. CODE tit. 15, § 2006 provides, in relevant part, that each registration officer shall have the power to keep registration places “open and unobstructed.”

ASSISTANCE WITH REGISTRATION:

DEL. CODE tit. 15, § 2031(b) provides that “[i]f a person applies for registration by mail for someone other than himself or herself, that person shall give the name and address of such person and shall sign an appropriate form declaring that the person is requesting such registration forms be mailed to the applicant.”

Furthermore, **DEL. CODE tit. 15, § 2011(c)** states that:

If unable to sign, the applicant shall make that applicant's own mark on the application. If the applicant is unable to sign or make that applicant's own mark because of physical disability, the registration officer shall indicate the fact in the space provided for the signature of the applicant. In either case, the registration officer shall write the phrase "Witnessed by" followed by the registered officer's initials in the space provided for the signature of the applicant.

PROCESSING APPLICATIONS:

DEL. CODE tit. 15, § 2014 provides, in relevant part, that:

(a) A department of elections following receipt of a voter registration application for a person who is not registered to vote shall, upon determination that the applicant is eligible to register to vote, create a pending registration record. The department shall then within 5 business days mail a nonforwardable notice by first-class mail that confirms the voter's address to the voter.

(1) If this notice is returned to the department as undeliverable by the U. S. Postal Service within 10 days of having been mailed, the department shall not add the person's name to the list of registered voters.

(2) The department shall post the name and address of every person whose confirmation notice was returned as undeliverable on its website for a period of 2 years.

(3) If the notice is not returned within 10 days after being mailed, the applicant's pending registration record shall be added to the State's list of registered voters and the department shall mail a nonforwardable notice by first-class mail that informs the registrant of the location of the registrant's polling place.

(4) A person not added to the list of registered voters in accordance with paragraph (1) of this subsection above shall be permitted to vote at the polling place for that person's address upon presentation of proof of identity and address at the polling place, completion of a voter registration application at the polling place and the approval of the respective department's administrative director and deputy administrative director. The forms of identification may include:

- a. A Delaware drivers license;
- b. A Delaware identification card;
- c. Work identification, provided it has a photograph and address; or
- d. U.S. postal material.

(5) This section shall be implemented no later than July 1, 2006.

(b) Each county Department of Elections shall promptly notify in writing each person whose voter registration application has been rejected and shall state in such notice the specific reason or reasons for such rejection.

VERIFICATION OF INFORMATION:

DEL. CODE tit. 15, § 2011, in relevant part, provides that:

After the application for registration has been fully completed, a registration officer shall inspect the application for completeness, eligibility and legibility and such additions or corrections as may be necessary shall be made in the presence of the applicant. The applicant shall then submit for inspection by the aforesaid registration officer proof as to identity and residence as shown on the application. If the registration officer is satisfied that the applicant is eligible and has established the applicant's identity and that the application is complete and legible, the applicant

shall sign the application and the registration officer shall sign the registration officer's name in the space on the application provided for that purpose.

In addition, **DEL. CODE tit. 15, § 2033** provides that:

- (a) A person who registers to vote by mail on or after January 1, 2003, shall submit with that person's application a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Should the person not include a copy of the required identification with the voter registration application, the voter shall provide a valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter prior to voting for the first time at a polling place in the State. If the person fails to show required identification at the polling place, that person shall be permitted to vote by provisional ballot. The poll lists and signature cards for each polling place shall identify those persons who must show proper identification before being permitted to vote.
- (b) A registrant may satisfy the requirement to submit identification by subsequently submitting a voter registration application through a source not subject to the provisions of this section (e.g. through the Division of Motor Vehicles).
- (c) A person who votes by absentee ballot and who registered to vote for the first time by mail and did not submit a copy of any of the required identification documents shall submit a copy of one or more of the documents listed in subsection (a) of this section showing the person's name and address with the absentee ballot. The absentee ballot from a person who is required to submit identification, and who does not, shall not be counted.
- (d) This section does not apply to persons listed in § 1901(a) of this title or to persons identified in subsection (a) of this section who submitted their driver's license number (includes State ID card number) or social security number that the Department of Elections for a county is able to use to verify an existing state identification record bearing the same number, the name and date of birth as provided by the applicant.

APPLICATIONS RECEIVED AFTER THE DEADLINE:

DEL. CODE tit. 15, § 2038 states that “[r]egistration applications received after a deadline and on or before the date of a primary or general election shall be held and processed following that election.”

COMPLETING A CHANGE OF RESIDENCE AND/OR NAME FORM:

DEL. CODE tit. 15, § 2041 states that:

- (a) Any duly registered voter in the State who has moved to a new residence within the State may apply to transfer that registered voter's voter registration to the new address by completing a voter registration application and submitting it to the department of elections in the county where the registered voter's new residence is located.
- (b) Upon receipt of a properly completed and duly signed application, the department shall complete the transfer in the accordance with department procedures.

(c) If it shall be determined that the applicant had not previously registered, that applicant's application shall be treated as an application for registration.

(d) If the applicant is registered to vote in another county in the State, the department of elections for the county in which the applicant resides shall request that the department of elections in which the applicant formerly resided send the applicant's registration record to the department of elections for the county in which the applicant currently resides. The request and sending of the record shall be accomplished as expeditiously as possible.

DEL. CODE tit. 15, § 2048 states that:

(a) Any registered voter who legally changes the voter's name by marriage or other legal means shall be required to change the voter's registration to the voter's new name and authorize the transfer of the previous registration information, including the voter's voting record, to the new name. If the person has not changed their registration prior to an election covered by this title, they shall be permitted to vote provided:

- (1) They present proof of identity to the election officers at the voter's polling place;
- (2) They complete a voter registration application for the voter's new name; and
- (3) They sign the preprinted signature card with both the voter's old and new names.

(b) Persons who are registered to vote and have legally changed the person's name as well as the person's permanent place of residence shall be permitted to vote in accordance with § 2047 of this title above after completing a voter registration application for the person's new name and permanent place of residence and by signing a blank signature card with both the person's old and new names.

(c) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept changes of name from registered voters between the closing of registration and the day of a primary, presidential primary and general election both within their office and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so changing that person's own name in accordance with those rules and procedures may appear at that person's own proper polling place and vote without completing the voter registration application at the polling place as required in subsection (a) of this section. The departments of elections in receipt of such applications to change persons' names shall process them as soon as practical.

THIRD PARTY REGISTRATION GROUPS:

Application:

DEL. CODE tit. 15, § 2060 provides that:

Governmental and private entities may apply to the Commissioner of Elections to register people to vote on a continuing basis or during an organized voter registration drive. Such entities must apply at least 30 days prior to the start of the voter registration activity or the drive. Voter registration under the provision of this subchapter may not be conducted during

the period that voter registration is closed prior to a general election. The Commissioner of Elections shall promulgate the application form that such entities shall use in applying for permission to register voters on a continuing basis or to conduct an organized voter registration drive. The application shall include as a minimum:

(1) Name and address of the governmental or private entity. In the case of a continuing activity the location or locations where the voter registration activity will take place.

(2) The name, address and telephone number of the chief official of the entity.

(3) The date that the voter registration activity shall commence and, in the case of an organized voter registration drive, the inclusive dates of the proposed drive.

(4) The target audience and/or scope of the drive or continuing voter registration activity.

(5) The name, address and telephone number of the person responsible for the voter registration activity or drive.

(6) The names of the individuals who shall serve as temporary registrars at the voter registration activity or during the voter registration drive.

(7) Attestations by the chief official of the entity that it has authorized the voter registration activity or drive, assumes responsibility for the voter registration activity or drive, shall insure that only individuals trained as prescribed by the Commissioner of Elections shall serve as temporary registrars, and shall insure that all individuals involved in planning, organizing and conducting the voter registration drive shall adhere to this title and such regulations promulgated by the Commissioner of Elections.

(8) The number of applications requested.

(9) The date for training must be the first Thursday of a month or as otherwise arranged with the Commissioner of Elections.

Training:

DEL. CODE tit. 15, § 2061 states that:

(a) The Commissioner of Elections shall develop a program for training individuals as temporary registrars as well as those persons responsible for planning, organizing and operating a voter registration activity or drive. Training shall be conducted by personnel from the office of the Commissioner of Elections. Individuals who complete the training required by the Commissioner shall be certified as a temporary registrar for a period of 1 year or for the duration of the proposed voter registration drive whichever is shorter. Training shall be offered the first Thursday of each month.

(b) The Commissioner of Elections shall develop a program of continuing education and periodic recertification for those persons involved in a continuing voter registration activity.

Approval:

DEL. CODE tit. 15, § 2062 provides that:

The Commissioner shall approve all applications, under § 2060 of this title, provided:

(1) The application is received more than 30 days prior to the start of the voter registration activity or proposed voter registration drive.

(2) The requested training date is prior to the start of the proposed voter registration activity or drive.

(3) The applying entity has not violated the provisions of this subchapter, title or regulations promulgated by the Commissioner of Elections for conducting voter registration on a continuing basis or during a previous organized voter registration drive.

Pick up and return of materials:

DEL. CODE tit. 15, § 2063 states that:

(a) The entity shall pick-up the voter registration applications, forms and other required materials as directed by the Commissioner of Elections.

(b) An entity conducting a voter registration drive shall deliver all completed applications, unused applications, voided or damaged applications, completed forms and all excess materials to the location directed by the Commissioner of Elections within 5 days of the completion of the drive except as required elsewhere in this section.

(c) An entity operating a continuing voter registration activity shall deliver all completed applications and any voided or damaged applications at least once every 5 working days to the location directed by the Commissioner of Elections except as required elsewhere in this section.

(d) The entity shall return any application completed prior to the close of eligibility for a primary election or prior to the close of voter registration before a general election no later than 4:30 p.m. on those respective days to the location or locations directed by the Commissioner of Elections.

(e) The Commissioner may fine any entity that fails to comply with the requirements of this section up to \$1,000 and deny them permission to conduct an organized voter registration drive or otherwise be involved in the voter registration process for a period of up to 5 years.

Procedures:

DEL. CODE tit. 15, § 2064 states that:

(a) Entities conducting voter registration shall account for the disposition of every application provided by the respective Department of Elections or the office of the Commissioner of Elections by application number. The Commissioner of Elections shall promulgate procedures that entities shall use to document the disposition of voter registration applications.

- (b) The temporary registrar shall sign each application the temporary registrar completes in the "agency representative" block.
- (c) Application date shall be left blank. The application date shall be the date the applications are received in the respective Department of Elections or the office of the Commissioner of Elections as required in this chapter.
- (d) All applications completed or issued by the organization shall be annotated by the temporary registrar with the code provided by the Commissioner of Elections.
- (e) All applications shall be completed in block letters in blue or black ink.
- (f) Unsigned applications shall be rejected as incomplete.
- (g) The person applying to register to vote shall show the temporary registrar proof of address and identity as required by the Commissioner of Elections.
- (h) An entity, temporary registrar or other person involved in a voter registration activity or drive shall not:
 - (1) Seek to influence an applicant's political preference or party registration;
 - (2) Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote;
 - (3) Offer, promise or pay any money or other valuable thing as compensation, inducement or reward to anyone eligible to register to vote for registering or abstaining from registering to vote;
 - (4) Deny anyone who is eligible to register to vote but refuses to register to vote any services available through the entity.
- (i) The entity conducting the voter registration activity or drive must inform each person who applies to register to vote through their activity or drive that they are not registered to vote until the respective Department of Elections has verified and accepted the application.

Application date:

DEL. CODE tit. 15, § 2065 states that:

Upon receipt of the applications at a county Department of Elections or at the office of the Commissioner of Elections, the applications shall be stamped by the agency's time stamp. The date the applications are received in the office of the Commissioner of Elections or at a county Department of Elections is the date of the application.

COPYING REGISTRATION FORMS:

DEL. CODE tit. 15, § 1305(a) provides that:

All registration records, when not in the custody of the registrars, shall be and remain in the custody of the department except as otherwise provided. The registration records shall, during normal business hours of each department, be open to the inspection of anyone desiring to examine the same, without fee or reward, provided, however, that Social Security number, date of birth, driver's license number and telephone number shall not be subject to such inspection. Anyone desiring to do so may be permitted to make copies or partial copies thereof.

REGISTRATION INFORMATION BROCHURE:

DEL. CODE tit. 15, § 302(7) states that the State Election Commissioner shall have the following duty:

To supply necessary instruction and assistance to each department and all registration and election officers in order to insure uniform operation of this title throughout the State. In addition, the Commissioner may develop standards and operating procedures for the purpose of having a statewide uniform election system. These standards shall be directed toward ensuring consistency in the redistricting process, the use of technology and the conduct of general, primary special and school elections. The Commissioner shall consult with the respective county departments of elections in developing these standards.

REMOVAL OF VOTERS FROM THE REGISTRATION LIST:

DEL. CODE tit. 15, § 1101(a) provides that:

Persons who have registered to vote in accordance with the provisions of this title shall not be removed from the voting rolls so long as their permanent place of residence is within this State, they have not been disenfranchised for any cause prescribed in the laws of this State or their registration has not been canceled as provided elsewhere in this title.

DEL. CODE tit. 15, § 1702, however, provides that:

(a) At any duly called meeting of the board of elections for each county, the board may sit to consider the removal of names from the County Master Record in cases where there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which that person is registered.

(b) The board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice as required by § 1711 of this title.

Change of Residence:

DEL. CODE tit. 15, § 1704 states that:

(a) The Commissioner of Elections on or before April 1 of each year shall compile a list of registered voters who no longer reside at the address at which they are registered to vote. The Commissioner shall accomplish this by:

(1) Contracting with a U.S. Postal Service licensed vendor to compare the list of registered voters against the list of persons who have filed a permanent change of address with

the U.S. Postal Service and obtain from the vendor a list of registered voters who have changed their address both within and without this State.

(2) Obtaining from the Division of Motor Vehicles a list of all persons who have surrendered their Delaware driver's license while obtaining a driver's license from another state. The Commissioner shall compare this list against the list of registered voters and compile a list of registered voters who have surrendered their Delaware driver's license.

(b) The Commissioner of Elections or the Commissioner's designated representative shall merge the 2 lists compiled in accordance with subsection (a) of this section and remove duplicate names.

(c) The Commissioner of Elections or the Commissioner's designated agent shall then send an address verification request via forwardable first class mail to each person on the list. The Commissioner of Elections shall mail the request to the address at which the person is registered to vote unless the U.S. Postal Service vendor provides an updated address. The request shall ask the person to sign the return card and:

(1) Authorize cancellation of their Delaware voter registration because they are no longer permanent residents of the State;

(2) Provide the address of their permanent place of residence if they still reside within Delaware; or

(3) Certify that the address at which they are currently registered to vote is their correct address and place of permanent residence.

(d) The address verification request shall include a postage-paid return card or envelope preaddressed to the Department of Elections in the county in which the person is registered to vote.

(e) The respective Department of Elections, upon receipt of the return card in accordance with the response, shall:

(1) Upon authorization by the Board of Elections at a meeting of the Board of Elections of the county, remove the voter from the records of the Commissioner of Elections and the county Department of Elections;

(2) Update the person's voter registration record with the new address if it is within the Department's jurisdiction;

(3) Send the returned card and the person's voter registration record to the Department of Elections that has jurisdiction over the new address; or

(4) Update the person's voter registration record showing that the person has certified that the address on the permanent voter registration record is their permanent place of residence.

(f) On June 1 of each year following an address verification mailing in accordance with this section, the Commissioner of Elections shall place all persons who did not reply to the address verification request mailed in accordance with this section into "inactive status."

(g) A person shall be returned to active status if the person subsequently returns the return card with a new Delaware address or certification that the person has not changed their address, by completing any other voter registration transaction permitted by this title or by voting in any election conducted in accordance with this title.

(h) On or before June 1 of each year following a general election, the Commissioner of Elections shall remove from the voting rolls any person who has been in "inactive status" for 2 consecutive general elections.

(i) Persons classified as "inactive" shall remain eligible to vote in any election conducted in accordance with this title. Upon presenting themselves at their polling place they shall affirm in writing under penalty of perjury on the form promulgated by the Commissioner of Elections the address of their permanent place of residence. If the person's permanent place of residence is different than the permanent place of residence shown on the person's permanent voter registration record, the person shall be permitted to vote in accordance with § 2047 of this title.

(j) A person properly removed from the voting rolls in accordance with this chapter must reregister in order to vote in any election conducted in accordance with this title. A person removed in error through the process described in this chapter, however, may be restored to the voting rolls upon the concurrence of the respective Department of Elections Administrative Director and Deputy Administrative Director.

CORRECTING THE REGISTRATION LIST-APPLICATIONS AND CHALLENGES:

DEL. CODE tit. 15, § 1702 states that:

(a) At any duly called meeting of the board of elections for each county, the board may sit to consider the removal of names from the County Master Record in cases where there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which that person is registered.

(b) The board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice as required by § 1711 of this title.

DEL. CODE tit. 15, § 2101 states that "[f]rom the decision of any of the departments or the registration officers granting or refusing registration or removing or refusing to remove names from the registration records, any person interested or any member of such department or any registration officer may appeal to the court."

Furthermore, **DEL. CODE tit. 15, § 2106** provides that:

In the event any appeal is taken or any appeal remains undetermined within the period of 30 days before the date of the general election, the court shall give priority to any such appeal over any other business before the court, and the court shall hear and determine the appeal and

enter an order as provided in § 2110 of this title, on or before the tenth calendar day preceding the last registration day.

Moreover, **DEL. CODE tit. 15, § 2114** provides that “[n]otwithstanding the sections of this chapter, any person who asserts that he or she properly registered but has been denied the right to vote may appeal such denial to the court up to and including the day of the election.”

SECTION III – AUTHORITIES REGARDING POLLING PLACES AND PREPARATION FOR ELECTION DAY

POLLING PLACE LOCATIONS/CHANGES:

DEL. CODE tit. 15, § 4512 provides that:

(a) Each department shall designate and procure for each election district in its county a polling place, which shall be the same as its registration place, wherever possible. The suitability, convenience and accessibility of the polling place to the voters of the election district must be given prime consideration in its selection. This selection shall be determined according to this order of preference: (1) Within the geographical boundaries of the election district to be served; (2) within the boundaries of an election district which immediately adjoins the district to be served and is in the same representative district; (3) within the boundaries of an election district which immediately adjoins the district to be served, but is in a different representative district, provided such designation is made by a unanimous vote of the members present at a meeting of the board of elections for the county.

(b) The departments of elections shall designate only conveniently located and readily accessible polling places for each election district. Such polling places, whenever possible, shall be located in public buildings which shall include suitable government buildings, schools, firehouses, community buildings, churches, financial institutions, lobbies or other gathering places at least 350 square feet in size or apartment buildings or complexes consisting of 50 or more units or other such similar structures; however, in the event that no such public building is available in a conveniently located and readily accessible place, then and in that event, the board of elections, by unanimous consent, may with the concurrence of the Election Commissioner, designate a suitable, conveniently located and readily accessible private business establishment, but in no event shall the department of elections designate a private residence as a polling place.

(c) The same public building may be designated as housing the polling place for 1, 2, or 3 election districts, in the discretion of the departments, if suitable precautions are taken to separate and identify the specific polling place within the building to be used for each election district.

(d) The election officers of each election district shall fit out the room in the polling place in which the election will be conducted for their election district with the necessary number of voting machines and shall do everything else required to be done in order to prepare and furnish such election room. The room shall have a door or entrance of easy access and, if

practical, a separate means of exit. The table shall occupy such a position in the room as to enable the election officers and the challengers to easily communicate with each other.

(e) Whenever the department has designated as polling places facilities owned or leased by agencies or subdivisions of this State, it shall be the duty of the officials of such agencies or subdivisions to make these facilities available and to provide a suitable and acceptable location, heat, lighting and other services necessary for the conduct of the election, so long as such use is not incompatible with the primary function of the agency or subdivision.

(f) The department of elections shall publish in a newspaper of general circulation, either as an advertisement or as a separate insert, a listing of all polling places by district, at least once during the week preceding the election.

(g) The department of elections may indemnify and hold harmless any U.S. Government entity for claims of damages arising from the State contracting with said entity for the purposes of using its facility as a polling place to conduct elections. Furthermore, the State shall purchase insurance against claims of damage to protect against such claims and indemnify the U.S. Government.

Furthermore, **DEL. CODE tit. 15, § 4513** provides that “[i]f at any time it becomes impracticable to hold an election in the public building designated by a department for any election district or districts, such department may designate another public building as near as can be conveniently obtained to the place previously selected.”

BALLOT DESIGN:

DEL. CODE tit. 15, § 4502 provides that:

(a) For each election, the party emblem adopted by each political party and its name shall appear on the ballot with the names of its candidates, arranged in line with the titles of the offices for which they are contesting, along with space for the voter to write in the name of any candidate of that voter's choice, as prescribed in § 5005(b) of this title. In those years in which a President and Vice-President of the United States are to be elected the ballot shall be designated "Presidential, Vice-Presidential, State, County and District Ballot"; in other years the ballot shall be designated "State, County and District Ballot." The names of all candidates of any party shall be placed under the title and device of such party as designated in the certificate filed with the department of elections by such party's authorized agent or agents or, if none is designated, under some suitable title or device to be selected by the department of elections. When a President and Vice-President are to be elected, the names of the candidates for those offices shall be placed at the top of the list of candidates for all offices to be voted upon. The device named and chosen and the lists of candidates of the Democratic Party shall be placed in the first column on the left-hand side of the ballot, of the Republican Party in the second column, and of any other party, and the space for the voter to write in the name of any candidate of that voter's choice for any office, in such order as the department of elections shall decide. The names of unaffiliated candidates shall appear in alphabetical order, under the heading "Unaffiliated Candidates," after the listing of various political parties. Where there are more political parties and unaffiliated candidates than can be accommodated in parallel columns on the voting machine and/or absentee ballot, names of political party candidates or unaffiliated

candidates may be placed in the same column, in such manner as may be determined by each county department of elections.

(b) All ballots for the same election shall be of uniform size, of the same quality and color of paper and sufficiently thick that the printing cannot be distinguished from the back. The arrangement of the ballots shall in general conform, as nearly as possible, to the sample ballot set forth in this section.

(c) The ballots prepared under this chapter shall have the representative district number printed in the margin at the top. In a presidential year they shall conform to the following design. In a nonpresidential year they shall conform as nearly as possible to such design.

OFFICIAL BALLOT

Representative District Number

Presidential, Vice-Presidential, State,

County and District Ballot

PARTY PARTY PARTY

EMBLEM EMBLEM EMBLEM

WRITE IN

Name of Party Name of Party Name of Party

For President JOHN DOE JOHN DOE JOHN DOE

For Vice-President JOHN DOE JOHN DOE JOHN DOE

For United States Senator JOHN DOE JOHN DOE JOHN DOE

For Representative in Congress JOHN DOE JOHN DOE JOHN DOE

For Governor JOHN DOE JOHN DOE JOHN DOE

For Lieutenant Governor JOHN DOE JOHN DOE JOHN DOE

(d) Absentee ballots shall be prepared in accordance with this section.

(e) If the number of candidates, offices and/or parties to be listed on the ballot preclude the layout of a ballot as specified in this section, the Department of Elections shall obtain approval of the Commissioner of Elections to lay out the ballot in a manner best suited to the number of candidates, offices and/or parties eligible to be placed on the ballot.

VOTING EQUIPMENT:

DEL. CODE tit. 15, § 5004 provides that:

- (a) In general elections, the polling place for every election district shall be supplied with at least 1 voting machine for every 600 registered voters or majority fraction thereof.
- (b) In primary and special elections, the polling place for every primary voting district or election district shall be provided with at least 1 voting machine for every 750 registered voters or majority fraction thereof.

DEL. CODE tit. 15, § 5001 further provides that:

- (a) Any voting machine may be adopted, purchased or used which shall be so constructed as to fulfill the following requirements:
 - (1) Each voting machine shall have a serial number permanently attached to or stamped on the machine;
 - (2) It shall secure to the voter secrecy in the act of voting for or against as many questions as may be submitted;
 - (3) It shall permit the voter to vote for the candidates of 1 or more parties, or to write in the name of any candidate of that voter's choice for any office;
 - (4) It shall permit the voter to vote for as many persons for an office as the voter is lawfully entitled to vote for, but no more;
 - (5) It shall prevent the voter from voting for the same person more than once for the same office;
 - (6) It shall permit the voter to vote for or against any question the voter may have the right to vote upon, but no other;
 - (7) If used in primary elections, it shall be so equipped that the election officials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine;
 - (8) It shall correctly register or record and accurately count all votes cast for any and all candidates of a political party, and for or against any and all questions, and correctly register or record the names of all candidates written in by voters;
 - (9) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
 - (10) It shall be provided with a counter which will show at all times during any election the total number of persons who have voted;
 - (11) It shall be so equipped that it shall prevent the voter from voting for all the candidates of 1 party by the use of a single lever; however, it shall be provided with 1 device for each party, for voting for all presidential electors of that party by 1 operation.

(12) It shall permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.

(13) It shall provide the voter the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and corrected (including the opportunity to correct the error through the issuance of a replacement ballot before the voter has cast a ballot if the voter was otherwise unable to change the ballot or correct any error).

(b) Every voting machine shall be furnished with a means of providing sufficient light to enable voters while in the voting booth to read the ballots and suitable for use by the election officers in examining the counters. All voting devices used in any election shall provide the voter the opportunity to make selections and cast a ballot in secrecy through placement of the devices in the polling place or through the use of curtains or other devices.

(c) Voting machines of different kinds may be adopted for use in different districts of the same county.

(d) Any voting device, machine or system purchased by the State shall be certified by the National Association of State Election Directors or the Election Assistance Commission as meeting or exceeding the voluntary voting systems standards or guidelines as promulgated by the Federal Election Commission or the Election Assistance Commission prior to delivery to and acceptance by the State.

HOURS OF OPERATION AND PROTOCOLS FOR OPENING AND CLOSING THE POLLING PLACE:

Opening:

DEL. CODE tit. 15, § 4931 provides that “The general election shall be opened in every election district at 7:00 in the morning, by the inspector making proclamation that the election is open.”

Closing:

DEL CODE tit. 15, § 4947 provides that:

The election shall be continued open until 8:00 p.m. when it shall be closed. In closing the election the inspector and the judges shall, nevertheless, permit those electors to vote who have presented themselves and have offered to vote prior to 8:00 p.m., provided that at 8:00 p.m. they shall be in a line awaiting their turn to vote within the voting room itself or if the line extends outside of the voting room itself within that line; any person who has not voted or who has not presented himself or herself and offered to vote and is not waiting in line by 8:00 p.m. shall not be permitted to vote after the hour of 8:00 p.m. The inspector shall one-half hour before closing the election make proclamation that the election will be closed in that time.

INFORMATION POSTED AT POLLING LOCATIONS:

DEL. CODE tit. 15, § 4910 states, in relevant part, that:

(a) The Commissioner of Elections, in collaboration with the Departments of Elections for the counties, shall design poster(s) that will be uniform throughout the State. The poster(s) shall be

publicly displayed in each polling place on the day of the election. The poster(s) shall contain the following information:

- (1) Information stating the date and hours during which the polling place will be open;
 - (2) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
 - (3) Instructions for mail-in registrants who are first-time voters under § 303(b) of the Help America Vote Act of 2002 [42 U.S.C. § 15483(b)];
 - (4) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
 - (5) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.
- (b) The departments of elections shall also provide for each election district 2 sample ballots applicable to such election district, which ballots shall measure approximately 10 inches by 12 inches and shall be arranged in the form of a diagram showing such portion of the front of the voting machine as will appear after the official ballots are arranged therein for voting. Such sample ballots shall be posted in a conspicuous place in each polling place on each election day. Such sample ballots shall be delivered to the departments of elections which shall in turn deliver them with the other election supplies to the proper election officers throughout the county.

DEL. CODE tit. 15, § 4911 states that:

- (a) During the hours that a primary, general or special election is open, there shall be displayed at or near the entrance of each polling place so as to be readily visible a flag or poster bearing the words POLLING PLACE. The flag or poster shall be provided by the appropriate Department of Elections.
- (b) The department of elections shall print individual, large-size wall maps for each representative district within the State. The individual maps shall also designate the boundaries of all election districts within each representative district, with every polling place therein plainly marked on the map.
- (c) The representative district maps printed in compliance with this section shall be displayed in a prominent location in each polling place of such representative district during regular voting hours. Any voter shall be allowed access to said map to determine correct voting places, election districts and representative districts so long as there is no unreasonable interference with voting procedures.

WHO MAY BE PRESENT:

Generally:

DEL. CODE tit. 15, § 4933 states that:

(a) The following persons shall be admitted to the voting room:

(1) Members and employees of the departments of elections identified by a badge or written authorization;

(2) The Commissioner of Elections and the Commissioner's employees identified by a badge or written authorization;

(3) Persons voting and waiting to vote, or a child lawfully accompanying such a person pursuant to § 4937(e) of this title;

(4) One challenger from a political party with a candidate on the ballot as provided in § 4934 of this title;

(5) Any people accompanied by persons listed in paragraphs (1) and (2) of this subsection above.

(6) Persons with business in the building that is not connected to the election. For example: an athletic team picking up or dropping off equipment at their school. Such persons shall remain outside of the voting room except to pass through or by the voting room in the conduct of their business.

(7) A person or persons deemed necessary to the conduct of the election by majority vote of the inspector and judges.

(b) No other person except as noted below shall be permitted within 50 feet of any entrance to the building used by voters.

(c) Media and persons conducting exit polls shall be permitted within the 50-foot exclusion zone, but may not talk to persons who have not voted while in the 50-foot exclusion zone.

Observers/Challengers:

DEL. CODE tit. 15, § 4934 states that:

(a) Each of the political parties, acting through their respective county committees, may appoint and accredit some suitable person as a challenger. One challenger from any political party which is represented by a candidate in that district may be present inside the polling place and shall be permitted to observe the conduct of the election and all the election records. The challengers may be changed and their places filled in like manner during the day.

(b) The challengers shall be peace officers with the same powers preserving the peace as election officers and the challengers shall be protected in the discharge of their duty by the election officers; provided, however, the challengers shall not create any disturbance or obstruction and shall not unreasonably prolong any challenge or inquiry. The inspector and judges shall each have the duty to caution the challengers concerning the foregoing and, if the challenger persists, that challenger may be ejected by a majority vote of the judges and the inspector. Provided, further, that nothing in this subsection shall be construed to prevent a substitution of another challenger for one who has been ejected.

(c) If a challenger is ejected as provided in subsection (b) of this section and the inspector or judges who voted for such ejection wilfully voted for ejection without cause, each such inspector or judge so voting shall be deemed to have knowingly and wilfully violated that inspector's or judge's official duty.

CAMPAIGNING AT THE POLLING PLACE:

DEL. CODE tit. 15, § 4942 provides that:

(a) No election officer, challenger or any other person within the polling place or within 50 feet of the entrance to the building in which the voting room is located shall electioneer during the conduct of the election. No political headquarters or gathering shall be permitted within that building during the conduct of the election.

(b) Whoever violates subsection (a) of this section shall be fined not more than \$200 or imprisoned not more than 90 days, or both.

(c) Whoever, being an election officer, violates subsection (a) of this section shall be deemed to have knowingly and wilfully violated that election officer's own official duty.

(d) For the purposes of this section the following definition shall apply: "Electioneering" includes political discussion of issues, candidates or partisan topics, the wearing of any button, banner or other object referring to issues, candidates or partisan topics, the display, distribution or other handling of literature or any writing or drawing referring to issues, candidates or partisan topics, the deliberate projection of sound referring to issues, candidates or partisan topics from loudspeakers or otherwise into the polling place or the area within 50 feet of the entrance to the building in which the voting room is located.

VOTER INTIMIDATION; INTERFERENCE WITH VOTERS; UNLAWFUL PRACTICES:

DEL. CODE tit. 15, § 5161 provides that:

If any person, firm, corporation or employer existing or doing business in this State, hinders, coerces or intimidates or attempts to hinder, coerce or intimidate any person who has been appointed an election officer under the laws of this State from qualifying and performing such person's duties as such by threats of depriving such person of employment or occupation, absolutely or contingently, directly or indirectly, shall be liable to a penalty of \$500, recoverable by the Attorney General by civil action in any court of competent jurisdiction in the name of the State, and for the use and benefit of this State.

DEL. CODE tit. 15, § 5162 provides that:

If any person, or corporation existing or doing business in this State, hinders, controls, coerces or intimidates or attempts to hinder, control, coerce or intimidate any qualified elector of this State from or in the exercise of the elector's right to vote at any general, special or municipal election held under the laws of this State, by means of bribery or by threats of depriving such elector of employment or occupation, absolutely or contingently, directly or indirectly, every

elector so aggrieved may, in a civil action brought for that purpose, sue for and recover from the person or corporation so offending the sum of \$500.

DEL. CODE tit. 15, § 5123 provides that:

Whoever, being an election officer:

(1) In any manner attempts to influence, persuade, intimidate, bribe or coerce any voter in the marking of the voter's ballot, or in the making of the choice of the persons for whom the voter votes; or

(2) Discloses the manner in which any person has voted;

shall be deemed to have knowingly and wilfully violated the election officer's own official duty, shall be guilty of wilful and deliberate perjury, and, in addition to the penalties and disabilities annexed to such crime, be fined not more than \$500 and may be imprisoned not more than 2 years.

DEL. CODE tit. 15, § 5111 provides that:

Whoever, being a member of a department, is guilty of any wilful neglect of any duty imposed by this title or of any corrupt or fraudulent conduct or practice in the execution of the same, shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5112 provides that “[w]hoever, having been appointed an inspector or judge of election in any election district, refuses to serve shall be fined \$50.”

DEL. CODE tit. 15, § 5113 provides that “[w]hoever, having been appointed a clerk of election, refuses to qualify or having qualified fails or refuses to perform any of the duties of the clerk of election's office shall be fined not less than \$50 nor more than \$100.”

DEL. CODE tit. 15, § 5114 provides that:

If the printer of the ballot or envelope or any person employed in printing the same:

(1) Knowingly gives or delivers or knowingly permits to be taken any ballots or envelopes by any person other than the department of elections for whom such ballots and envelopes are being printed; or

(2) Prints or causes or permits to be printed any ballot or envelope in any other form than the one prescribed by this title or with any other names thereon than those authorized by the department of elections or with the names spelled or the names or devices thereon arranged in any other way than that authorized and directed by the department of elections,

he or she shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 1 nor more than 5 years, or both

DEL. CODE tit. 15, § 5115 provides that:

Whoever:

- (1) Forges or falsely makes the official endorsement of any ballot or envelope; or
- (2) Prints or causes to be printed any imitation ballot or envelope or circulates the same; or
- (3) Conspires with other persons or induces or attempts to induce any other person to do any of such acts, whether or not any of such acts are committed or attempted to be committed,

shall be fined not less than \$100 nor more than \$500 or may be imprisoned not more than 5 years.

DEL. CODE tit. 15, § 5116 provides that:

Whoever before the opening of the election registers any vote on a voting machine or at any time tampers with, disarranges, defaces, impairs in any manner or destroys a voting machine or any part thereof, including the ballots on its face, shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years.

DEL. CODE tit. 15, § 5117 provides that:

- (a) Whoever does not meet the qualifications of § 4933 of this title, and enters the voting room on the day of election other than to vote, shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 30 days nor more than 2 years, or both.
- (b) Whoever enters the voting room on the day of election for the purpose of disrupting the election shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not less than 1 year nor more than 5 years.

DEL. CODE tit. 15, § 5118 provides that:

(a) Whoever:

- (1) Enters or attempts to enter the voting room before the hour of opening the polls on the day of election or at the time of opening the election, or at any time during the day of the election and before the hour of closing the election for the purpose of interfering with the election officers in the discharge of their duties as such or for any purpose; or
- (2) Attempts to molest, disturb or prevent the election officers from proceeding regularly with any general or special election; or
- (3) Takes charge or attempts to take charge of any voting room or place where the election is held within the time mentioned in this subsection for the purpose of preventing or delaying an election or for any other purpose on election day;

shall be fined not less than \$500 nor more than \$1,000, and imprisoned not more than 3 years.

(b) Whoever, not in this title authorized so to do, enters or attempts to enter the election room or within the railing leading to the entrance of the election room, or remains within 30 feet of the polling place, contrary to this title, shall be fined not more than \$200.

(c) Whoever resists a challenger appointed pursuant to §§ 3164 and 4934 of this title or a special officer appointed pursuant to § 4935 [repealed] of this title shall be fined not more than \$100 or imprisoned not more than 1 year.

DEL. CODE tit. 15, § 5119 provides that:

(a) Whoever, being an elector, feigns a physical defect or disability in order to be permitted to bring into the election room or voting booth another person, shall be fined \$100 and shall be imprisoned not more than 2 years.

(b) Whoever, being an elector selected to assist any person by reason of such person's physical defects, reveals how such elector has voted or what persons were voted for by such elector on any ballot or gives any information concerning the appearance of any ballot voted, shall be fined \$100 and imprisoned not less than 1 nor more than 3 years.

DEL. CODE tit. 15, § 5120 provides that “[w]hoever, other than the election officers, secretes or attempts to secrete himself or herself in any part of the polling room during the hours of the election for any purpose whatsoever, shall be fined not less than \$100 and may be imprisoned not more than 1 year.”

DEL. CODE tit. 15, § 5121 provides that:

(a) Whoever, during the general election:

(1) Removes or destroys any of the supplies or other conveniences placed in the booths or delivered to the voter for the purpose of enabling the voter to prepare that voter's ballot; or

(2) Removes, tears down or defaces the cards printed for the instruction of the voters;
or

(3) Destroys or removes any booth, railing or other conveniences provided for such election; or

(4) Tamper with, disarranges, defaces or impairs in any manner the use of or destroys any voting machine or the ballots on the face of a voting machine;

shall be imprisoned not less than 6 months nor more than 1 year.

(b) Whoever induces or attempts to induce any person to commit any of the acts described in subsection (a) of this section, whether or not any such acts are committed or attempted to be committed shall be imprisoned not less than 6 months nor more than 1 year.

DEL. CODE tit. 15, § 5122 provides that:

Whoever, being an election officer:

(1) Reveals to any person how any elector has voted or what persons were voted for by any elector on any ballot; or

(2) Gives any information concerning the appearance of any ballot voted or envelope used;

shall be fined not more than \$500 and imprisoned not less than 2 nor more than 5 years.

DEL. CODE tit. 15, § 5124 provides that:

Whoever induces or attempts to induce any elector to write, paste or otherwise place on that elector's own ballot the name of any person, or any sign or device of any kind, as a distinguishing mark by which to indicate to any other person how such elector has voted; or whoever enters into or attempts to form any agreement or conspiracy with any other person to induce or attempt to induce any elector to so place any distinguishing mark or name on that elector's own ballot, whether or not such act be committed or attempted to be committed; shall be imprisoned not more than 2 years.

DEL. CODE tit. 15, § 5125 provides that “[w]hoever induces or attempts to induce any election officers to violate any of the provisions of this title whether or not such election officers violate or attempt to violate any of such provisions shall be imprisoned not more than 5 years.”

DEL. CODE tit. 15, § 5126 provides that:

Whoever, being a clerk of the peace, an official, or other individual as designated in this title, wilfully violates this title in the performance of any duty imposed upon him or her for the violation of which no other punishment is provided by law, shall be fined not less than \$300 nor more than \$500 and may be imprisoned not more than 3 years.

DEL. CODE tit. 15, § 5127 provides that:

Whoever bribes or attempts to bribe anyone expecting to hold any official position under the election or registration laws of this State, either as registrar, inspector, judge or otherwise, by giving money or the promise of money, office or the promise of office or position either under the state or federal government, to perform any service for any political party in this State or to favor any candidate for political office shall be fined not more than \$1,000 and may be imprisoned not more than 6 months.

DEL. CODE tit. 15, § 5128 provides that:

Whoever, at any general or special election:

(1) Falsely personates any elector or other person and votes or attempts or offers to vote in or upon the name of such elector or other person; or

(2) Votes or attempts to vote in or upon the name of any other person whether living or dead or in or upon any false, assumed or fictitious name; or

(3) Knowingly, wilfully or fraudulently votes more than once for any candidate at any election for the same office; or

(4) Votes or attempts or offers to vote in any election district without having a lawful right to vote therein, or to vote more than once or to vote in more than 1 election district; or

(5) Having once voted, votes or attempts or offers to vote again; or

(6) Fraudulently delivers or offers to an election officer more than a single ballot; or

(7) Knowingly, wilfully or fraudulently does any unlawful act to secure an opportunity for himself or herself or for any other person to vote,

shall be fined not less than \$50 or more than \$200, or imprisoned not less than 30 days or more than 2 years, or both.

DEL. CODE tit. 15, § 5129 provides that:

Whoever, being a clerk of election or other election officer performing the duty of such clerk:

(1) Wilfully keeps a false poll list; or

(2) Knowingly inserts in that clerk of election's or election officer's poll list any false statement, or any name, statement, check, letter or mark, except as provided by law,

shall be deemed to have knowingly and wilfully violated that clerk of election's or election officer's official duty.

DEL. CODE tit. 15, § 5130 provides that:

Whoever, being an election officer, wilfully:

(1) Excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election; or

(2) Receives a vote from any person who has been duly challenged in relation to such person's right to vote at such election without exacting from such person such oath or other proof of qualification as may be required by law; or

(3) Omits to challenge any person offering to vote whom that election officer knows or suspects not to be entitled to vote and who has not been challenged by any other person;

shall be deemed to have violated that election officer's own official duty.

DEL. CODE tit. 15, § 5131 provides that:

Whoever, being an election officer, wilfully:

(1) Makes any false count of votes cast at any election, or makes, signs, publishes or delivers any false return of such election or any false certificate or statement of the result of such election, knowing the same to be false; or

(2) Defaces, destroys or conceals any statement or certificate entrusted to that election officer's care or custody

shall be deemed to have knowingly and wilfully violated that election officer's own official duty.

DEL. CODE tit. 15, § 5132 provides that:

(a) Whoever, being an election officer, at any election:

(1) Knowingly and wilfully puts or causes to be put any ballot or ballots or other paper having the semblance thereof into any box used at such election for the reception of votes; or

(2) Knowingly and wilfully causes or permits any ballot to be in the ballot box at the opening of the polls and before voting shall have commenced; or

(3) Knowingly or wilfully or fraudulently puts any ballot or other paper having the semblance thereof into any ballot box unless the same is offered by an elector and the elector's name has been found and checked upon the Election District Record; or

(4) Fraudulently before, during or after the reading and count of the ballot, in any manner changes, substitutes or alters any ballot; or

(5) Removes any ballot or semblance thereof from, or adds any ballot or semblance thereof to, the ballots found in any such ballot box upon the closing of the polls; or

(6) Knowingly and wilfully causes or permits any vote to be registered on a voting machine, unless the vote is cast by an elector whose name has been found and checked upon the books of registered voters and who has not previously voted, or knowingly or wilfully enters or permits anyone to enter a voting machine booth, unless the person is an elector whose name has been found or checked upon the books of registered voters and who has not previously voted or is an election officer or member or employee of the department of elections whose entrance into the voting machine booth is required by the provisions of this title,

shall be deemed to have knowingly and wilfully violated that election officer's own official duty.

(b) Whoever, not being an election officer, does or causes to be done any of the acts, matters or things mentioned in subsection (a) of this section, shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5133 provides that:

Whoever, being an election officer of whom any duty is required in this title, is guilty of any wilful neglect of such duty or of any corrupt or fraudulent conduct or practice in the execution

of the same shall be deemed to have knowingly and wilfully violated that election officer's own official duty.

DEL. CODE tit. 15, § 5134 provides that:

(a) Whoever, being an election officer having the custody of any registration records, or copy thereof, oath, return of votes, certificate, poll list or any paper, document, or evidence of any description, in this title directed to be made, filed or preserved:

(1) Steals, wilfully destroys, mutilates, defaces, falsifies, or fraudulently removes or secretes the whole or any part thereof; or

(2) Fraudulently makes any entry, erasure, or alteration therein, except as allowed and directed by this title; or

(3) Permits any other person to do so,

shall be deemed to have knowingly and wilfully violated that election officer's own official duty.

(b) Whoever, not being an election officer and having such custody, does or commits any of the acts, matters or things mentioned in subsection (a) of this section, or whoever, not being an election officer, advises, procures or abets the commission of any of the acts mentioned in this section shall, for each such offense, be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5135 provides that:

(a) Whoever is convicted of wilful false swearing or affirming in taking any oath or affirmation prescribed by or upon any examination provided for in this title is guilty of perjury.

(b) Whoever wilfully or corruptly instigates, advises, induces or procures any person to swear or affirm falsely, or attempts or offers so to do, is guilty of subornation of perjury, and shall suffer the punishment directed by law in cases of perjury.

DEL. CODE tit. 15, § 5136 provides that:

Whoever:

(1) Fraudulently changes or alters the ballot of any elector, or substitutes 1 ballot for another, or fraudulently furnishes any elector with a ballot containing more than the proper number of names; or

(2) Intentionally practices any fraud upon any elector to induce the elector to deposit a ballot as that elector's own vote and to have the same thrown out and not counted, or to have the same counted for a person or candidate other than the person or candidate for whom such elector intended to vote; or

(3) Otherwise defrauds the elector of the elector's vote,

shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5137 provides that “[w]hoever wilfully disobeys any lawful command of any election officer, given in the execution of such officer's duty as such at any election, shall be fined not more than \$200 or imprisoned not more than 1 year, or both.”

DEL. CODE tit. 15, § 5138 provides that:

Whoever on any day of election or during the reading and counting of the votes cast thereat causes any breach of the peace or uses any violence or threats of violence whereby any such election or reading and counting of ballots is impeded or hindered or whereby the lawful proceedings of election officers or challengers at such election are interfered with shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5139 provides that:

Whoever:

(1) Knowingly or wilfully obstructs, hinders, assaults or by bribery, solicitation or otherwise interferes with any election officer or challenger in the performance of any duty required of that election officer or challenger or which that election officer or challenger may by law be authorized or permitted to perform; or

(2) By any means before mentioned or otherwise unlawfully on the day of election hinders or prevents any election officer or challenger in that election officer's or challenger's free attendance and presence at the place of election in the election district in which that election officer or challenger is appointed to serve, or in that election officer's or challenger's full and free access and egress to and from any such place of election, or molests, interferes with, removes or ejects from any such place of election any such election officer or challenger, or unlawfully threatens or attempts or offers so to do,

shall be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5140 provides that “[w]hoever, being an inspector of election, wilfully neglects or when called on wilfully declines to exercise the powers conferred on that inspector of election to preserve order shall be deemed to have knowingly and wilfully violated that inspector of election's official duty.”

DEL. CODE tit. 15, § 5141 provides that:

Whoever, not being an election officer:

(1) Steals or wilfully breaks or destroys any ballot box used or intended to be used at any election; or

(2) Wilfully or fraudulently conceals, secretes or removes any ballot box from the custody of the election officers; or

(3) Alters, defaces, injures, destroys or conceals any ballot or envelope which has been deposited in any ballot box at such election or any poll list used or intended to be used at such election or any report, return, certificate or other evidence in this title required or provided for;

shall, for each such offense, be fined not more than \$200 or imprisoned not more than 2 years, or both.

DEL. CODE tit. 15, § 5142 provides that:

Whoever, being an election officer or other person, administers or causes to be administered to any legal voter any oath or affirmation not authorized by the Constitution or laws of this State for that purpose as a prerequisite or condition of voting at any election, except when such oath or affirmation is administered in order to satisfy such election officer or other person that such vote is a legal vote according to the Constitution and laws of this State, shall for each such offense be fined not less than \$500 nor more than \$1,000 and imprisoned 10 days.

DEL. CODE tit. 15, § 5143 provides that:

(a) No candidate for State Senator or Representative in the General Assembly shall make any written pledge to give or withhold that candidate's own vote on any proposed law or legislation, nor shall any other person seek to influence any such candidate in the candidate's attitude upon any proposed law or legislation by offer or promise of a vote or votes or of any support at any primary or election.

(b) Whoever violates subsection (a) of this section shall be fined not less than \$50 nor more than \$1,000, or imprisoned not less than 1 month nor more than 2 years, or both.

DEL. CODE tit. 15, § 5144 provides that:

(a) Any person who knowingly or intentionally releases, transfers, distributes, or otherwise permits or facilitates the distribution of information relating to the number of absentee votes cast in favor or against any particular candidate or measure prior to the close of the polls on the day of an election at which absentee votes were cast and counted is guilty of the unauthorized release of absentee vote information in the first degree and shall be fined not less than \$300 nor more than \$500 and may be imprisoned not less than 1 nor more than 2 years.

(b) Any person who recklessly releases, transfers, distributes, or otherwise permits or facilitates the distribution of information relating to the number of absentee votes cast in favor or against any particular candidate or measure prior to the close of the polls on the day of an election at which absentee votes were cast and counted is guilty of the unauthorized release of absentee vote information in the second degree and shall be fined not more than \$200 and may be imprisoned not more than 1 year.

SECTION IV – AUTHORITIES REGARDING ABSENTEE VOTING

ABSENTEE VOTING GENERALLY:

DEL. CODE tit. 15, § 5501 states:

It is the purpose and intent of the General Assembly in enacting this chapter to provide those qualified electors of this State who are unable to appear at an election to cast their ballots at the polling place of their election district with the ability to cast a ballot to be counted in the total for the election district in which the elector is registered, in compliance with article V, § 4A, Delaware Constitution. This chapter shall govern general absentee voting procedures in all primary, general, and special elections conducted in this State; provided, however, that procedures unique to a specific election or election type may be set forth elsewhere in this title.

Who May Vote by Absentee Ballot:

DEL. CODE tit. 15, § 5502 states:

Any qualified elector, duly registered, of this State may cast the qualified elector's vote by absentee ballot in any primary election, general election, special election for statewide or local offices and in any election held under the provisions of Chapter 73 of this title. Votes cast by absentee ballot pursuant to this chapter shall be counted in the total for the election district in which the elector is registered if the elector is unable to appear at the polling place of the elector's election district due to the following reasons:

- (1) Because such person is in the public service of the United States or of this State, or is a citizen of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia, or such person's spouse or dependents when residing with or accompanying the person, or is absent from this State because of illness or injury received while serving in the armed forces of the United States; or
- (2) Because such person is in the armed forces of the United States or the merchant marine of the United States, or attached to and serving with the armed forces of the United States in the American Red Cross or United Service Organizations; or
- (3) Because of the nature of such person's business or occupation; or
- (4) Because such person is sick, physically disabled or providing care to a parent, spouse or that person's child who is living at home and requires constant care due to illness or injury; or
- (5) Because such person is absent from the district while on vacation; or
- (6) Because such person is unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion; or
- (7) Because such person is otherwise authorized pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) [42 U.S.C. § 1973ff et seq.] to vote by absentee ballot; or
- (8) Because such person is otherwise authorize by federal law to vote by absentee ballot.

Requesting an Absentee Ballot:

DEL. CODE tit. 15, § 5503 states that:

(a) An elector desiring to vote by absentee ballot in an election for which the elector is a qualified elector may request an absentee ballot from the department of elections for the county in which the elector is domiciled (hereinafter referred to as the "department") by filing a hand written or electronically prepared affidavit with the department no later than 12:00 noon the day before the election.

(b) An affidavit may be filed pursuant to this section by:

(1) Mailing it, delivering it, or causing it to be delivered to the department of elections for the county in which the elector is domiciled; or

(2) Delivering it to a department of elections for another county, if special circumstances exist that prevent the elector from filing it pursuant to paragraph (1) of this subsection.

(c) Affidavits filed pursuant to paragraph (b)(2) of this section shall be treated as if they were filed with the department of elections for the county in which the elector is domiciled. The department of elections where the affidavit is delivered shall, for the purposes of that absentee ballot only, act as the agent of the department of elections for the county in which the elector is domiciled and may deliver and accept an absentee ballot from such elector. The State Election Commissioner, in consultation with the departments of elections for each county, shall promulgate regulations defining specific procedures for such intra-county acceptance of affidavits pursuant to this section, and subsequent delivery and acceptance of absentee ballots, and the special circumstances under which each of these events is authorized.

(d) Affidavits filed pursuant to this section shall:

(1) Indicate the election or elections for which the elector is requesting an absentee ballot;

(2) Include at least the following information:

a. The elector's name;

b. The address of the elector's domicile in the State;

c. The address to which the elector requests that the absentee ballot be mailed;

d. The elector's date of birth;

e. The elector's social security number (optional);

f. The elector's political party affiliation;

g. The elector's expected location on election day;

h. The reason that the elector cannot appear at the regular polling place for the elector's election district on the day of the election, which shall identify at least 1 of the reasons set forth in § 5502 of this title;

- i. A telephone number, if available, to assist in resolving any challenge;
- j. An e-mail address, if available, to assist in resolving any challenge; and
- k. The elector's signature;

(3) Be subscribed and sworn to by the elector, before an officer authorized by law to administer oaths affirming that under penalty of perjury, the information on the affidavit is correct and true except that the affidavit for a person voting in person at a Department of Elections shall not be notarized but shall be accepted upon the voter presenting a form of ID acceptable by a notary;

(4) Be dated during the calendar year in which the election is to be held, provided that when a presidential primary election is scheduled the affidavit shall not be dated prior to August 15 of the year prior to the year in which a President of the United States is to be elected, and further provided that, for special elections conducted pursuant to Chapter 71 of this title, the affidavit may be dated as of any date after a writ of election has issued; and

(5) Be promulgated by the State Election Commissioner, in consultation with the departments of elections for each county, and personally approved by the Attorney General of the State; provided however, that the Federal Post Card Application or its successor as promulgated by the Federal Voting Assistance Program or its successor shall also be considered an affidavit as used in this chapter.

(e) Notwithstanding any other provision of this section to the contrary, the affidavit of any elector desiring to receive an absentee ballot because the person qualifies under any of the reasons set forth in § 5502(1), (2), (4) or (7) of this title may be self-administered.

(f)(1) If the elector does not indicate the election or elections for which the elector is requesting an absentee ballot, it shall be presumed that the affidavit is for the next scheduled election in which the elector is eligible to vote; provided however, that an affidavit on which the person indicates that the reason the person is requesting to vote by absentee ballot is that the person is temporarily or permanently physically disabled or that the person qualifies under any of the reasons set forth in § 5502(1), (2), (4) or (7) of this title shall be presumed to be for all elections in a calendar year unless otherwise indicated on the affidavit.

(2) If the department is unable to determine the election and/or elections for which a person is requesting an absentee ballot, it shall attempt to contact the person in order to determine the person's intent; provided however, that if time is of the essence and the department is unable to contact the elector, the department's administrative director and deputy administrative director shall confer and determine the proper course of action.

(g) Affidavits filed pursuant to this section on which the elector's domicile is different than the address at which the person is registered to vote within the State shall be used to transfer the person's registration.

(h) Affidavits filed pursuant to this section on which an elector indicates that the elector has legally changed the elector's name shall be taken as authorization to transfer the elector's

previous registration information, including the elector's voting record to the new name. The department shall then use the affidavit to make the change on the department's records.

(i) Affidavits filed pursuant to this section on which a person indicates a change in political party affiliation received during a period in which changes in political party affiliation are closed shall be used to change the person's political party affiliation when the period for changing political party affiliation re-opens.

(j) The department may adopt a printed or electronic affidavit form (or both), containing blanks associated with each item required by this section to be listed on an affidavit, which may be completed by any elector wishing to receive an absentee ballot pursuant to this section. An elector may submit a written or electronic request to the department for the department prepared affidavit form, which the department shall forward to the elector upon receipt of a request therefore.

Returning an Absentee Ballot:

DEL. CODE tit. 15, § 5508 provides, in relevant part, that:

(a) Each department shall endorse the date and time of receipt on the ballot envelope of each absentee ballot received by the department.

(b) For an absentee ballot to be counted pursuant to this chapter, an elector voting by absentee ballot shall return the elector marked ballot to the department of elections of the county where the voter resides before the polls close on the day of the election.

ABSENTEE VOTING FOR OVERSEAS AND MILITARY VOTERS:

42 U.S.C. 1973ff-1(a)(4) states that each state shall “use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application.”

DEL. CODE tit. 15, § 1901 states:

(a) A Delaware citizen absent from the State, not registered to vote in another state and eligible to vote in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) [42 U.S.C. § 1973ff et seq.] as amended shall be permitted to register to vote under the provisions of this chapter if that person is a citizen and permanent resident of the State of Delaware. For purposes of this section, this includes:

(1) A citizen and permanent resident of the State of Delaware who became ill or who was injured while a member of a uniformed service;

(2) A citizen and permanent resident of the State of Delaware who is a member of a service organization such as the American Red Cross attached to and serving with a uniformed service; or

(3) A spouse or dependent of a person meeting the criteria in this section.

(b) Persons registering to vote in accordance with this chapter shall:

(1) Register to vote at the address of that person's own permanent residence in the State of Delaware;

(2) Register to vote at the address of that person's own last place of permanent residence in the State of Delaware prior to joining a uniformed service or moving overseas; or

(3) In the case of persons who are permanently living outside of the United States, be registered to vote at the address of the department of elections for the county in which they last resided before moving overseas. These persons shall be permitted to vote for federal offices only.

(c) Citizens listed in subsection (a) of this section above do not lose their domicile in the State of Delaware unless they establish a domicile or register to vote in another state.

DEL. CODE tit. 15, § 1902 provides that:

(a) A citizen and permanent resident of the State of Delaware who maintains a residence in the State may submit a State of Delaware Voter Registration Application or any registration application promulgated by the federal government.

(b) A citizen eligible to vote under the provisions of this chapter who does not maintain a residence within the State of Delaware may register to vote by submitting a federal Post Card Application, federal Write-in Absentee Ballot, or any other registration application promulgated by the federal government under the provisions of the UOCAVA [42 U.S.C. § 1973ff et seq.] as amended.

(c) The deadline for the department to receive an application to register to vote under the provisions of this chapter is the third Monday prior to a primary or general election. Applications received after a deadline shall be held and processed on the first business day following that election.

(d) The departments of elections shall accept electronic transmissions of signed registration applications specified in this section.

(e) The departments of elections shall immediately notify any person whose application to register to vote was rejected and provide such person the reason or reasons for rejection and information on how to appeal the rejection.

DEL. CODE tit. 15, § 1903 states that:

A citizen who has been discharged or separated from a uniformed service, the Merchant Marine or from employment outside of the territorial limits of the United States too late to register to vote for a primary or general election but within 60 days of the date of a primary or general election, shall be entitled to register to vote for the purpose of voting in that and ensuing primary or general elections after presenting documentation of that individual's discharge, separation or termination of employment to the department of elections for the county in which that individual resides up to and including the date of the election. This also applies to any accompanying family members who are otherwise eligible to register to vote.

SECTION V – AUTHORITIES REGARDING VOTING AND ELECTION DAY INFORMATION

GENERAL INFORMATION:

DEL. CODE tit. 15, § 4947 states that:

The election shall be continued open until 8:00 p.m. when it shall be closed. In closing the election the inspector and the judges shall, nevertheless, permit those electors to vote who have presented themselves and have offered to vote prior to 8:00 p.m., provided that at 8:00 p.m. they shall be in a line awaiting their turn to vote within the voting room itself or if the line extends outside of the voting room itself within that line; any person who has not voted or who has not presented himself or herself and offered to vote and is not waiting in line by 8:00 p.m. shall not be permitted to vote after the hour of 8:00 p.m. The inspector shall one-half hour before closing the election make proclamation that the election will be closed in that time.

DEL. CODE tit. 15, § 4937 provides that:

(a) A voter, upon entering the room where an election is being held, shall announce that voter's own name and address and provide proof of identity, whereupon the clerks shall place a mark or make a notation of his or her name upon the election district record. In the event the voter does not have proof of identity with them, the voter shall sign an affidavit of affirmation that the voter is the person listed on the election district record.

(b) If it appears that the voter is properly registered, an election officer shall hand to the voter a voter signature card which the voter shall sign. In the event that the voter is unable to sign a voter signature card for any reason the election officer shall sign the voter's name on the voter signature card and the election officer's name and make note that the voter is unable to personally sign the card.

(c) In the event of a challenge as to the identity of the voter or residency of the voter, the voter's right to vote shall be determined by a majority vote of the inspector and the 2 judges of the election. In the event that the voter is not permitted to vote, the voter's signature card shall be marked "not permitted to vote" and signed by 2 election officers and shall be forwarded to the department at the same time and in the same manner as other voter signature cards are sent to the department.

(d) If the voter is not challenged or if a challenge is decided in the voter's favor, 1 of the election officers to be stationed at the entrance of the voting machine shall announce the name of the voter and permit the voter to pass through the entrance to the booth of the voting machine for the purpose of casting the voter's vote. No voter shall remain in the voting machine longer than 3 minutes, unless for good and sufficient reason the voter be granted a longer period of time by the election officers in charge. When the voter has cast a vote, the voter shall at once leave the room. If the voter refuses to leave after a reasonable period, they shall be removed by the election officers. No voter, after having entered and emerged from the voting machine booth shall be permitted to enter the voting machine booth. No voter shall hold any conversation or communicate with any other person than an election officer while in the voting room, except as otherwise provided in this title.

(e) The rest of this title notwithstanding, any parent, guardian or caregiver may be accompanied in the voting area and voting machine by the parent's, guardian's or caregiver's children or by children for whom they are providing care who are 17 years of age or younger. Any challenge to the age of any child shall be resolved by the voter affirming to the inspector that the child or children being challenged are 17 years of age or younger.

ASSISTANCE IN LANGUAGES OTHER THAN ENGLISH:

42 U.S.C. § 1973aa-6 states that:

Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

ASSISTANCE IN THE VOTING BOOTH:

DEL. CODE tit. 15, § 4943 provides that:

(a) Any qualified elector who is blind or otherwise physically unable to operate the voting machine or to reach the voting room alone with safety shall be permitted to bring into the voting room and the voting machine booth 1 elector or 2 electors, if necessary, of that elector's own choosing in order to receive whatever assistance the elector may need in order to vote. No voter shall receive any other assistance in voting than that authorized by this subsection.

(b) Any election officer may provide instruction or information for a voter through use of 1 of the sample ballots posted in the voting room.

(c) Whenever a voter requests further instructions in the manner of voting or the operation of the voting machine after having entered the voting machine booth, 2 election officers of opposite political parties shall jointly give such instructions. In doing so, the officers shall take care not to assist the voter in any manner that might influence that voter's vote. After giving instructions, both officers shall retire before the voter begins to register that voter's vote, which the voter shall do in secret at all times.

ATTORNEY IN FACT:

DEL. CODE tit. 15, § 4937(b) provides, in relevant part that “[i]n the event that the voter is unable to sign a voter signature card for any reason the election officer shall sign the voter's name on the voter signature card and the election officer's name and make note that the voter is unable to personally sign the card.”

INFORMATION REGARDING VOTERS WHO HAVE MOVED:

Moving Within the State:

DEL. CODE tit. 15, § 1101 states, in relevant part that “[t]hose registered voters who have changed their permanent place of residence within this State or have legally changed their names without reregistering shall be permitted to vote at the polling place for their permanent place of residence on the day of any election covered by this title.”

DEL. CODE tit. 15, § 4941(b) states that:

A person registered to vote in the State who has moved from an address or residence located within one election district within the State to another address or residence within another elections district within the State shall be permitted to vote at the polling place for their new residence or address in accordance with the procedures contained in § 2047 of this title.

DEL. CODE tit. 15, § 2047 states:

Change of address or residence within Delaware shall not disqualify any person as a voter. A person who has changed the person's permanent place of residence within Delaware but who has not transferred the person's voter registration shall be permitted to vote at the polling place for the person's place of permanent residence on the day of the election.

(1) If the person who has changed the person's permanent place of residence appears at the polling place for the person's previous permanent place of residence, the election officers at that polling place shall complete the eligibility affidavit promulgated by the Commissioner of Elections and obtain the location of the person's correct polling place from the Department of Elections. The election officer shall place the completed eligibility affidavit in an envelope annotated with the location and address of the correct polling place, give the envelope to the person, direct the person to go to the polling place for the person's new permanent place of residence and annotate the poll list to show that the person has been sent to another polling place.

(2) A person appearing at the correct polling place with an eligibility affidavit shall be permitted to vote upon showing proof of identity and address to the election officers and signing a blank signature card. The election officer shall complete the appropriate section of the eligibility affidavit, and place the eligibility affidavit in the special envelope provided by the Department of Elections. If the person has also legally changed that person's name, the election officer shall also place a properly completed voter registration application for the person in the special envelope.

(3) A person registered to vote at another location within Delaware who appears at the polling place for their new permanent place of residence without having gone to the polling place of their former place of permanent residence shall affirm in writing the new address by completing and signing the eligibility affidavit promulgated by the Commissioner of Elections. The election officers shall obtain authorization for the person to vote from the Department of Elections, complete the election officer section of the eligibility affidavit and place the eligibility affidavit in the special envelope provided by the Department of Elections. If the person has also legally changed that person's name, the election officer shall also place a properly completed voter registration application for the person in the special envelope.

(4) Election officers shall enter the name, address and voter registration number for persons authorized to vote under the provisions of this section on the poll list after the last name listed and on a blank signature card. The person shall sign the signature card and be permitted to vote. A person who has legally changed their name as well as their permanent place of residence shall sign both their old and new names.

(5) The Department of Elections upon receipt of the eligibility affidavit and the voter registration application following an election shall transfer the person's address in accordance with the transfer procedures elsewhere within this chapter.

(6) The commissioner of elections shall promulgate rules and procedures by which the departments of election may accept transfers of address from registered voters between the closing of registration and the day of a primary, presidential primary and general election both within their offices and at other locations within their respective counties. Such rules and procedures shall contain a provision by which a person so transferring that person's own address in accordance with those rules and procedures may appear at that person's own proper polling place and vote without completing the eligibility affidavit or envelope at the polling place as required in paragraph (1), (2) or (3) of this section. The departments of elections in receipt of such transfers shall process them as soon as practical.

PROVISIONAL VOTING:

DEL. CODE tit. 15, § 4948 provides, in relevant part, that:

(a) Provisional ballots shall be used in primary and general elections conducted under the provisions of this title. Provisional ballots shall not be used in public school elections or municipal elections unless specifically authorized in Title 14, Title 15 and/or the respective town or city charter.

(b) A person claiming to be properly registered in an election district, but whose eligibility to vote at that election district cannot be determined, shall be entitled to vote a provisional ballot. Election officers shall inform a person who is not being permitted to vote for whatever reason that the person may cast a provisional ballot in that election. The Inspector shall return all voted provisional ballots to the Department of Elections for the county responsible for the election district on the night of the election.

(c) Persons voting a provisional ballot shall present proof of identity and address to the election officers. The type of ID shown by the voter shall be annotated on the provisional ballot envelope. If the person does not show proof of identity or address, the person shall be permitted to vote by provisional ballot and the fact that the person did not show proof of identity and/or address shall be annotated on the provisional ballot envelope.

(d) If the Superior Court or another court of competent jurisdiction orders that some or all polling places in a county of the state be kept open beyond the normal time for closing, all persons who arrive to vote at the polling place or places ordered to be kept open after the normal time for closing shall vote by provisional ballot. The election officers shall keep such ballots separate and return them to the Department of Elections for the county responsible for the election district on the night of the election.

(e) Provisional ballots shall be as much as possible in the same form as absentee ballots except that only federal offices shall be listed and they shall be labeled as provisional ballots. The Departments of Elections for the counties shall provide to each election district provisional ballots for 6% of the registered voters in the election district as of 45 days prior to the date of the election. Regardless of the number of ballots required by this subsection, the Departments of Elections for the counties shall provide a minimum of 15 provisional ballots to each election

district. Each Department of Elections for the counties shall deliver additional provisional ballots, envelopes, instructions or voter information sheets to the polling place for an election district when notified by an election officer from the district that the supply of some or all of the provisional ballot materials is very low.

(f) Election officers shall give whatever assistance is requested by a voter who is voting by provisional ballot. When that assistance includes marking or assisting in marking the person's ballot, 2 election officers with different political party affiliations shall provide that assistance.

(g) A voter who spoils that voter's own ballot shall, upon request, be given a replacement ballot after surrendering the spoiled ballot.

CHALLENGES:

Before the Election:

DEL. CODE tit. 15, § 1702 provides that:

(a) At any duly called meeting of the board of elections for each county, the board may sit to consider the removal of names from the County Master Record in cases where there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which that person is registered.

(b) The board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice as required by § 1711 of this title [repealed].

DEL. CODE tit. 15, § 2101(a) provides that “[f]rom the decision of any of the departments or the registration officers granting or refusing registration or removing or refusing to remove names from the registration records, any person interested or any member of such department or any registration officer may appeal to the court.”

DEL. CODE tit. 15, § 2106 provides that

In the event any appeal is taken or any appeal remains undetermined within the period of 30 days before the date of the general election, the court shall give priority to any such appeal over any other business before the court, and the court shall hear and determine the appeal and enter an order as provided in § 2110 of this title, on or before the tenth calendar day preceding the last registration day.

DEL. CODE tit. 15, § 2114 provides that “[n]otwithstanding the sections of this chapter, any person who asserts that he or she properly registered but has been denied the right to vote may appeal such denial to the court up to and including the day of the election.”

The Day of the Election:

DEL. CODE tit. 15, § 4937(c) states that:

In the event of a challenge as to the identity of the voter or residency of the voter, the voter's right to vote shall be determined by a majority vote of the inspector and the 2 judges of the election. In the event that the voter is not permitted to vote, the voter's signature card shall be

marked "not permitted to vote" and signed by 2 election officers and shall be forwarded to the department at the same time and in the same manner as other voter signature cards are sent to the department.

DEL. CODE tit. 15, § 4936 states:

Voters shall approach and enter the passage in the order in which they appear for the purpose of voting. If any person offering to vote is challenged by 1 of the challengers or by any 1 of the election officers, such person's right to vote shall be immediately determined in accordance with this title. If such person's vote is refused, that person shall be offered the right to vote by provisional ballot. If the person refuses to vote by provisional ballot, that person shall immediately stand aside, give place to the person next in line and leave the polling place.

SECTION VI – AUTHORITIES REGARDING POST-ELECTION PROCEDURES

CLOSING THE POLLS:

DEL. CODE tit. 15, § 4947 states that:

The election shall be continued open until 8:00 p.m. when it shall be closed. In closing the election the inspector and the judges shall, nevertheless, permit those electors to vote who have presented themselves and have offered to vote prior to 8:00 p.m., provided that at 8:00 p.m. they shall be in a line awaiting their turn to vote within the voting room itself or if the line extends outside of the voting room itself within that line; any person who has not voted or who has not presented himself or herself and offered to vote and is not waiting in line by 8:00 p.m. shall not be permitted to vote after the hour of 8:00 p.m. The inspector shall one-half hour before closing the election make proclamation that the election will be closed in that time.

DEL. CODE tit. 15, § 4975 states:

- (a) After the polls have closed and the last voter has finished voting and exited the polling place, the inspector shall verify that each voting machine has been deactivated. The election officers shall then copy the protective counter number from each voting machine assigned to the election district onto section 3 of each of the voting machine certificate or certificates.
- (b) The election officers shall then enter the absentee vote totals for each candidate into 1 of the voting machines assigned to the election district and close the polls on said voting machine.
- (c) The election officers shall then complete the procedure for closing the polls on every other voting machine assigned to the election district.
- (d) After the polls have been closed on a voting machine, the officers shall remove the paper tape containing the results and the memory cartridge from the voting machine.
- (e) After the memory cartridge or cartridges have been removed from each voting machine assigned to the election district, the inspector shall place said memory cartridge or cartridges into the envelope designated for the memory cartridge or cartridges and seal the envelope. The

inspector shall give the envelope to the election officer assigned to deliver the memory cartridge or cartridges to the zone reporting station. The inspector shall then enter the date and time in section 2 of each of the voting machine certificates and direct the said election officer to sign section 2 of each of the voting machine certificates. The inspector shall then dispatch the said election officer with the envelope containing the memory cartridge or cartridges to the zone reporting station listed on the envelope containing the memory cartridge or cartridges. The election officer assigned to take the memory cartridge or cartridges to the zone reporting station shall depart the polling place immediately and go directly to the zone reporting station listed on the envelope containing the memory cartridge or cartridges. Upon arriving at the said zone reporting station, the said election officer shall give the envelope to a designated representative of the Commissioner of Elections.

(f) After the election officer assigned to deliver the memory cartridge or cartridges to the zone reporting station has departed the polling place, each remaining election officer shall sign each copy of every paper tape removed from a voting machine assigned to the election district.

(g) After every copy of every paper tape has been signed, the inspector will separate the copies of each tape by cutting at the "cut here" line. The 1st copy of each paper tape (the copy with the zero count certification) shall be placed into the Prothonotary envelope and the 1st extra copy of each tape shall be placed into the Department of Elections envelope.

DEL. CODE tit. 15, § 4976 states:

(a) After the paper tapes have been separated and placed in envelopes, the inspector shall remove the 1st copy paper tape or tapes (with zero count certification) from the Prothonotary envelope.

(b) The inspector shall then proceed to read distinctly each office voted for, starting from the top of each paper tape, and the names of the persons for whom votes were cast. If the name of the person voted for is not clear, the inspector and 2 judges shall examine the paper roll and determine, by majority vote, if necessary, the name to be entered on the write-in vote tally sheet. The judge of the opposite political party shall stand or sit with the inspector while the inspector reads off the write-in votes to verify the votes cast.

(c) Two clerks shall account on separate Write-in Vote Tally Sheets for each write-in vote for an office for a candidate on the ballot for that office, a declared write-in candidate for the office or for all other write-in votes for the office as "Other Write-in Candidates."

(d) After the counting is completed, the clerks shall compare their tallies and add up the number of votes cast for each person in the presence of the inspector and judges. They shall then announce the names of the persons voted for and the total number of votes cast for each person. The 1st copy paper tape (with zero count certification) from each voting machine assigned to the election district shall be placed in the envelope and shall be delivered to the Prothonotary.

COUNTING THE BALLOTS GENERALLY:

DEL. CODE tit. 15, § 5701 provides that:

(a) The Superior Court shall convene in each county on the 2nd day after the general election at 10 a.m., for the performance of the duties imposed upon it by § 6 of article V of the Constitution of this State and by this chapter. Thereupon the Court, with the aid of such of its officers and such sworn assistants as it shall appoint, shall publicly ascertain the state of the election throughout the county and in the respective election districts by calculating the aggregate amount of all the votes for each office that shall have been given in all of the election districts of the county for every person voted for such office. For this purpose, the Court shall utilize the voting machine recording tapes, voting machine certificates, absentee vote tally sheets and write-in vote tally sheets for each election district provided by the Prothonotary and the Department of Elections for its county, whose representatives shall sit as observers and assistants to the Court during said calculation of the vote.

(b) For the purposes of this chapter, the Superior Court shall consist in New Castle County of the President Judge and the Resident Judge; in Kent County of the Chancellor and the Resident Judge; and in Sussex County of the Resident Judge and one of the remaining judges. For the purpose of this chapter, the Superior Court in each county, as so constituted, shall be a board of canvass for the respective counties of this State.

COUNTING PROVISIONAL BALLOTS:

DEL. CODE tit. 15, § 4948 states, in relevant part, that:

(h) Tallying provisional ballots.

(1) The day following an election in which provisional ballots were used, the Department of Elections for each county shall meet to examine the provisional ballots, determine which of the ballots should be tallied in accordance with the rules stated below, and then tally those ballots.

(2) The Attorney General shall appoint a Deputy Attorney General to advise each of the Departments of Elections for the counties as requested during the provisional ballot tallying process.

(3) The county chairperson of each political party with a candidate on a provisional ballot within the county may appoint in writing 1 observer to be in the room where provisional ballots are being reviewed and tallied.

(4) The Departments of Elections for each county shall sit until the disposition of every provisional ballot has been determined. Each county Department of Elections shall establish an appropriate schedule of breaks, meals and rest periods.

(5) Where the provisional ballot affidavit is incomplete, the ballot shall be set aside, not opened and the votes not tallied. An incomplete affidavit shall be defined as one that does not include all of the following information: full name, complete address, political party affiliation (primary elections only), and date of birth.

(6) Where the person who voted by provisional ballot did not show suitable identification at the polling place, the ballot shall be set aside, not opened and the votes not tallied.

(7) Provisional ballots cast by persons who are not registered to vote in the state or who are not registered to vote in the election district in which they were cast shall be set aside, not opened and the votes not tallied.

(8) A provisional ballot cast by a person who is registered to vote and who has moved into the election district shall be counted if the person voted at the correct polling place for that person's new address.

(9) Each Department of Elections for a county shall tally the provisional ballots that meet the above criteria. After all of the Provisional Ballots determined as meeting the above criteria have been tallied, the Department of Elections for the county shall deliver 1 copy of the provisional ballot tally sheet for each Election District, all the provisional ballots cast in the election, and all affidavits, envelopes and supporting documentation to the Prothonotary.

(i) Post election processing and notification.

(1) As soon as practical, but not later than 30 days following an election in which provisional ballots were used, the Department of Elections for each county shall enter the appropriate data into a free access system so that a person who voted by Provisional Ballot may determine whether or not that person's ballot was counted, and if it was not counted, the reason or reasons for which it was not counted.

(2) The respective Department of Elections for a county shall use the provisional ballot affidavit as authority to register a person to vote who voted by provisional ballot in an election and who is not already registered to vote providing that the minimum information required to register a person to vote is provided. The provisional ballot envelope shall be used to transfer a registered voter's address and/or update the registered voter's name when the address and/or name is different than the information on the person's voter registration record.

COUNTING ABSENTEE BALLOTS:

DEL. CODE tit. 15, § 4975 provides that:

(a) Any time after all absentee ballots have been voted in accordance with § 5515 of this title and securely deposited in a locked ballot box, the inspector may announce that tabulation of these ballots is to begin. The inspector shall then openly unlock the ballot box containing the absentee ballots. In the presence of the other election officers and the challengers authorized to be in the voting room, the inspector shall then take the envelopes containing the ballots from the box one by one, and remove the ballot from the envelope. Each of the judges shall then examine each ballot. They shall then pass the ballot to the inspector, who shall also examine the ballot. If the ballot is not disputed or disqualified, the inspector shall then read the office for which voted, starting at the top of the ballot, and then the name of the candidate for whom the vote was cast.

(b) The 2 clerks shall keep count of the votes announced by the inspector by individually marking these votes on separate tally sheets. They shall do so by making a distinct mark with a pen in the squares provided on the tally sheet. Each clerk, upon making a mark, shall repeat the name of the person voted for. Each square, when full, shall contain 5 marks. When the clerk

shall make the fifth mark in a square, that clerk shall also call out "tally" and when the clerk makes the first mark in the next square, the clerk shall call out "I on the new."

(c) When all the absentee ballots have been counted, the clerks shall first compare their tallies and shall then add up the total number of votes cast for each candidate, with the inspector and judges observing these procedures.

(d) The total number of votes cast for each candidate for each office shall not be announced whenever the count is made prior to the closing of the polls, but shall be read aloud later after the count shown on the voting machine is announced. Until that time, the count of absentee ballots shall be kept secret by the inspector, judges and clerks and any challenger present.

(e) Whoever, being an election officer or any other person having access to the voting room, discloses any or all portions of the count of absentee votes to any persons, other than a fellow election officer of that district, prior to the closing of the polls shall be fined not less than \$100 and may be imprisoned not more than 1 year.

APPENDIX B: VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS

Registration:

<http://elections.delaware.gov/services/voter/placestoregister.shtml>

Voting by Absentee Ballot:

<http://elections.delaware.gov/services/voter/absenteeballot.shtml>

APPENDIX C: DEPARTMENTS OF ELECTION

New Castle County
Dept of Elections for New Castle County
Carvel State Office Building
820 N. French Street, Ste. 400
Wilmington, Delaware 19801-3531
Telephone: (302) 577-3464 / Fax: (302) 577-6545
Hours: Monday-Friday, from 8 A.M. to 4:30 P.M.
E-mail: anthony.albence@state.de.us
Website: http://www.state.de.us/doe_ncc/default.shtml

Kent County
Department Of Elections for Kent County
100 Enterprise Place
Suite 5
Dover, Delaware 19904
Telephone: (302) 739-4498 / Fax: (302) 739-4515
Hours: Monday-Friday, from 8 A.M. to 4:30 P.M.
Email: JoyceL.Wright@state.de.us
Website: http://www.state.de.us/doe_kent/default.shtml

Sussex County
Sussex County Department Of Elections
119 North Race Street
P.O. Box 457
Georgetown, Delaware 19947
Telephone: (302) 856-5367 / Fax: (302) 856-5082
Hours: Monday-Friday, from 8 A.M. to 4:30 P.M.
E-mail: kenneth.l.mcdowell@state.de.us
Website: <http://electionssc.delaware.gov/default.shtml>

APPENDIX D: 2008 ELECTION CALENDARS

2008 Presidential Primary Election Calendar:

<http://elections.delaware.gov/events.shtml>

2008 General Election Calendar:

<http://elections.delaware.gov/events.shtml>

APPENDIX E: RESTORING YOUR RIGHT TO VOTE

If a Delaware resident has been convicted of a felony, that person has the right to vote if they meet certain requirements:

- a. If the resident has been pardoned, or if five years must have passed since all provisions of the sentence, including suspended sentence, probation, parole and paying restitution; and
- b. After automatic restoration of voting rights or a pardon has occurred, the individual has timely registered to vote.

APPENDIX F: PROVISIONAL BALLOT AFFIRMATION FORM AND VERIFICATION STATEMENT

It does not appear as though there is a Provisional Ballot Affirmation Form and Verification Statement available for the state of Delaware. However, a voter will be asked to present proof of identity and address to the election officers. The type of ID shown by the voter shall be annotated on the provisional ballot envelope, and if not such ID is shown, that too will be noted on the envelope. Further, provisional ballots in Delaware shall be, to the extent possible, as much as possible in the same form as absentee ballots except that only federal offices shall be listed and they shall be labeled as provisional ballots. Source: DEL. CODE, tit. 15, §4948.

APPENDIX G: CHALLENGE QUESTIONS

It does not appear that there are statutorily prescribed challenge questions to be asked by judges when a person is challenged as unqualified on the ground that the person is not a citizen.