Legislative Council,
General Assembly
State of Delaware

# Title 15

# Elections

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# Part I
# Administrative Agencies
## Chapter 1
## Purpose and Meaning of Election Laws

### § 100. Democracy canon [Effective July 1, 2027].

In furtherance of the purpose of this chapter, this title, and the protections for equal elections and for protected classes in the Delaware Constitution, all statutes, rules, and regulations and political subdivision charters, laws, ordinances, and rules related to the elective franchise must be construed liberally in favor of protecting and making accessible the right of people to register to vote and have their ballot cast and counted. To the extent courts are afforded discretion on any issue, including, questions concerning discovery, procedure, admissibility of evidence, or remedies, it is the policy of this State that courts must exercise that discretion, and weigh other equitable discretion, in favor of all of the following factors:

(1) Making the fundamental right to vote and ability to participate in the democratic process more accessible to eligible voters.

(2) Safeguarding and vindicating, to the fullest extent possible, the voting rights of protected class members, including equitable access to opportunities to register to vote, cast a vote, and the equal opportunity to elect candidates of choice.

(3) Ensuring protected class members have full access to relief from discrimination in voting.

(85 Del. Laws, c. 421, § 2.)

### § 101. Definitions [Effective until July 1, 2027].

For purposes of this title:

(1) “Adjudicate” means to determine how a person intended to vote on a ballot.

(2) a. “Ballot” means the physical or electronic document that a voter uses to identify the candidates for whom the person is voting or how the person is voting on a ballot question in a referendum election. A “ballot” may be further classified as follows:

1. “Absentee ballot” means a ballot that allows a voter to vote in an election without voting in-person at a polling place.

2. “Primary ballot” means a ballot prepared for or used in a primary election.

3. “Provisional ballot” means a ballot used by an individual whose eligibility to vote in that election has not been determined at the time of voting. A “provisional ballot” indicates the votes cast by an individual if the individual’s eligibility to vote is confirmed.

4. “Rejected ballot” means a ballot that the Department determined is invalid or invalidly cast.

5. “Voided ballot” or “spoiled ballot” means a ballot that is declared void by the voter or the Department after the ballot was issued to a voter but before the ballot was cast.

6. “Voted ballot” means a ballot that has been cast.

b. When used with a “ballot” , the following verbs mean as follows:

1. “Cast” means to submit a ballot to the Department in an election with the intent that the votes indicated on the ballot be counted when the results of the election are tabulated. “Cast a vote” means to “cast a ballot.”

2. “Cure” means that a voter corrects an error or omission on a ballot that if not corrected, would result in a rejected ballot.

(3) “Ballot question” means a proposal or other question submitted to voters at a referendum election.

(4) “Ballot stock” means a physical object intended for use as a ballot but on which the ballot has not yet been printed.

(5) “Board of Elections” or “Board” means that body of individuals appointed by the Governor and confirmed by the Senate to serve or who otherwise serve as the State Board of Elections in accordance with Chapter 2 of this title, and are, as such, vested with the responsibility and power to see to the administration of the election laws of this State as more particularly defined in this title.

(6) “Candidate” means an individual seeking public office.

(7) “Clerk” means clerk of election.

(8) “Commissioner” means the individual appointed as the State Election Commissioner under Chapter 3 of this title.

(9) “County committee” means the regularly organized and constituted county committee or governing authority of a political party.

(10) “Department” means the State Department of Elections, including the Commissioner, county directors, county deputy directors, and Department employees. “Department” does not include the Board of Elections.

(11) “Election” means an organized contest to select an individual to hold a specific office or to make a collective choice with respect to a specified question. “Election” may be further classified as follows:

a. “General election” means an election of final determination with respect to 1 or more offices.

b. “Municipal election” means an election conducted under a municipal charter or under Chapter 75 of this title.

c. “Primary election” means an election at which voters affiliated with a major political party may vote to determine the nominees of that political party for offices at a general election. When used as a noun, “primary” means “primary election.”

d. “Primary or general election” means a primary election or a general election.

e. “Referendum election” means an election that asks voters to indicate a choice of for or against, in response to 1 or more ballot questions, including questions about tax levies, issuing bonds, or annexation. A “referendum election” does not include the selection of a candidate for office.

f. “Scheduled election” means an election that is conducted at a regular interval on a day specified under law.

g. “School district election” means an election conducted under Title 14. A “school district election” may be a scheduled election to select individuals to serve on the board of a school district or a referendum election.

h. “Special election” means an election to fill a vacancy that is conducted under a writ of election.

(12) “Election District Record” shall no longer mean the binders which contain, among other information, voter registration record (sometimes referred to as “Blues”), and shall hereafter mean the electronic records or the print out reflecting said electronic records as designated by the Department of Elections.

(13) “Election management system” means the computer software programs, computer modules, and databases used and managed by the Department to administer elections under this title.

(14) “Election officers” means the inspector of election, the 2 judges of election and the clerks of election who are appointed for each election district under § 4702 of this title.

(15) “General election year” means a year in which a general election must be held under § 1 of Article V of the Delaware Constitution.

(16) “Independent,” “decline” or words equivalent thereto means any person who at the time of registration does not choose to be affiliated with a political party as defined in this section.

(17) “Inspector” means inspector of elections.

(18) “Judge” means judge of elections.

(19) “Local office” means any political district smaller than the State, including municipal, county, state representative or state senatorial.

(20) “Mobile registration” means any voter registration sponsored or conducted by the Department of Elections outside of any office of the Department.

(21) “Party” or “political party” means any political organization which elects a state committee and officers of a state committee, by a state convention composed of delegates elected from each representative district in which the party has registered members, and which nominates candidates for electors of President and Vice-President, or nominates candidates for offices to be decided at the general election. All political parties shall be divided into 2 classes:

a. “Major political party” means any political party which, as of December 31 of the year immediately preceding any general election year, has registered in the name of that party voters equal to at least 5 percent of the total number of voters registered in the State.

b. “Minor political party” means any political party which does not qualify as a major political party.

(22) “Principal political parties” or words equivalent thereto will be the 2 political parties which have the highest total voter registration in this State.

(23) “Protective counter” means a separate counter built into the voting machine, which cannot be reset, which records the total number of movements of the operating lever.

(24) “Registered voter” means an individual on the Department’s voter registration list.

(25) “Registration list” or “voter registration list” means the list of individuals registered with the Department to vote. The “registration list” is prepared by the Department from the voter registration records maintained in the election management system.

(26) “Registration officers” means the registrar, assistant registrar and alternate registrars appointed by the Department as defined in this section.

(27) “Registration record” or “voter registration record” means the information about an individual collected by the Department and maintained in the election management system, including all of the following:

a. Information collected through the individual’s voter registration application.

b. Information collected after the individual’s initial voter registration application.

c. If the individual has qualified to permanently vote on an absentee basis.

d. A record of each election in which the individual has voted.

(28) “Reports Appeals Subcommittee” or “Subcommittee” means the Reports Appeals Subcommittee of the State Board of Elections.

(29) “Signature” means both a written signature conforming to § 302(23) of Title 1 and a digital or electronic signature that is an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document as specified by the State Election Commissioner.

(30) “State chair” means the highest executive officer of a political party of this State.

(31) “State committee” means the regularly organized and constituted statewide governing authority of a political party in this State.

(32) “Tabulation” means to count votes and includes all of the following:

a. Counting all ballots or votes.

b. Recording the numbers of votes cast by ballots.

c. Confirming the count of ballots or votes.

(33) “Unaffiliated candidate” means any individual who files a declaration as a candidate for any office to be decided at the general election and who is not affiliated with any political party and has not been thus affiliated for at least 3 months prior to the filing of that individual’s declaration.

(34) “Voting device” means equipment that allows a voter to cast a ballot and records that vote.

(35) “Voting equipment” means equipment, including hardware, firmware, software, machines, and voting devices, that performs 1 or more of the following functions:

a. Allows a voter to cast a vote.

b. Tabulates votes.

c. Provides a definitive voter registration list to a poll worker.

(15 Del. C. 1953, § 101; 49 Del. Laws, c. 4, § 5; 57 Del. Laws, c. 181, § 1; 57 Del. Laws, c. 567, §§ 1, 1A, 2; 57 Del. Laws, c. 695, § 1; 58 Del. Laws, c. 148, §§ 1, 2; 60 Del. Laws, c. 414, § 1; 60 Del. Laws, c. 446, §§ 1, 2; 61 Del. Laws, c. 418, §§ 3-5; 61 Del. Laws, c. 480, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 505, § 1; 75 Del. Laws, c. 232, §§ 1, 2; 77 Del. Laws, c. 227, § 2; 78 Del. Laws, c. 304, § 1; 79 Del. Laws, c. 275, § 1; 80 Del. Laws, c. 394, § 1; 82 Del. Laws, c. 170, § 1; 85 Del. Laws, c. 313, § 1; 85 Del. Laws, c. 422, § 1.)

## § 101. Definitions [Effective July 1, 2027].

For purposes of this title:

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(2) a. “Ballot” means the physical or electronic document that a voter uses to identify the candidates for whom the person is voting or how the person is voting on a ballot question in a referendum election. A “ballot” may be further classified as follows:

1. “Absentee ballot” means a ballot that allows a voter to vote in an election without voting in-person at a polling place.

2. “Primary ballot” means a ballot prepared for or used in a primary election.

3. “Provisional ballot” means a ballot used by an individual whose eligibility to vote in that election has not been determined at the time of voting. A “provisional ballot” indicates the votes cast by an individual if the individual’s eligibility to vote is confirmed.

4. “Rejected ballot” means a ballot that the Department determined is invalid or invalidly cast.

5. “Voided ballot” or “spoiled ballot” means a ballot that is declared void by the voter or the Department after the ballot was issued to a voter but before the ballot was cast.

6. “Voted ballot” means a ballot that has been cast.

b. When used with a “ballot” , the following verbs mean as follows:

1. “Cast” means to submit a ballot to the Department in an election with the intent that the votes indicated on the ballot be counted when the results of the election are tabulated. “Cast a vote” means to “cast a ballot.”

2. “Cure” means that a voter corrects an error or omission on a ballot that if not corrected, would result in a rejected ballot.

(3) “Ballot question” means a proposal or other question submitted to voters at a referendum election.

(4) “Ballot stock” means a physical object intended for use as a ballot but on which the ballot has not yet been printed.

(5) “Board of Elections” or “Board” means that body of individuals appointed by the Governor and confirmed by the Senate to serve or who otherwise serve as the State Board of Elections in accordance with Chapter 2 of this title, and are, as such, vested with the responsibility and power to see to the administration of the election laws of this State as more particularly defined in this title.

(6) “Candidate” means an individual seeking public office.

(7) “Clerk” means clerk of election.

(8) “Commissioner” means the individual appointed as the State Election Commissioner under Chapter 3 of this title.

(9) “County committee” means the regularly organized and constituted county committee or governing authority of a political party.

(10) “Department” means the State Department of Elections, including the Commissioner, county directors, county deputy directors, and Department employees. “Department” does not include the Board of Elections.

(11) “Election” means an organized contest to select an individual to hold a specific office or to make a collective choice with respect to a specified question. “Election” may be further classified as follows:

a. “General election” means an election of final determination with respect to 1 or more offices.

b. “Municipal election” means an election conducted under a municipal charter or under Chapter 75 of this title.

c. “Primary election” means an election at which voters affiliated with a major political party may vote to determine the nominees of that political party for offices at a general election. When used as a noun, “primary” means “primary election.”

d. “Primary or general election” means a primary election or a general election.

e. “Referendum election” means an election that asks voters to indicate a choice of for or against, in response to 1 or more ballot questions, including questions about tax levies, issuing bonds, or annexation. A “referendum election” does not include the selection of a candidate for office.

f. “Scheduled election” means an election that is conducted at a regular interval on a day specified under law.

g. “School district election” means an election conducted under Title 14. A “school district election” may be a scheduled election to select individuals to serve on the board of a school district or a referendum election.

h. “Special election” means an election to fill a vacancy that is conducted under a writ of election.

(12) “Election District Record” shall no longer mean the binders which contain, among other information, voter registration record (sometimes referred to as “Blues”), and shall hereafter mean the electronic records or the print out reflecting said electronic records as designated by the Department of Elections.

(13) “Election management system” means the computer software programs, computer modules, and databases used and managed by the Department to administer elections under this title.

(14) “Election officers” means the inspector of election, the 2 judges of election and the clerks of election who are appointed for each election district under § 4702 of this title.

(15) “Election policy or practice” means any qualification to be an elector, prerequisite to voting, method of election, or any other law, statute, ordinance, resolution, charter or code provision, regulation, rule, policy, practice, procedure, standard, or any other action with respect to voting, electoral or jurisdictional boundaries, or the administration or schedule of elections.

(16) “General election year” means a year in which a general election must be held under § 1 of Article V of the Delaware Constitution.

(17) “Independent,” “decline” or words equivalent thereto means any person who at the time of registration does not choose to be affiliated with a political party as defined in this section.

(18) “Inspector” means inspector of elections.

(19) “Judge” means judge of elections.

(20) “Limited English proficient individuals” or “LEP individuals” means individuals who speak, read, or understand the English language less than “very well,” according to the United States Census Bureau data or data of comparable quality collected by a governmental entity, including as self-reported by such persons to a governmental entity.

(21) “Local office” means any political district smaller than the State, including municipal, county, state representative or state senatorial.

(22) “Method of election” means the manner or mechanism by which candidates are elected to a governmental body of a political subdivision, and includes any at-large, district-based, proportional, semi-proportional, or other method of election, as well as any districting or redistricting plan used to elect candidates to the governmental body.

(23) “Mobile registration” means any voter registration sponsored or conducted by the Department of Elections outside of any office of the Department.

(24) “Party” or “political party” means any political organization which elects a state committee and officers of a state committee, by a state convention composed of delegates elected from each representative district in which the party has registered members, and which nominates candidates for electors of President and Vice-President, or nominates candidates for offices to be decided at the general election. All political parties shall be divided into 2 classes:

a. “Major political party” means any political party which, as of December 31 of the year immediately preceding any general election year, has registered in the name of that party voters equal to at least 5 percent of the total number of voters registered in the State.

b. “Minor political party” means any political party which does not qualify as a major political party.

(25) “Polarized voting” means voting in which there is a divergence in the candidate preferences, political preferences, or electoral choices, including any question submitted to the voters, of members of a protected class, including the combined preferences of a protected class comprised of 2 or more groups of voters, from the candidate preferences, political preferences, or electoral choices of members of another protected class or set of protected classes.

(26) “Political subdivision” refers to all political districts included in the definition of “local office” except state representative or state senatorial districts. “Political subdivision” also refers to all governmental entities that administer elections or any election officers of such entity. “Political subdivision” includes a reorganized school district.

(27) “Principal political parties” or words equivalent thereto will be the 2 political parties which have the highest total voter registration in this State.

(28) “Protected class” means any group of individuals who are members of any racial, color or language minority, including, but not limited to, a class of 2 or more such groups, and includes individuals who are members of a minimum reporting category that has been officially recognized by the United States Census Bureau.

(29) “Protective counter” means a separate counter built into the voting machine, which cannot be reset, which records the total number of movements of the operating lever.

(30) “Registered voter” means an individual on the Department’s voter registration list.

(31) “Registration list” or “voter registration list” means the list of individuals registered with the Department to vote. The “registration list” is prepared by the Department from the voter registration records maintained in the election management system.

(32) “Registration officers” means the registrar, assistant registrar and alternate registrars appointed by the Department as defined in this section.

(33) “Registration record” or “voter registration record” means the information about an individual collected by the Department and maintained in the election management system, including all of the following:

a. Information collected through the individual’s voter registration application.

b. Information collected after the individual’s initial voter registration application.

c. If the individual has qualified to permanently vote on an absentee basis.

d. A record of each election in which the individual has voted.

(34) “Reports Appeals Subcommittee” or “Subcommittee” means the Reports Appeals Subcommittee of the State Board of Elections.

(35) “Signature” means both a written signature conforming to § 302(23) of Title 1 and a digital or electronic signature that is an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document as specified by the State Election Commissioner.

(36) “State chair” means the highest executive officer of a political party of this State.

(37) “State committee” means the regularly organized and constituted statewide governing authority of a political party in this State.

(38) “Tabulation” means to count votes and includes all of the following:

a. Counting all ballots or votes.

b. Recording the numbers of votes cast by ballots.

c. Confirming the count of ballots or votes.

(39) “Unaffiliated candidate” means any individual who files a declaration as a candidate for any office to be decided at the general election and who is not affiliated with any political party and has not been thus affiliated for at least 3 months prior to the filing of that individual’s declaration.

(40) “Voting device” means equipment that allows a voter to cast a ballot and records that vote.

(41) “Voting equipment” means equipment, including hardware, firmware, software, machines, and voting devices, that performs 1 or more of the following functions:

a. Allows a voter to cast a vote.

b. Tabulates votes.

c. Provides a definitive voter registration list to a poll worker.

(15 Del. C. 1953, § 101; 49 Del. Laws, c. 4, § 5; 57 Del. Laws, c. 181, § 1; 57 Del. Laws, c. 567, §§ 1, 1A, 2; 57 Del. Laws, c. 695, § 1; 58 Del. Laws, c. 148, §§ 1, 2; 60 Del. Laws, c. 414, § 1; 60 Del. Laws, c. 446, §§ 1, 2; 61 Del. Laws, c. 418, §§ 3-5; 61 Del. Laws, c. 480, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 505, § 1; 75 Del. Laws, c. 232, §§ 1, 2; 77 Del. Laws, c. 227, § 2; 78 Del. Laws, c. 304, § 1; 79 Del. Laws, c. 275, § 1; 80 Del. Laws, c. 394, § 1; 82 Del. Laws, c. 170, § 1; 85 Del. Laws, c. 313, § 1; 85 Del. Laws, c. 422, § 1; 85 Del. Laws, c. 421, § 1.)

## § 101A. Purpose [Effective until July 1, 2027].

The purpose of this title is to assure the people’s right to free and equal elections, as guaranteed by our state Constitution. To that end, the full exercise of that right demands that the people be afforded the means to form political parties, nominate candidates and cast ballots for whomever they choose. At the same time, however, lengthy ballots which list a profusion of political parties and unaffiliated candidates, many of which are not serious contenders and lack even a modicum of community support, tend to create voter confusion and to clog the election machinery.

To secure the right to free and equal elections and to preserve the integrity of the democratic political process, it is essential that an orderly system be established:

(1) For the registration of voters and the preservation of voter registration records;

(2) To encourage public participation in political parties and to demonstrate sufficient community support of these parties by permitting voters to affiliate with the party of their choice, if they so desire, on their voter registration records;

(3) To provide a means by which political parties and unaffiliated candidates, which have demonstrated a meaningful level of community support, may qualify for listing on the general election ballot;

(4) For the orderly and fair selection of party nominees by primary election or political party convention, and for the filling of vacancies among such nominees;

(5) To provide for the free exercise of the write-in vote for both politically affiliated and unaffiliated candidates who may not qualify for listing on the general election ballot;

(6) For the conduct of primary and general elections;

(7) For the certification of election results and the resolution of election contests;

(8) To provide criminal penalties and civil liability for violation of the laws set forth in this title;

(9) To provide for all such other matters, related to the electoral process, as may be set forth herein.

(61 Del. Laws, c. 418, § 2.)

## § 101A. Purpose [Effective July 1, 2027].

(a) The purpose of this title is to assure the people's right to free and equal elections, as guaranteed by our state Constitution. To that end, and in furtherance of the protections for protected classes provided by § 21 of Article 1 of the Delaware Constitution and of the power granted to the General Assembly in § 1, Article 5 of the Delaware Constitution, it is the public policy of this State to encourage participation in the elective franchise by all eligible voters to the maximum extent and ensure that eligible voters who are members of racial, color, and language-minority groups have an equal opportunity to participate in the political processes of this State, and especially to exercise the elective franchise. The full exercise of that right demands that the people be afforded the means to form political parties, nominate candidates, and cast ballots for whomever they choose. At the same time, however, lengthy ballots which list a profusion of political parties and unaffiliated candidates, many of which are not serious contenders and lack even a modicum of community support, tend to create voter confusion and to clog the election machinery.

(b) To secure the right to free and equal elections, ensure that voters who are members of racial, color, and language-minority groups, as well as voters with disabilities, have an equal opportunity to participate, and to preserve the integrity of the democratic political process, it is essential that an orderly and equally open system be established:

(1) For the registration of voters and the preservation of voter registration records;

(2) To encourage public participation in political parties and to demonstrate sufficient community support of these parties by permitting voters to affiliate with the party of their choice, if they so desire, on their voter registration records;

(3) To provide a means by which political parties and unaffiliated candidates, which have demonstrated a meaningful level of community support, may qualify for listing on the general election ballot;

(4) For the orderly and fair selection of party nominees by primary election or political party convention, and for the filling of vacancies among such nominees;

(5) To provide for the free exercise of the write-in vote for both politically affiliated and unaffiliated candidates who may not qualify for listing on the general election ballot;

(6) For the conduct of primary and general elections;

(7) For the certification of election results and the resolution of election contests;

(8) To provide criminal penalties and civil liability for violation of the laws set forth in this title;

(9) To provide for all such other matters, related to the electoral process, as may be set forth herein.

(61 Del. Laws, c. 418, § 2; 85 Del. Laws, c. 421, § 2.)

## § 102. Deadline interpretation in this title.

Except for deadlines that are specifically set on a Saturday, Sunday or a holiday, all deadlines in this title that fall on a Saturday, Sunday or holiday shall be the next official business day at 4:30 p.m.

(76 Del. Laws, c. 197, § 1.)

## § 103. Residence.

(a) (1) For purposes of this title or a school district election, an individual's place of residence is the place in which that individual's habitation is fixed, and to which that individual has an articulable and reasonable intention of returning whenever the individual is absent.

(2) A location can only be an individual's place of residence if the individual physically inhabits the location with the intention to remain at that place of residence indefinitely or for a fixed period of time. An individual cannot gain residency at a location that the individual has not actually, physically inhabited, regardless of whether the individual owns the real property at the location or intends to inhabit the location indefinitely in the future.

(3) If an individual maintains possession of the individual's place of residence, obtaining a secondary residence is not prima facie evidence of a change of residence.

(b) Residence must be broadly construed to provide all eligible voters with the opportunity to participate in the democratic process. If an individual's residence is not a traditional residence associated with real property, the individual's place of residence is the individual's usual sleeping area or place of habitation.

(1) If an election district boundary crosses an individual's place of habitation, the individual is a resident of the election district that contains a majority of the area in that place of habitation. An accurate and current satellite map or other similar presentation of an individual's place of habitation and the election district boundary line is prima facie evidence of the geographic location of an individual's place of habitation.

(2) a. If there are multiple places of habitation to which an individual has the intention of returning, the individual's residence is the place of habitation where the individual resides most often.

b. The address on an individual's driver's license or state identification card is prima facia evidence of the place of habitation where the individual resides most often.

(c) If an individual maintains a reasonable and articulable intent to return to the individual's community, an individual does not lose their place of residence or become a resident at new location, solely on the basis that the individual relocates for any of the following reasons:

(1) Attending a residential educational program, including postsecondary education and job training.

(2) Military service or other government employment.

(3) Incarceration.

(4) AmeriCorps, Peace Corps, or similar service organizations.

(5) Obtaining or providing medical care.

(d) Notwithstanding subsection (c) of this section and regardless of whether the individual maintains an intention to return to their original community in the future, an individual's place of residence changes and the individual establishes a new place of residence if the individual takes any of the following actions:

(1) Inhabits a new location with the intention of remaining at the new location indefinitely.

(2) Registers to vote based upon residence at a new location.

(3) Votes based upon residence at a new location.

(e) (1) a. If an individual disputes the determination of the individual's place of residence for purposes of registering to vote or voting, the individual may submit a written appeal of that determination to the Commissioner. The Commissioner may request documentation or other evidence in connection with this appeal.

b. The Commissioner shall promptly provide a written opinion on the individual's place of residence and the Commissioner's written opinion is the final determination of the individual's place of residence for purposes of that dispute.

(2) A dispute regarding candidate residency requirements is resolved under § 3114 of this title.

(85 Del. Laws, c. 313, § 1.)

### §§ 104-120.

Transferred.

# Part I
# Administrative Agencies
## Chapter 2
## Department of Elections

### § 201. State Department of Elections.

There is hereby established a State Department of Elections, which shall be vested with all of the powers and duties previously vested in the respective departments of elections for New Castle County, Kent County and Sussex County, as well as such other powers and duties as set forth in this title.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 1; 22 Del. Laws, c. 70, § 5; Code 1915, § 1658; Code 1935, §§ 1745, 1745A; 42 Del. Laws, c. 115, §§ 1, 2; 45 Del. Laws, c. 148, § 1; 45 Del. Laws, c. 149, § 1; 15 Del. C. 1953, § 102; 50 Del. Laws, c. 357, § 1; 50 Del. Laws, c. 429, § 1; 50 Del. Laws, c. 546, § 2; 50 Del. Laws, c. 549, § 2; 61 Del. Laws, c. 418, § 1; 79 Del. Laws, c. 275, § 2.)

### § 201A. Transfers and continuity.

(a) All books, records, papers, and other materials and equipment in the possession of any county department of elections required to be maintained or preserved under existing law, regulation, or policy shall be delivered into the custody of the State Department of Elections by no later than July 1, 2015. For purposes of this section, the term "county department of elections" shall include the board of elections for such county.

(b) Any duty, responsibility, action, or other activity (including without limitation any investigation, petition, hearing, or other legal proceeding) pending before or instituted by any county department of elections and not concluded prior to July 1, 2015, shall continue unabated and remain in full force and effect, and, where necessary, may be completed before, by, or in the name of the Department. All orders, rules, and regulations made by any county department of elections that are in effect on July 1, 2015, shall remain in full force and effect until revoked or modified by the Department in accordance with applicable law. All contracts and obligations of any county department of elections that are in force on July 1, 2015, shall remain in full force and effect and unless revoked, modified, or terminated by the Department in accordance with applicable law.

(c) Employees of any county department of elections whose functions are consistent with and have been transferred to the Department by this chapter shall continue and be deemed to be the employees of the Department on July 1, 2015, and, where applicable, with all the benefits accrued as merit employees as of July 1, 2015.

(d) All definitions and references to any commission, board, department, council or agency which appear in any other act or law, to the extent they are consistent with this title and in connection with a function transferred by this chapter to the Department, shall be construed as referring and relating to the Department as created and established by this chapter.

(e) All definitions and references to any director, commissioner, executive secretary, commission, board or council member or other similar person which appear in any other act or law shall, to the extent they are consistent with this title and in connection with a function transferred by this chapter to the Department, shall be construed as referring or relating to such person or persons and their powers, duties and functions as established and created by this chapter.

(79 Del. Laws, c. 275, § 3.)

### § 202. State Board of Elections.

(a) The State Board of Elections shall consist of 11 members, including 2 members from Sussex County; 2 members from Kent County; 2 members from New Castle County; 2 members from the City of Wilmington; 2 at-large members; and the State Election Commissioner, who shall serve as an ex officio member subject to the limitations set forth in § 302 of this title. 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 in each county, in the City of Wilmington, and among the at-large members.

(b) In carrying out this section, the Governor shall appoint 10 members. The Governor shall initially 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 appointed 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. 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. Provided the General Assembly is in session, 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 other than the State Election Commissioner 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.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, §§ 1, 2; 22 Del. Laws, c. 70, §§ 1, 3; Code 1915, §§ 1658, 1659; 40 Del. Laws, c. 141, § 1; Code 1935, §§ 1745, 1745A, 1746; 42 Del. Laws, c. 115, §§ 1-3; 45 Del. Laws, c. 147, § 1; 15 Del. C. 1953, § 103; 54 Del. Laws, c. 163, § 1; 55 Del. Laws, c. 334, § 1; 57 Del. Laws, c. 181, § 2; 58 Del. Laws, c. 148, §§ 3, 4; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 391, § 1; 79 Del. Laws, c. 275, § 4.)

## § 203. State Board of Elections; powers and duties.

There is hereby established a State Board of Elections, which shall have all of the powers and duties previously vested in the Board of Elections for New Castle County, the Board of Elections for Kent County, and the Board of Elections for Sussex County, as well as such other powers and duties as set forth in this title.

(45 Del. Laws, c. 148, §§ 1, 2, 4, 5; 45 Del. Laws, c. 149, §§ 1, 2, 4, 5; 15 Del. C. 1953, § 104; 54 Del. Laws, c. 163, § 1; 55 Del. Laws, c. 334, § 2; 57 Del. Laws, c. 181, § 3; 58 Del. Laws, c. 148, § 5; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 391, § 1; 79 Del. Laws, c. 275, § 5.)

## § 204. Qualifications of members.

No person shall be appointed as a member of the State Board of Elections who is not a citizen of the United States and a resident of the county for which that person is appointed (or a resident of this State for at-large members) and who has not resided therein for 1 year next preceding that person's appointment. No member of the 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.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 105; 50 Del. Laws, c. 82, § 1; 55 Del. Laws, c. 280; 57 Del. Laws, c. 181, § 4; 58 Del. Laws, c. 148, § 6; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 6.)

## § 205. Confirmation or rejection of appointments.

The Senate shall either confirm or reject any appointment under § 202 of this title within 10 legislative days of its receipt or said appointment is deemed confirmed.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 2; 45 Del. Laws, c. 149, § 2; 15 Del. C. 1953, § 106; 50 Del. Laws, c. 357, § 1; 50 Del. Laws, c. 429, § 1; 50 Del. Laws, c. 546, § 2; 50 Del. Laws, c. 549, § 2; 52 Del. Laws, c. 130, § 3; 54 Del. Laws, c. 163, § 1; 57 Del. Laws, c. 181, § 5; 61 Del. Laws, c. 418, § 1; 79 Del. Laws, c. 275, § 6.)

## § 206. Oath.

Each member of the Board, before entering upon that member's duties and within 10 days from the time of that member's appointment, shall take and subscribe to the oath or affirmation prescribed by the Constitution and shall record the same in the office of the recorder of the county of the member's residence.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; 22 Del. Laws, c. 70, § 6; Code 1915, § 1659; 40 Del. Laws, c. 140, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 107; 58 Del. Laws, c. 148, § 7; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 6.)

## § 207. Compensation of members.

The compensation of Board members shall be as provided in the Budget Act; provided, however, that no Board member shall receive compensation for any Board meeting for which such member was not in attendance. In addition, the State Election Commissioner shall not be entitled to any additional compensation by virtue of his or her service as an ex officio member of the Board.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 108; 50 Del. Laws, c. 357, § 4; 50 Del. Laws, c. 429, § 6; 50 Del. Laws, c. 546, § 1; 50 Del. Laws, c. 549, § 1; 54 Del. Laws, c. 364, § 1; 58 Del. Laws, c. 148, § 8; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 3; 79 Del. Laws, c. 275, § 6.)

## § 208. Organization meeting; officers.

(a) The Board shall establish a schedule of meetings for the following calendar year at a regularly scheduled meeting of the Board held between October 1 and December 31. Once established, the aforesaid schedule shall be subject to change by the Board.

(b) The schedule shall include an organizational meeting that shall be held between February 1 and June 30 of each year at which time the members of the Board shall meet and organize by electing 1 member to be president and 1 member to be secretary, whose function other than that of a member shall be to record the minutes of the meetings of the Board. The terms of office for each officer shall be until the organizational meeting held in the following year or until a successor is elected.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; 22 Del. Laws, c. 70, § 6; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 109; 50 Del. Laws, c. 545, § 4; 50 Del. Laws, c. 557, § 1; 57 Del. Laws, c. 181, § 6; 58 Del. Laws, c. 148, § 9; 61 Del. Laws, c. 418, § 1; 72 Del. Laws, c. 275, § 9; 77 Del. Laws, c. 227, § 4; 79 Del. Laws, c. 275, § 6.)

## § 209. Quorum.

A quorum of 6 members shall be required for the transaction of any business by the State Board of Elections. A meeting of the Subcommittee, which is comprised of 6 members of the Board, does not constitute a quorum of the Board under this section.

(22 Del. Laws, c. 70, § 6; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 110; 57 Del. Laws, c. 181, § 7; 58 Del. Laws, c. 148, § 10; 61 Del. Laws, c. 418, § 1; 79 Del. Laws, c. 275, § 6; 80 Del. Laws, c. 394, § 2.)

## § 210. Rules.

The Board may make rules for its government not inconsistent with the Constitution or any law of this State.

(22 Del. Laws, c. 70, § 6; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 111; 57 Del. Laws, c. 181, § 8; 58 Del. Laws, c. 148, § 11; 61 Del. Laws, c. 418, § 1; 79 Del. Laws, c. 275, § 6.)

## § 211. County directors, deputy county directors; powers, duties, qualifications, compensation.

(a) For each county, the State Board of Elections shall appoint:

(1) A county director who shall be a member of the same political party as the State Election Commissioner and who shall serve at the pleasure of the Board;

(2) A deputy county director who shall be nominated and elected by the members of the Board of the opposite political party of the State Election Commissioner and who shall serve at the pleasure of same. In the nomination and election of a deputy county director, § 209 of this title shall not be applicable.

(b) Each county director shall assist the Department of Elections in carrying out its duties and responsibilities in the county for which the county director is appointed and, subject to the policies and directives of the Board, shall see to it that the work of the Department in such county is performed in a proper and nonpartisan manner.

(c) Each deputy county director shall assist the county director in the county for which such deputy county director is appointed.

(d) Each county director and deputy county director shall be a citizen of the United States and a qualified elector of the county in which he or she serves.

(e) The salary of each county director and deputy county director shall be as provided in the Budget Act and shall be uniform for each county.

(f) The county director and deputy county director of a county, if in agreement, may authorize a person to vote whose application to register to vote at the Division of Motor Vehicles was never completed as required elsewhere in this title. The person shall follow the procedures set forth by the State Election Commissioner prior to being permitted to vote.

(g) Notwithstanding any provision to the contrary herein, those persons who held the positions of director and deputy director, respectively, of each county department of elections immediately prior to July 1, 2015, shall assume automatically the position of county director and deputy county director, respectively, in the county for which he or she was appointed. Each initial county director and initial deputy county director shall be bound by and subject to the provisions of this section, and to this title generally, to the same extent as if he or she was appointed by the Board in accordance with this section.

(19 Del. Laws, c. 39, § 2; 21 Del. Laws, c. 40, § 2; Code 1915, § 1659; 40 Del. Laws, c. 141, § 1; Code 1935, § 1746; 42 Del. Laws, c. 115, § 3; 45 Del. Laws, c. 147, § 1; 45 Del. Laws, c. 148, § 5; 45 Del. Laws, c. 149, § 5; 15 Del. C. 1953, § 112; 50 Del. Laws, c. 630, § 1; 57 Del. Laws, c. 181, § 9; 58 Del. Laws, c. 148, §§ 12-14; 58 Del. Laws, c. 571; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, §§ 1, 5, 6; 79 Del. Laws, c. 275, § 7.)

## § 212. Office; equipment and supplies.

The Department shall occupy a suitable and convenient office in the courthouse or public building of each county, or elsewhere in the county seat of each county, and shall obtain whatever furniture, equipment and supplies that may be necessary to properly carry out its duties.

(21 Del. Laws, c. 40, § 5; Code 1915, § 1660; Code 1935, § 1747; 42 Del. Laws, c. 115, § 4; 45 Del. Laws, c. 147, § 2; 45 Del. Laws, c. 148, § 7; 45 Del. Laws, c. 149, § 7; 15 Del. C. 1953, § 113; 61 Del. Laws, c. 418, § 1; 61 Del. Laws, c. 480, § 2; 79 Del. Laws, c. 275, § 8.)

## § 213. Employees; duties and compensation.

(a) The Board may hire such employees as it may deem necessary for the performance by the Department of its duties.

(b) The duties of such employees and the duties of any investigator appointed by the State Election Commissioner pursuant to § 302(14) of this title hereof, shall be prescribed by the Board and the compensation fixed by the Secretary of the Department of Human Resources.

(c) The employees of the Department shall be placed under the state merit system but subject to all provisions of this title.

(21 Del. Laws, c. 40, § 3; Code 1915, § 1664; 40 Del. Laws, c. 141, § 3; Code 1935, § 1751; 45 Del. Laws, c. 147, § 4; 45 Del. Laws, c. 148, § 7; 45 Del. Laws, c. 149, § 7; 15 Del. C. 1953, § 114; 57 Del. Laws, c. 181, § 10; 61 Del. Laws, c. 418, § 1; 75 Del. Laws, c. 88, § 20(3); 77 Del. Laws, c. 227, §§ 7, 8; 79 Del. Laws, c. 275, § 8; 81 Del. Laws, c. 66, § 11.)

## § 214. Maps.

Repealed by 77 Del. Laws, c. 227, § 9, effective Feb. 1, 2010.

## § 215. Expenses and compensation.

All expenses of each department, including the compensation of the members and employees shall be paid by the State.

(21 Del. Laws, c. 40, §§ 3, 5, 6; Code 1915, §§ 1659, 1660, 1664; 40 Del. Laws, c. 141, §§ 1, 3; Code 1935, §§ 1746, 1747, 1751; 42 Del. Laws, c. 115, §§ 3, 4; 45 Del. Laws, c. 147, §§ 1, 2, 4; 45 Del. Laws, c. 148, §§ 5, 7, 10; 45 Del. Laws, c. 149, §§ 5, 7, 10; 15 Del. C. 1953, § 116; 51 Del. Laws, c. 149, § 8; 61 Del. Laws, c. 418, § 1; 77 Del. Laws, c. 227, § 10.)

## § 216. Notaries public.

(a) In addition to the notaries public for the respective counties authorized to be appointed by any other law, the Governor shall appoint as notaries public:

(1) Three employees of the Department of Elections for New Castle County; and

(2) One employee and the Director of the Departments of Elections for Kent and Sussex Counties.

(b) Whenever any person so appointed ceases to be employed by or as director of the department, such person's term as notary public shall terminate and the Governor shall appoint either another employee or such person's successor as a notary public.

(Code 1935, § 1755; 45 Del. Laws, c. 147, § 8; 45 Del. Laws, c. 148, § 33; 45 Del. Laws, c. 149, § 33; 15 Del. C. 1953, § 117; 57 Del. Laws, c. 181, § 11; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 1.)

## § 217. Director and deputy director of departments of elections; limitations.

No director or deputy director of any department of elections shall hold or be a candidate for any:

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

(2) Elective office or position of a political party nor shall the director or deputy director be an appointed official to any federal, state, county, city or incorporated municipality commission or administrative body. This limitation shall not apply to persons selected to serve on or appointed to the Election Assistance Commission's Standards Board or Board of Advisors established by P.L. 107-252 (The Help America Vote Act of 2002) [42 U.S.C. § 20901 et seq.].

(15 Del. C. 1953, § 118; 50 Del. Laws, c. 82, § 2; 57 Del. Laws, c. 181, § 12; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 126, § 1; 77 Del. Laws, c. 227, § 1.)

## § 218. Timing and dating.

It shall be the duty of each department to time and date each application for a ballot or other communication received by the department.

(15 Del. C. 1953, § 119; 52 Del. Laws, c. 221, § 2; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 11.)

## § 219. Political activity limited; penalty.

(a) No person, member, county director or deputy county director or employee of the Department shall directly or indirectly use or seek to use his or her authority or official influence to control or modify the political action of another person or at any time actively participate in any political activities or campaigns.

(b) Any person who shall violate this section shall be fined not more than $500 and shall forfeit that person's position or employment.

(15 Del. C. 1953, § 120; 57 Del. Laws, c. 181, § 13; 58 Del. Laws, c. 215, § 1; 61 Del. Laws, c. 418, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 1; 79 Del. Laws, c. 275, § 9.)

## § 220. Reports Appeals Subcommittee of the State Board of Elections.

(a) The Reports Appeals Subcommittee of the State Board of Elections is established to hear and determine appeals of decisions made by the State Election Commissioner under § 8044 of this title.

(b) The Subcommittee consists of 6 members of the State Board of Elections.

(1) The Board shall vote annually to select Subcommittee members.

(2) Subcommittee members serve at the pleasure of the Board.

(3) The Board Chair shall annually select 2 of the 6 Subcommittee members to serve as Subcommittee Chair and Co-Chair.

a. The Subcommittee Chair shall represent 1 of the 2 principal political parties and the Subcommittee Co-Chair shall represent the other of the 2 principal parties.

b. The principal political party represented by the Subcommittee Chair and Co-Chair shall rotate annually.

(4) Each of the 2 principal political parties shall have equal representation on the Subcommittee.

(5) If an absence or vacancy on the Subcommittee results in 1 principal political party having greater representation than the other at a meeting, a member of the other principal political party may not vote until there is no longer an absence or vacancy. The Board Chair shall select which Subcommittee member may not vote under this subsection.

(c) Each Subcommittee member must receive a $100 stipend for each Subcommittee meeting, but a member may not receive more than $500 in any calendar year.

(d) A majority of the members serving on the Subcommittee constitutes a quorum to conduct official Subcommittee business. If a member may not vote under paragraph (b)(5) of this section, a majority of the members who may vote constitutes a quorum.

(e) If a vote by the Subcommittee on a matter unrelated to an appeal, such as the approval of meeting minutes or the election of the new Chair, results in a tie, the Chair may vote a second time to break the tie. If a vote by the Subcommittee related to an appeal results in a tie, the determination shall go in the favor of the person who filed the appeal.

(f) The Subcommittee shall conduct appeals hearings as established in section § 8044 of this title.

(g) The Department shall provide administrative staff and resources to the Subcommittee.

(80 Del. Laws, c. 394, § 3; 83 Del. Laws, c. 209, § 2.)

## § 221. Selection of polling facilities.

(a) The Department shall ensure that all polling places for any election conducted in this State have adequate and accessible parking spaces, that all polling places for any election conducted in this State are accessible to persons with disabilities, and that the accessibility features of such places are available to voters for any election, in compliance with the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), except as specified in subsection (b) of this section.

(b) Subsection (a) of this section does not apply to polling places under the following circumstances:

(1) In the case of a natural disaster or other emergency that renders a polling site unsafe or unusable, as determined by the Commissioner.

(2) If the Commissioner does both of the following:

a. Determines that all potential polling places in the polling area involved have been surveyed and no accessible place is available, nor is the Department of Elections able to make 1 temporarily accessible.

b. Ensures that any voter with a disability assigned to an inaccessible polling place, upon advance request of such voter, will be assigned to an accessible polling place or will be provided with an alternative means for casting a ballot on the day of the election.

(c) Any person with information that the Department has not complied with subsection (a) or (b) of this section may file an administrative complaint with the Department.

(84 Del. Laws, c. 506, § 1.)

# Part I
# Administrative Agencies
## Chapter 3
## State Election Commissioner

### § 301. Appointment; term and compensation.

(a) 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. Until such appointment and confirmation the State Auditor shall serve as the State Election Commissioner without additional compensation. In the event of a vacancy in the office, the Governor shall appoint a successor to fulfill the unexpired term and said successor shall be confirmed by a majority of the members elected to the Senate.

(b) The salary of the State Election Commissioner shall be as provided in the Budget Act.

(c) The State Election Commissioner shall serve in this capacity on a full-time basis and the State Election Commissioner's powers and duties prescribed by this title shall remain with the Election Commissioner and shall not be delegated to any other individual or group.

(d) The State Election Commissioner shall not hold or be a candidate for any:

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

(2) Elective office or position of a political party nor shall the State Election Commissioner be an appointed official to any federal, state, county, city or incorporated municipality, commission or administrative body. This limitation shall not apply to persons selected to serve on or appointed to the Election Assistance Commission's Standards Board or Board of Advisors established by P.L. 107-252 (The Help America Vote Act of 2002 [52 U.S.C. § 20941 et seq.]).

(e) The State Election Commissioner shall not directly or indirectly use or seek to use the State Election Commissioner's authority or official influence to control or modify the political action of another person or at any time participate in any political activities or campaigns.

(15 Del. C. 1953, § 302; 50 Del. Laws, c. 168, § 1; 57 Del. Laws, c. 181, § 15; 58 Del. Laws, c. 215, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 115, § 1; 77 Del. Laws, c. 227, § 12.)

### § 302. General powers and duties of Commissioner.

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 the Commissioner's own powers and duties prescribed in this title;

(2) To order any department, board, commission or agency of this State 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, 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 the 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 this State so long as they are not in conflict with this title;

(7) To supply necessary instruction and assistance to the 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 collaborate with the Department in developing additional standards or amending or revising existing standards;

(8) Such other powers and duties as may be necessary in order for the Commissioner to carry out the Commissioner's own functions under this title;

(9) To be an ex officio member of the State Board of Elections;

(10) To attend each State Board 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;

(11) To collect unofficial results for each primary, special and general election for each election district used in the said election and to tabulate, report and disseminate the results of the election as soon as possible to the public;

(12) Subject to the policies and directives of the State Board of Elections, to have general supervision over the county directors, deputy county directors, and other employees of the Department of Elections in carrying out their respective duties and responsibilities;

(13) To establish procedures to allow citizens to report possible violations of this title to the Commissioner, to any county director, or to deputy county director, which shall include procedures for anonymous reporting of possible violations thereto;

(14) To investigate information coming to the attention of the Commissioner that, if true, would constitute a violation of Chapter 80 of this title; and

(15) To prepare and publish manuals and guides explaining the duties of individuals covered by this title, including without limitation Chapter 80 of this title hereof, and to promulgate instructions and public information materials to facilitate compliance with, and enforcement of this title.

(16) Receive and review the State Bureau of Identification criminal history background checks on candidates for public office; and

(17) Determine whether an individual is qualified under § 21 of Article II of the Delaware Constitution to be a candidate for election to public office.

(15 Del. C. 1953, § 303; 50 Del. Laws, c. 168, § 1; 57 Del. Laws, c. 181, § 16; 57 Del. Laws, c. 384; 57 Del. Laws, c. 567, § 4; 58 Del. Laws, c. 215, § 3; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 306, § 2; 77 Del. Laws, c. 227, §§ 13, 14; 79 Del. Laws, c. 275, § 10; 84 Del. Laws, c. 185, § 2.)

## § 302A. Investigatory authority.

(a) In connection with his or her authority pursuant to § 302(14) of this title hereunder to investigate possible violations of Chapter 80 of this title, the State Election Commissioner:

(1) May appoint 1 or more investigators, having such experience and qualifications as shall be established by the Board of Elections, to investigate information coming to the attention of the Commissioner that, if true, would constitute a violation of Chapter 80 of this title. The activities of any investigator appointed hereunder shall be directed solely by the Commissioner, and such investigator shall not be deemed to be an employee of, or otherwise answerable to, the Board of Elections;

(2) Shall have the authority to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commissioner's duties or exercise of his or her powers pursuant to this section; and

(3) May refer any possible violation to the Attorney General or the United States Attorney for investigation and prosecution, either directly or following an investigation or preliminary investigation by the Commissioner hereunder.

(b) The authority of the Commissioner to investigate possible violations of Chapter 80 of this title shall not abrogate the right of the Attorney General to investigate or prosecute any violation or possible violation of this title.

(79 Del. Laws, c. 275, § 11; 70 Del. Laws, c. 186, § 1.)

## § 303. Duties upon receipt of a registration application.

(a) Upon receipt of a registration application from the Department, the State Election Commissioner shall have the registration application verified for completeness and accuracy. If the Commissioner's staff identifies a discrepancy with the application, the Department shall be notified and then correct the discrepancy.

(b) The State Election Commissioner shall use appropriate technology to maintain a permanent record of each registration application. Paper applications shall be retained for a minimum of 24 months and then maintained in accordance with the appropriate document retention schedule. A permanent copy of each electronic transaction shall be retained.

(c) The State Election Commissioner, in collaboration with the Department, may establish a program where the Department may create and archive an image of each paper registration application.

(15 Del. C. 1953, § 304; 50 Del. Laws, c. 168, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 3; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 12.)

## § 304. Lists and files of registered voters.

(a) The State Election Commissioner shall deliver or cause to be delivered to each major political party in the State without charge the following:

(1) A file of all registered voters in the State once per month.

(2) A file of all registered voters in the State current as of the registration deadline before a primary or general election no later than 7 working days following the registration deadline for a primary or general election.

(3) Upon request, up to 8 copies of the list of registered voters for each election district in the State current as of the registration deadline before a primary or general election no later than 7 working days following the registration deadline for a primary or general election. These lists shall contain, as a minimum, the name, address, political party affiliation, and election district of each registered voter in each election district.

(b) The state chair of each major political party, or county chairs if there is no state chair, may designate in writing other persons, not exceeding 2 in each county, to whom all or specified portions of the party's lists are to be made available from the Commissioner.

(c) Upon request but no more than once per month, the State Election Commissioner shall provide without charge a file of all registered voters in the State to any minor political party eligible to place candidates on the ballot.

(d) The State Election Commissioner, in collaboration with the Department, shall prepare supplemental poll lists for each election district in the State that contain corrections and names of registered voters who have updated their registration records between the registration deadline and a date or dates selected by the Department. The Department shall make available 2 copies of the supplemental poll lists for the election districts within their jurisdiction to the principal political parties on the Saturday before a primary or general election.

(e) The State Election Commissioner shall, upon request, provide free of charge to any candidate for election who has qualified to appear on an upcoming primary or general election ballot a file and/or list of registered voters for the jurisdiction for which that person has qualified as a candidate.

(1) The request for a file and/or lists may be made by the candidate or by a member of the candidate's committee listed on the appropriate form filed in accordance with Chapter 80 of this title.

(2) The State Election Commissioner shall designate the file and lists that shall be provided free of charge.

(3) Requests for files or lists in accordance with this section shall be made no later than the last day of registration for an upcoming primary or general election. Requests made after this deadline will be produced as soon as possible, but so as not to interfere with production of files or products required by this title for the conduct of the election or those requested prior to the deadline stated above.

(f) The State Election Commissioner shall, upon request, but no more frequently than once per month, provide files of registered voters in the State to any State agency, county or local government for use in conducting State, county or local government business.

(g) The State Election Commissioner, in collaboration with the Department, shall establish a reasonable cost for files and lists of registered voters requested by persons or organizations not eligible to receive lists in accordance with this section. These costs shall be reviewed at least once every 2 years and updated as appropriate.

(h) Files and lists provided to members of the General Assembly and state agencies or county or local governments pursuant to subsection (f) of this section shall include voter names, addresses, political party affiliation, voting history, telephone numbers and dates of birth. Files and lists provided to major and minor political parties pursuant to subsections (a) through (d) of this section and to candidates for elective office pursuant to subsection (e) of this section shall be limited to voter names, addresses, political party affiliations, voting history, legislative district information, telephone numbers and years of birth. Files and lists provided to the public shall be limited to voter names, addresses, political party affiliations, voting history, legislative district information, and years of birth. The Delaware Freedom of Information Act, Chapter 100 of Title 29, shall not apply to information contained in voter lists and files created and maintained pursuant to this title.

(i) The State Election Commissioner, in collaboration with the Department, shall develop and implement policies and procedures for protecting the information about persons in the State's election management system, and on records and electronic media in the possession of the State Election Commissioner's office and the Department.

(15 Del. C. 1953, § 305; 50 Del. Laws, c. 168, § 1; 52 Del. Laws, c. 221, § 1; 57 Del. Laws, c. 181, § 17; 57 Del. Laws, c. 567, §§ 5, 6; 58 Del. Laws, c. 215, § 4; 58 Del. Laws, c. 397, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 4; 77 Del. Laws, c. 227, §§ 2, 15-17; 79 Del. Laws, c. 275, § 13.)

## § 305. Duplicate registrations.

At least monthly and within 10 days following the last registration day for each primary and general election, the Commissioner shall notify the county director and county deputy director of suspected duplicate registrations in any county where such duplicate registration is suspected to have occurred. The applicable county director and county deputy director shall review the list of suspected duplicate registrations and correct the registration records as appropriate.

(15 Del. C. 1953, § 306; 50 Del. Laws, c. 168, § 1; 75 Del. Laws, c. 232, § 5; 79 Del. Laws, c. 275, § 14.)

## § 306. Coordination with state agencies.

The State Election Commissioner, in collaboration with the Department, shall implement as soon as practical automated transfers or exchanges of voter registration information and information necessary to maintain an accurate list of registered voters between the State's election management system and other state databases.

(75 Del. Laws, c. 232, § 6; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 15.)

## § 307. Supplying lists to political party chairs and other persons.

Repealed by 77 Del. Laws, c. 227, § 18, effective Feb. 1, 2010.

## § 308. Political activity limited; penalty.

(a) No employee of the Office of the State Election Commissioner shall directly or indirectly use or seek to use that employee's own authority or official influence to control or modify the political action of another person or at any time actively participate in any political activities or campaigns.

(b) Any person who shall violate this section shall be fined not more than $500 and shall forfeit that employee's position or employment.

(74 Del. Laws, c. 229, § 1; 70 Del. Laws, c. 186, § 1.)

# Part II
# Registration of Voters

## Chapter 11
## General Provisions

### § 1101. Permanent registration system.

(a) 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.

(b) Registered voters who change their permanent place of residence within this State or legally change their name should update their voter registration record as elsewhere provided in this title.

(21 Del. Laws, c. 36, § 1; Code 1915, § 1630; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 7; Code 1935, § 1717; 43 Del. Laws, c. 121, § 6; 44 Del. Laws, c. 106, § 1; 45 Del. Laws, c. 145, § 6; 15 Del. C. 1953, § 1102; 49 Del. Laws, c. 17, § 1; 50 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 188, § 1; 77 Del. Laws, c. 227, §§ 19, 20.)

### § 1102. Voter registration drive standards.

(a) Persons and entities registering people to vote within the State shall keep a log of all voter registration applications solicited, deliver all applications for Delaware citizens and a copy of the log covering those applications to the State Election Commissioner or the Department within 10 days of soliciting the applications, deliver the applications for citizens of other states to the chief election official of those states, and list the person or group conducting the voter registration drive along with the name of the solicitor on each application.

(b) Each voter registration application solicited during a voter registration drive shall include a sequential application number for tracking purposes.

(c) The log required above shall include the name of the person or organization conducting the drive, the inclusive dates that the applications listed thereon were collected, and a list of the full name of the applicant and associated application number for each application collected.

(d) Persons and groups conducting voter registration drives within the State should register with the State Election Commissioner or the Department using a form promulgated by the State Election Commissioner.

(e) Persons collecting voter registration applications should have each applicant initial their party affiliation selection.

(f) Persons collecting voter registration applications in order for a political party to obtain ballot status shall clearly communicate to each applicant that by completing the voter registration application they may be changing their political party affiliation.

(75 Del. Laws, c. 232, § 7; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 16.)

### § 1103. Disaster recovery and continuity of operations.

(a) If paper registration records are lost, destroyed, mutilated or defaced, the affected department or departments shall not replace the records but shall use the State's Election Management System database as the source of voter registration data for the persons whose records were so affected.

(b) The State Election Commissioner, in collaboration with the Department of Technology and Information, shall establish and maintain a disaster recovery program that would provide the State Election Commissioner and the offices of the Department in each county immediate access to a duplicate version of the Election Management System and associated databases in event of a disaster that makes the production system unavailable.

(c) The State Election Commissioner and the departments of elections shall no later than January 1, 2008, implement a continuity of operations plan that would permit any of the agencies to continue operations if any of the agencies are denied access to its offices during critical periods.

(Code 1915, § 1630; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 7; Code 1935, § 1717; 43 Del. Laws, c. 121, § 6; 44 Del. Laws, c. 106, § 1; 45 Del. Laws, c. 145, § 6; 15 Del. C. 1953, § 1104; 49 Del. Laws, c. 17, § 3; 50 Del. Laws, c. 169, § 1; 75 Del. Laws, c. 232, § 8; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 17.)

### § 1104. Biennial mailing of polling place card and election information.

(a) In each year in which a general election is held, the Department shall mail to all registered voters, no later than 30 days before the state primary election, a notice informing the registrant of that registrant's polling place by nonforwardable first-class mail. If this notice is returned as undeliverable, the Department shall proceed as set forth in § 2014 of this title.

(b) The notice set forth in subsection (a) of this section shall also include all of the following information:

(1) A brief description of all available methods of voting.

(2) The dates and times on which the general and any primary election will be held.

(3) Deadlines for voter registration for each election and for party changes before a primary.

(4) A brief outline of procedures and requirements at polling places and early voting sites.

(84 Del. Laws, c. 206, § 1.)

## § 1105. Notice of registration.

Repealed by 64 Del. Laws, c. 424, § 2, effective Jan. 1, 1985.

# Part II
# Registration of Voters

## Chapter 13
## Registration Books, Supplies and Places

### § 1301. Registration records — Furnished by the Commissioner.

Repealed by 60 Del. Laws, c. 414, § 2, effective May 22, 1976.

### § 1302. Voter registration application.

(a) The State Election Commissioner, in consultation with the Departments of Elections for the counties, shall promulgate the voter registration application and shall set the effective date of each new version. The application shall be updated as necessary to comply with state and federal law and/or to facilitate administration of the State's voter registration program. The application shall be uniform throughout the State and shall be used for all voter registration transactions within the State.

(b) The application shall be in 2 parts. The Departments of Elections for the counties shall send the original part of each application that was accepted and processed to the State Election Commissioner office. The Departments of Elections for the counties shall maintain the second copy in the County Master Record. The records contained in the County Master Record shall remain in the office of each department and not be removed for any reason except as provided by law.

(c) The voter registration application shall include a question asking whether or not the applicant is a citizen of the United States. The Departments of Elections for the counties shall reject the applications of new registrants who indicate that they are not citizens of the United States or who fail to answer the question. The departments shall notify such persons by first-class mail that their application has been rejected and the reason or reasons thereto. Persons already registered to vote who indicate that they are not citizens of the United States shall be notified by first-class mail that their voter registration shall be cancelled at the expiration of 15 days if they do not affirm in writing that they are citizens of the United States. The departments shall cancel the voter registration of any persons who fail to affirm in writing that they are United States citizens after the expiration of the aforesaid 15-day period. Persons who subsequently affirm in writing to a department that they are United States citizens shall be reinstated by the department as a registered voter.

(d) The voter registration application shall include a place for the applicant's home telephone number; provided however, that the provision of a telephone number shall be annotated on the form as being optional, and no application shall be rejected for lack thereof. Any registered voter may have that registered voter's own telephone number removed from the electronic voter registration files by making a request of the department of elections for the county in which they are registered either by telephone or in writing.

(e) The applicant's signature may be a digitized signature obtained by a state agency as part of a process that includes registering a person to vote or updating the applicant's voter registration information.

(f) The State Election Commissioner, in collaboration with the Departments of Elections for the counties, may examine methods to streamline the voter registration process through the application of technology. The State Election Commissioner, in consultation with the Departments of Elections for the counties, may adopt and implement such technology. In the event that the process adopted conflicts with subsection (b) of this section, that subsection shall be considered null and void. These innovations may include adoption of a paperless or semi-paperless registration process.

(g) The State Election Commissioner shall make the State's Voter Registration Application available on the internet by January 1, 2006.

(19 Del. Laws, c. 38, § 5; 19 Del. Laws, c. 39, §§ 3, 4; 21 Del. Laws, c. 35, § 3; 22 Del. Laws, c. 64, §§ 1, 2; 24 Del. Laws, c. 66; Code 1915, § 1621; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 2; Code 1935, § 1708; 43 Del. Laws, c. 121, § 2; 15 Del. C. 1953, § 1302; 50 Del. Laws, c. 169, § 2; 51 Del. Laws, c. 106; 55 Del. Laws, c. 152; 57 Del. Laws, c. 567, § 9; 60 Del. Laws, c. 414, §§ 3-5; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, §§ 3-6; 70 Del. Laws, c. 505, § 2; 72 Del. Laws, c. 71, § 1; 74 Del. Laws, c. 168, § 1; 77 Del. Laws, c. 227, § 2.)

### § 1303. Confidentiality of addresses.

(a) A person may petition the Superior Court for an order to have that person's own address, which is required to be placed on voter application, registration or transfer records, kept confidential upon a showing of a legitimate need and lawful purpose. A person's participation in Department of Justice's Address Confidentiality Program shall constitute a legitimate need and lawful purpose for the purposes of this section. Upon submission to the State Election Commissioner and department of elections for the county in which the voter seeks to register of a certified copy of the court order granting confidentiality, the person's address shall be removed from all voter records available for public inspection, as long as the submission is not 21 days prior to an election, in which case the person's address shall be removed from the voter records within 7 days after the election.

(b) Following submission of the court order, the person's address may not be made available for public inspection or copying, except under the following circumstances:

(1) If requested, to a law-enforcement agency; or

(2) If directed by a court order, to a person identified in the order.

Within 3 days of the date of any disclosure of a confidential address under paragraph (b)(2) of this section, the State Election Commissioner shall give to the person whose address was disclosed written notification of the disclosure, the name of the person to whom the information was disclosed and the reason for the disclosure. The Commissioner may attach a copy of the court order to satisfy these requirements. A person to whom disclosure is made under paragraph (b)(2) of this section shall sign a statement agreeing to keep such information confidential.

(c) Any address rendered confidential pursuant to this section shall remain confidential for as long as the Court shall order.

(d) *Unlawful acts and penalties.* — (1) *Procurement for unlawful purposes.* — It shall be unlawful for any person knowingly to obtain or disclose any address from voter records that is rendered confidential for any use not permitted under this section.

(2) *False representation.* — It shall be unlawful for any person to make false representation to obtain from voter records a person's address that has been rendered confidential under this section.

(3) *Penalties.* — Any person requesting the disclosure of personal information from voter registration records who misrepresents the person's identity or knowingly makes a false statement in order to obtain restricted information or who knowingly violates any other provision of this chapter shall be guilty of a class A misdemeanor.

(e) The State's election officials shall use e-mail addresses obtained through registration and absentee voting activities for official business only; these addresses shall not be subject to Freedom of Information requests and shall not be disseminated outside of the Departments of Elections on lists of registered voters or in any other manner.

(70 Del. Laws, c. 512, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 269, § 1; 78 Del. Laws, c. 28, § 2.)

## § 1304. Update of records when election district divided; procedure.

Upon splitting of an election district in accordance with this title, the department having jurisdiction shall update the records of the affected voters in the State's Election Management System. The department having jurisdiction shall then determine whether or not to update the affected voters registration records in the county master file. The registration of any voter shall not be invalidated nor shall the right of any registered voter be prejudiced due to any error that occurred during this process.

(19 Del. Laws, c. 38, § 5; 21 Del. Laws, c. 35, § 3; 22 Del. Laws, c. 64, §§ 1, 2; 24 Del. Laws, c. 66; Code 1915, § 1621; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 2; 40 Del. Laws, c. 140, § 2; Code 1935, § 1708; 43 Del. Laws, c. 121, § 2; 15 Del. C. 1953, § 1303; 50 Del. Laws, c. 169, § 2; 55 Del. Laws, c. 267; 56 Del. Laws, c. 366, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 512, § 1; 75 Del. Laws, c. 232, § 9.)

## § 1305. Custody of registration records; public inspection.

(a) 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.

(b) Any registered voter may have that registered voter's telephone number removed from the electronic voter registration files by making the request of that registered voter's local department of elections, either by telephone or in writing.

(Code 1915, § 1630; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 7; Code 1935, § 1717; 43 Del. Laws, c. 121, § 6; 44 Del. Laws, c. 106, § 1; 45 Del. Laws, c. 145, § 6; 15 Del. C. 1953, § 1304; 49 Del. Laws, c. 17, § 6; 50 Del. Laws, c. 169, § 2; 55 Del. Laws, c. 452; 58 Del. Laws, c. 401, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 512, § 1; 72 Del. Laws, c. 71, § 2; 75 Del. Laws, c. 232, §§ 10, 11; 76 Del. Laws, c. 115, § 2.)

## § 1306. Registration supplies.

Repealed by 75 Del. Laws, c. 232, § 12, effective Feb. 1, 2006.

## § 1307. Expenses.

Repealed by 70 Del. Laws, c. 188, § 8, effective Oct. 1, 1995.

# Part II
# Registration of Voters

## Chapter 15
## Registration Officers

**§§ 1501-1518. Appointment; qualifications; recommendations of political parties; terms of office; certificate of appointment; alternate registrars — appointment; powers and duties; oath of office for registration and election officers; appearance of registration and election officers for taking of oath and instruction; removal; vacancies; compensation; payment procedure; source of pay; quorum; majority action; equal representation; duties; exemptions from military duty and service as registration officer; refusal to qualify or act; penalty; vacation of office; registration officers not to be candidates; special powers of registrars during registration; duties of assistant registrars; registrar to file affidavits.**

Repealed by 67 Del. Laws, c. 354, § 3, effective July 16, 1990.

# Part II
# Registration of Voters

## Chapter 17
## Removal Procedures for Registration Records

### § 1701. Qualifications for registration as qualified voter.

(a) Every applicant for registration shall be a qualified voter in a general or primary election 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 general election next succeeding the applicant's registration, and is a bona fide resident of this State. An applicant shall be a qualified voter in a special election if such applicant is a citizen of this State of the age of 18 years and upwards on the date of the special election. 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 who is ineligible to vote under Chapter 61 of this title, or person rendered incapable of voting by reason of violating § 7 of Article V of the Constitution of this State for 10 years next following that person's 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 and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment.

(b) The Department shall permit registration of any citizen and bona fide resident of this State 16 years of age or older through the Division of Motor Vehicles as set forth in §§ 2050(a) and 2050A of this title, provided that such applicant shall not be a qualified voter unless qualified under subsection (a) of this section.

(19 Del. Laws, c. 38, § 8; 21 Del. Laws, c. 36, § 4; 22 Del. Laws, c. 64, §§ 1, 2; 24 Del. Laws, c. 66; Code 1915, § 1627; 37 Del. Laws, c. 117, § 6; 40 Del. Laws, c. 140, § 5; Code 1935, § 1714; 44 Del. Laws, c. 105, § 1; 15 Del. C. 1953, § 1701; 52 Del. Laws, c. 197, § 1; 58 Del. Laws, c. 502, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 34, §§ 2, 5; 77 Del. Laws, c. 473, § 1; 82 Del. Laws, c. 141, § 9; 82 Del. Laws, c. 192, § 1; 83 Del. Laws, c. 71, § 4.)

### § 1702. Removal of names by board of elections.

(a) At any duly called meeting of the State Board of Elections, the Board may sit to consider the removal of names from any 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].

(Code 1935, § 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 1702; 49 Del. Laws, c. 4, § 5; 49 Del. Laws, c. 17, § 10; 50 Del. Laws, c. 169, § 7; 58 Del. Laws, c. 148, § 25; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 18.)

### § 1703. Duty of officers to notify Department of facts suggesting voter disqualification.

The clerk or prothonotary of any court in this State having jurisdiction of felonies shall, when a person is convicted of a crime deemed by law a felony, notify immediately the Department and the State Election Commissioner. Such notification shall include a full, complete and accurate copy of the record of the name, present residence and last previous residence, date of birth, and Social Security number if available of each individual of voting age who has been convicted of a felony.

(Code 1935, § 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 1703; 49 Del. Laws, c. 4, § 5; 49 Del. Laws, c. 17, § 11; 50 Del. Laws, c. 169, § 8; 57 Del. Laws, c. 181, § 25; 67 Del. Laws, c. 354, § 5; 73 Del. Laws, c. 34, § 1; 79 Del. Laws, c. 275, § 19.)

### § 1704. Identification of persons who are no longer eligible to vote, establishment of an "inactive state," cancellation of registration and provision for reregistration.

(a) The Department may use a list of persons registered to vote in Delaware and who are registered to vote in another state or who have obtained a driver's license or state ID card from another state as a source to send an address verification request to those voters.

(b) The Department shall then send an address verification request via forwardable first class mail to each person on the list. The Department 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; or

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

(c) The address verification request shall include a postage-paid return card or envelope preaddressed to the Department.

(d) The Department, upon receipt of the returned notice and in accordance with the response, shall:

(1) Cancel the person's registration; or

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

(3) 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.

(e) Sixty days following an address verification mailing in accordance with this section, the Department shall place all persons who did not reply to the address verification request mailed in accordance with this section into "inactive status."

(f) 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 or Title 14.

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

(h) 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 State Election Commissioner 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 at the polling place for the person's permanent place of residence.

(i) 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. The county director and deputy county director may restore to the voting rolls a person removed in error through the process described in this chapter.

(j) The Department may put those persons who failed to respond to these notices mailed on or before August 2, 2017, in "inactive status" 60 days after the date of the mailing or August 2, 2017, whichever is later.

(k) The State Election Commissioner cancel the registration of any person who has been placed in inactive status by this section in accordance with § 2014(h) of this title.

(70 Del. Laws, c. 188, § 9; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 13; 77 Del. Laws, c. 227, §§ 1, 2; 79 Del. Laws, c. 275, § 20; 81 Del. Laws, c. 114, § 1.)

## § 1705. Cancellation of registration of persons reported as deceased.

(a) The State's Office of Vital Statistics shall send each month to the Department and to the State Election Commissioner a complete and accurate file or list of each person 16 years of age or older who has been reported to have died within the State since the previous report. The file or list shall contain, as a minimum: the decedent's name, Social Security number, residence at time of death, date of birth, date of death, and death certificate number.

(b) The State's Office of Vital Statistics shall in January and July of each year send a file or list to the Department and the State Election Commissioner containing the name, Social Security number, residence at time of death, state where died, date of birth, date of death, and death certificate number for each Delaware citizen 16 years or age or older reported to that office as having died in another state or country. Where complete data about a decedent is not available, the Office of Vital Statistics shall provide as much information as is available in the file or on the list.

(c) Upon receipt of a file or list from the Office of Vital Statistics, the Department shall cancel the registration of each registered voter whose name is on the list.

(d) The Department may cancel the registration of a person upon receipt of a copy of a death certificate or a written notice from the decedent's spouse, adult child, sibling or parent.

(e) The Department may use an obituary from a Delaware newspaper as authority to cancel the registration of a registered voter who died in another state or country.

(45 Del. Laws, c. 144, § 31; 45 Del. Laws, c. 148, § 34; 45 Del. Laws, c. 149, § 34; 15 Del. C. 1953, § 1705; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 169, § 10; 52 Del. Laws, c. 221, § 3; 57 Del. Laws, c. 181, § 26; 58 Del. Laws, c. 148, § 26; 67 Del. Laws, c. 354, § 6; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 14; 77 Del. Laws, c. 227, §§ 2, 21; 79 Del. Laws, c. 275, § 21.)

## § 1706. Motion to remove a name from registration records; procedure; entries in records as to such motion.

Repealed by 75 Del Laws, c. 232, § 15, effective Feb. 1, 2006.

## § 1707. Cancellation of registration due to a registrant having moved to another state.

(a) The Department shall consider notification from another state, election jurisdiction or election official that a person registered to vote in Delaware has applied to register to vote or who has registered to vote in another state as permission from that person to cancel that person's Delaware voter registration.

(b) The Department shall consider a written notice from a spouse, adult child, sibling or parent that a registered voter has moved out of state as permission from that person to cancel that person's voter registration. The notice shall be signed and the relationship to the previously mentioned voter stated.

(c) The State Board of Elections may cancel the voter registrations for any person who has moved out of state and given permission in writing or as otherwise provided in this section.

(d) Upon registration of a person in Delaware who is registered to vote in another state, the Department or State Election Commissioner shall notify the other state that the person has registered to vote in the State of Delaware.

(15 Del. C. 1953, § 1707; 57 Del. Laws, c. 181, § 29; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 16; 77 Del. Laws, c. 227, §§ 2, 22; 79 Del. Laws, c. 275, § 22.)

## § 1708. Correction of errors.

(a) Department personnel, upon approval of the appropriate supervisor, may correct errors on a person's voter registration record as necessary to maintain a complete and accurate voter registration list.

(b) The State Board of Elections shall approve any change in the year of birth of a registrant where there is a difference between the year submitted on a previous registration application and the year submitted on the most current registration application. The Board may, if deemed appropriate, refer such discrepancies to the Attorney General or the State Election Commissioner for investigation; provided, however, that any discrepancy referred to the State Election Commissioner shall also be referred to the Attorney General.

(15 Del. C. 1953, § 1708; 51 Del. Laws, c. 139, § 1; 57 Del. Laws, c. 181, § 28; 75 Del. Laws, c. 232, § 17; 79 Del. Laws, c. 275, § 23.)

## § 1709. Reregistration unnecessary upon change in election district boundary.

Any elector whose name appears as a registered voter in an election district affected by a change of boundary shall not be required to reregister because of the change in election districts arising from the change of boundaries.

(45 Del. Laws, c. 144, § 10; 45 Del. Laws, c. 148, § 10; 45 Del. Laws, c. 149, § 10; 15 Del. C. 1953, § 1709; 57 Del. Laws, c. 181, § 30.)

## § 1710. Notice of change of election district boundary.

When the boundaries of any election district have been changed, the Department shall notify each of the affected voters by mail.

(15 Del. C. 1953, § 1710; 57 Del. Laws, c. 181, § 31; 58 Del. Laws, c. 215, § 13; 79 Del. Laws, c. 275, § 24.)

## § 1711. Notice by registered or certified mail.

Repealed by 75 Del Laws, c. 232, § 18, effective Feb. 1, 2006.

# Part II
# Registration of Voters

## Chapter 19
## Registration of Members of the Armed Forces, Related Organizations and Citizens Residing Outside of the Territorial Limits of the United States

### § 1901. Eligibility.

(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) [52 U.S.C. § 20301 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 office of the Department in 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.

(75 Del. Laws, c. 232, § 19; 79 Del. Laws, c. 275, § 25.)

### § 1902. Application by persons eligible to register to vote under the provisions of this chapter.

(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 [52 U.S.C. § 20301 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 Department shall accept electronic transmissions of signed registration applications specified in this section.

(e) The Department 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.

(75 Del. Laws, c. 232, § 19; 79 Del. Laws, c. 275, § 26.)

### § 1903. Late registration procedures for military and overseas citizens.

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 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.

(75 Del. Laws, c. 232, § 19; 79 Del. Laws, c. 275, § 27.)

### § 1904. Special registration and other election services to uniformed service members.

(a) The Department shall upon request from the appropriate authority assist members of the State's National Guard and members of reserve units headquartered in the State of Delaware to register to vote and to apply for absentee ballots. The Department shall also, where possible, assist any other member of a uniformed service present in the State of Delaware to register to vote and to apply for an absentee ballot from their home state.

(b) Services to a person not eligible to register to vote in the State of Delaware shall be limited to providing the appropriate application, assisting in the completion of that application and advising the person on deadlines, that person's rights, and points of contact in the state in which that person is domiciled.

(c) Notwithstanding any other provision in this title, citizens of the State of Delaware who are scheduled to be deployed within 7 days of the day of a primary or general election and who are registered voters in the State of Delaware shall upon presentation of military orders be issued an absentee ballot and be permitted to vote by absentee ballot at any office of the Department prior to closing of the polls on the day of the election. If it is not possible to issue the person the ballot for that person's election district, a special ballot containing federal and statewide offices only shall be issued.

(75 Del. Laws, c. 232, § 19; 79 Del. Laws, c. 275, § 28.)

## § 1905. Law applicable.

All the provisions in this title relating to registration of voters in general, as provided by law, shall apply as far as pertinent to this chapter.

(75 Del. Laws, c. 232, § 19.)

# Part II
# Registration of Voters
## Chapter 20
## Registration Officers and Mobile Registration; Registration by Mail
## Subchapter I
## Registration Officers

### § 2001. Appointment of registration officers; conduct of registration.

(a) The Department shall train and appoint such Department employees and such other persons as deemed necessary to serve as registration officers. These persons shall serve at the pleasure of the Department.

(b) Compensation of registration officers shall be set by the Department.

(c) The Department shall conduct voter registration at its offices each regular business day except during periods during which registration is closed in accordance with this title. The Department may schedule additional periods for office registration as deemed necessary.

(67 Del. Laws, c. 354, § 19; 74 Del. Laws, c. 411, § 2; 79 Del. Laws, c. 275, § 29.)

### § 2002. Appearance of registration officers for taking of oath and instruction.

Each person appointed under § 2001 of this title shall appear before the Department to qualify by taking and subscribing to the prescribed oath (or affirmation) and to receive suitable instruction after due notice from the Department, which shall be given at least 7 days before the times appointed for the appearance of the registration officers. No person shall be excused from the obligation unless that person shall have become disqualified by sickness, disability or otherwise.

(67 Del. Laws, c. 354, § 19; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 29.)

### § 2003. Oath of office for registration officers.

(a) Each person appointed under § 2001 of this title shall take and subscribe before the Department before beginning such person's duties the following oath (or affirmation):

I, _____, residing in _____ election district of the representative district in _____ county, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of registration officer in _____ county, according to the best of my ability.

(b) Any member of the State Board of Elections and any county director, deputy county director or other authorized agent of the Department may administer this oath (or affirmation).

(67 Del. Laws, c. 354, § 19; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 1; 79 Del. Laws, c. 275, § 29.)

### § 2004. Certificate of appointment.

The Department shall deliver a certificate of appointment to whomsoever it shall appoint and who shall be sworn into office as a registration officer. Such certificate shall be in such form as shall be prescribed by the Department and shall include the date of the expiration of such person's term of office.

(67 Del. Laws, c. 354, § 19; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 29.)

### § 2005. Request for a voter registration application.

(a) Any citizen may apply in writing, in person or by telephone on any regular business day, except during the period beginning 20 days before each general election through election day, to the Department for a voter registration application to be provided by the Department to the requestor or to a member of the citizen's immediate family.

(b) In connection with any request under this section, the Department shall:

(1) Permit the person to complete the application for that person's own self in the office or mail the application for that individual to that individual within 3 business days of the request.

(2) Mail the voter registration application to a member of the requestor's immediate family within 3 business days of the request.

(c) Applications requested in accordance with this section may be for the purposes of registering to vote, transferring the voter's address, changing the voter's name on the voter's voter registration record and/or changing a voter's political party affiliation.

(74 Del. Laws, c. 411, § 3; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 29.)

### § 2006. Special powers of registration officers during registration.

Each of the registration officers shall, in addition to the other powers conferred upon such officer by law, have, during the respective times of the appointed sittings for registration, the power to:

(1) Preserve order and enforce obedience to that officer's lawful commands at or around the place of registration;

(2) Keep access to such place open and unobstructed;

(3) Protect and keep safe registration applications in their custody and possession;

(4) Administer oaths or affirmations.

(67 Del. Laws, c. 354, § 19; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 411, § 4.)

## Subchapter II

## Procedure at Registration Place

### § 2011. Entries by registration officers.

(a) When a person appears at a registration place for the purpose of applying to register as a voter, a registration officer shall obtain from such person the necessary information to complete an application for registration.

(b) 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.

(c) 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.

(d) The registration officers, except where registration is conducted in the offices of the Department, shall record the name and address of each applicant upon a separate list of registered voters in the order in which they appear at the registration place to be registered.

(e) At the end of the registration day, the registration officer shall deliver to the Department all of the sets of registration records supplied by the Department along with the list of all transactions.

(f) Persons qualified to register to vote may do so at any office of the Department regardless of the county of their actual residence.

(19 Del. Laws, c. 38, § 8; 21 Del. Laws, c. 36, § 4; 22 Del. Laws, c. 64, §§ 1, 2; 24 Del. Laws, c. 66; Code 1915, § 1627; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 6; 40 Del. Laws, c. 140, § 5; Code 1935, § 1714; 44 Del. Laws, c. 105, § 1; 15 Del. C. 1953, § 1722; 50 Del. Laws, c. 169, § 15; 57 Del. Laws, c. 181, § 35; 67 Del. Laws, c. 354, §§ 7, 12; 69 Del. Laws, c. 191, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 13; 72 Del. Laws, c. 275, § 2; 74 Del. Laws, c. 411, §§ 5-8; 77 Del. Laws, c. 227, § 23; 79 Del. Laws, c. 275, § 30; 81 Del. Laws, c. 116, § 1.)

### § 2012. Challenge for bribery; oath; effect of oath; refusal to take oath.

If upon the personal application of anyone to be registered, the applicant shall be challenged for having received or accepted, or for having offered to receive or accept, or for having paid, transferred or delivered, or for having offered or promised to pay, transfer or deliver, or for having contributed or offered or promised to contribute to another to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of anyone qualified to register, the registration officer shall administer to the person so challenged an oath or affirmation, as follows:

"You do solemnly swear upon the Holy Evangels of Almighty God (or "You do solemnly, sincerely and truly declare and affirm") that you have not received or accepted or offered to receive or accept, or paid, transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed or offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of anyone qualified to register at the registration for this present year, so help you God" (or "so you do solemnly, sincerely and truly declare and affirm").

Such oaths or affirmations shall be conclusive evidence to the registration officers of the truth of such oath or affirmation, but if any such oath or affirmation is false, the person making the same shall be guilty of perjury, and no conviction thereof shall bar any prosecution under § 8 of Article V of the State Constitution. If any person so challenged refuses to make the oath or affirmation prescribed in this section, the registration officers shall enter the words "refused to make oath concerning bribery" in the appropriate space in the applicant's application for registration and the department shall place the original permanent registration record of the applicant in the special file or binder known as the "list of disqualified voters."

(21 Del. Laws, c. 36, § 5; Code 1915, § 1628; 34 Del. Laws, c. 106, § 1; 35 Del. Laws, c. 82, § 1; Code 1935, § 1715; 15 Del. C. 1953, § 1725; 50 Del. Laws, c. 169, § 17; 67 Del. Laws, c. 354, §§ 11, 12; 70 Del. Laws, c. 186, § 1.)

### § 2013. Duties of Department following registration.

(a) After the registration officer delivers the registration records to the Department following each registration day, the Department shall first check the record by the registration number of the registration records to ascertain whether all the records supplied have been

returned to the Department. If the Department is satisfied that all records have been returned, it shall file and retain the records for not less than 1 year. If all the records have not been returned, the Department shall notify the Attorney General, who may take appropriate action.

(b) The Department shall then take the applications for registration which have been completed, and signed or marked by the applicant and the registration officers, and examine them for completeness, legibility and eligibility. If the Department is satisfied that the application is complete and legible and that the applicant's name does not appear on the list of disqualified voters and that the applicant is qualified to be registered, the Department shall take the necessary steps to add the person to the list of registered voters.

(c) [Repealed.]

(15 Del. C. 1953, § 1729; 50 Del. Laws, c. 169, § 19; 57 Del. Laws, c. 181, § 36; 67 Del. Laws, c. 354, §§ 8-12; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 411, §§ 9-12; 77 Del. Laws, c. 227, § 24; 79 Del. Laws, c. 275, § 31.)

## § 2014. Notification of disposition of a person's voter registration application and procedure for handling returned mail.

(a) The Department 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, register that person to vote.

(b) 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 or reasons for such rejection.

(c) Upon registering a person to vote or completing a transfer of address, change of name and/or change of political party affiliation for a registered voter, the Department shall mail a notice informing the registrant of that registrant's polling place by nonforwardable first-class mail. If this notice or any correspondence sent by a state agency or state official using voter registration address data is returned as undeliverable, the Department shall send an address verification request by forwardable first-class mail to the person at the address on their permanent registration record or to the address indicated by the U.S. Postal Service on the returned undeliverable notice or correspondence. The address verification request shall include a postage-paid preaddressed return card. The person shall be asked 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 Department, upon receipt of the return card in accordance with the response shall:

(1) Remove the voter from the records of the State Election Commissioner and the Department if the voter is no longer a permanent resident of the State;

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

(3) [Repealed.]

(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.

(e) If the person does not return the return card within 60 days of mailing or if the address verification request is returned as undeliverable, the person shall be transferred to "inactive status."

(f) 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 State Election Commissioner 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 voter's permanent record, the person shall be permitted to vote in accordance with § 2047 of this title.

(g) 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 county director and deputy county director of the Department in the county in which such person resides.

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

(70 Del. Laws, c. 188, § 14; 75 Del. Laws, c. 232, §§ 20-22; 77 Del. Laws, c. 227, §§ 1, 2, 25; 79 Del. Laws, c. 275, § 32; 81 Del. Laws, c. 112, § 1.)

## § 2015. Late registration procedures for military and overseas citizens.

Repealed by 75 Del Laws, c. 232, § 23 effective Feb. 1, 2006.

## § 2016. Enfranchisement of citizens who have never resided in the United States.

If a United States citizen outside of the United States who has never lived in the United States has a parent who is a qualified elector of the State, then that person is eligible to register and vote where that citizen's parent is a qualified elector.

(74 Del. Laws, c. 168, § 3; 70 Del. Laws, c. 186, § 1.)

## Subchapter III
## Mobile Registration

### § 2021. Conduct of mobile registration [Repealed].

(15 Del. C. 1953, § 2002; 58 Del. Laws, c. 215, § 16; 60 Del. Laws, c. 396, § 2; 64 Del. Laws, c. 424, § 1; 67 Del. Laws, c. 354, § 17; 72 Del. Laws, c. 275, § 3; 74 Del. Laws, c. 411, § 13; 79 Del. Laws, c. 275, § 33; repealed by 81 Del. Laws, c. 116, § 2, effective Aug. 2, 2017.)

### §§ 2022-2024. Traveling registration officers; duties; qualifications; compensation; term of office; performance of duties by traveling registration officers; appointment of traveling registration officers.

Repealed by 74 Del. Laws, c. 411, § 14, effective Aug. 5, 2004.

### § 2025. Intercounty registration [Repealed].

(64 Del. Laws, c. 332, § 2; 67 Del. Laws, c. 354, § 17; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 34; repealed by 81 Del. Laws, c. 116, § 2, effective Aug. 2, 2017.)

## Subchapter IV
## Registration by Mail

### § 2031. Procedure for registration by mail.

(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 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.

(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.

(c) The Department shall perform the same duties in regard to these registration forms as it is required to do with other applications for voter registration.

(d) The Department shall accept any voter registration application, application for an absentee ballot, or any federal write-in absentee ballot promulgated in accordance with federal law as an application to register to vote. The Department shall process these applications as it would any other application submitted in accordance with this title.

(60 Del. Laws, c. 392, § 2; 67 Del. Laws, c. 354, § 18; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, §§ 15, 16; 74 Del. Laws, c. 411, § 15; 75 Del. Laws, c. 232, §§ 24, 25; 79 Del. Laws, c. 275, § 35.)

### § 2032. Duties of department following receipt of mail registration forms.

(a) Upon receipt, all mail registration forms shall be date-stamped by the department.

(b) A verification inquiry shall be conducted where:

(1) The applicant has neglected to sign the form;

(2) Information given on the form is incomplete;

(3) Information appears unclear or inconsistent; or

(4) The application appears to be a duplicate.

(c) If the information on the mail registration form appears to be a transfer of address, change of name by marriage or otherwise, or party affiliation change, the change shall be made by the department and the applicant shall be notified such change was made.

(d) [Repealed.]

(60 Del. Laws, c. 392, § 2; 67 Del. Laws, c. 354, § 18; 74 Del. Laws, c. 411, § 16; 77 Del. Laws, c. 227, § 26.)

### § 2033. Special procedures for persons who register to vote by mail and have not voted in the state in an election for federal office.

(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 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.

(74 Del. Laws, c. 168, § 4; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 26; 79 Del. Laws, c. 275, § 36.)

### § 2034. Rejection of mail registration.

Repealed by 70 Del. Laws, c. 188, § 18, effective Oct. 1, 1995.

## Subchapter V

## Registration Deadlines

### § 2036. Deadline to register to vote: primary and general elections.

The last date to register to vote for any presidential primary, primary, special and general election shall be the day of that election. A person may register to vote at said person's polling place from 7 a.m. to 8 p.m. by submitting with that person's application, a copy of a current and valid government-issued photo identification or a current document displaying the name and address of the person registering to vote, such as a utility bill, bank statement, government check, or paycheck. The term "current" as used in this section to forms of identification other than those that are government issued shall mean the documents must be dated within 60 days prior to the registration date.

(1) Mail applications received on or before the deadline shall be considered to be on-time and shall be immediately processed by the Department; and

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

(75 Del. Laws, c. 232, § 27; 79 Del. Laws, c. 275, § 37; 83 Del. Laws, c. 354, § 1; 84 Del. Laws, c. 42, § 1.)

### § 2037. Deadline to register to vote: special elections [Repealed].

(75 Del. Laws, c. 232, § 27; repealed by 83 Del. Laws, c. 354, § 1, effective July 22, 2022.)

### § 2038. Registration applications received after the deadline.

Registration applications received after the deadline shall be held and processed following that election.

(75 Del. Laws, c. 232, § 27; 83 Del. Laws, c. 354, § 1.)

### § 2039. Registration applications that update a registrant's record.

Notwithstanding any other provision in this title, the Department may process registration applications that change a registrant's address or name until the day of any presidential primary, primary, special, or general election.

(75 Del. Laws, c. 232, § 27; 79 Del. Laws, c. 275, § 38; 83 Del. Laws, c. 354, § 1.)

## Subchapter VI

## Transfer of Registration; Change of Name; Change of Party Affiliation

### § 2041. Transfer of registration.

(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.

(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) [Repealed.]

(19 Del. Laws, c. 38, § 11; 21 Del. Laws, c. 36, § 8; Code 1915, § 1632; 34 Del. Laws, c. 106, § 1; 37 Del. Laws, c. 117, § 9; Code 1935, § 1719; 46 Del. Laws, c. 152, § 1; 15 Del. C. 1953, § 1741; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 169, § 21; 51 Del. Laws, c. 139, § 2; 52 Del. Laws, c. 10, § 3; 55 Del. Laws, c. 78, § 1; 57 Del. Laws, c. 567, § 18A; 58 Del. Laws, c. 148, § 31; 67 Del. Laws, c. 231, §§ 2, 15; 69 Del. Laws, c. 191, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 19; 74 Del. Laws, c. 411, § 17; 79 Del. Laws, c. 275, § 39.)

### § 2042. Transfer of registration upon moving from 1 county to another.

Repealed by 74 Del. Laws, c. 411, § 17, effective Aug. 5, 2004.

## §§ 2043, 2044. No transfer to be made without an application; examination under oath and registration.

Repealed by 77 Del. Laws, c. 227, § 29, effective Feb. 1, 2010.

## § 2045. Removal of voter's records of district where voter formerly resided; notice of action taken.

Repealed by 74 Del. Laws, c. 411, § 18, effective Aug. 5, 2004.

## § 2046. Notice by first-class mail sufficient.

In all cases where this subchapter requires written notice to be given to any person, such notice shall be deemed sufficient if sent by first-class mail addressed to the person to be notified at the post office address named by the person at the time of that person's application for registration.

(Code 1935, § 1719; 46 Del. Laws, c. 152, § 1; 15 Del. C. 1953, § 1748; 67 Del. Laws, c. 354, § 15; 70 Del. Laws, c. 186, § 1.)

## § 2047. Change of address within the State.

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 State Election Commissioner 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 State Election Commissioner. 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 State Election Commissioner shall promulgate rules and procedures by which the Department 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 the offices of the Department and at other locations statewide. 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.

(Code 1915, § 1632; 40 Del. Laws, c. 140, § 6; Code 1935, § 1719; 46 Del. Laws, c. 152, § 1; 15 Del. C. 1953, § 1749; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 169, § 29; 67 Del. Laws, c. 354, § 15; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 20; 72 Del. Laws, c. 275, § 4; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 40.)

## § 2048. Change of name.

(a) A registered voter who has legally changed such voter's own name by marriage or other legal means should apply to update such voter's voter registration record with the new information.

(b) Such registered voter may apply to update such voter's record on the day of a primary, general or special election at the polling place for the election district where such voter is registered or at the polling place for the election district for such voter's new address in accordance with procedures as set forth by the State Election Commissioner.

(c) The State Election Commissioner shall set forth the procedures to implement subsection (b) of this section above in collaboration with the Department.

(d) Deadlines for registering to vote shall not apply to changes of name.

(Code 1935, § 1719; 46 Del. Laws, c. 152, § 1; 15 Del. C. 1953, § 1750; 65 Del. Laws, c. 471, § 1; 67 Del. Laws, c. 354, § 15; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 21; 72 Del. Laws, c. 275, § 5; 77 Del. Laws, c. 227, §§ 2, 30; 79 Del. Laws, c. 275, § 41.)

## § 2049. Change of party designation; procedure.

(a) Any duly registered voter may apply to change that registered voter's political affiliation by completing and submitting a voter registration application to the Department except in the year of a general election during the period from the last Saturday in May through the day of the primary election. The application shall be upon a form provided by the Commissioner and shall be signed by the registrant and returned by mail or delivered to the Department. An appropriately addressed envelope shall be supplied by the Department for return of the executed application. Upon receipt of the executed application, the Department shall cause the signature to be compared with the original registration record of such applicant, and if such signature appears to be the same, such change of affiliation shall be made in the voter registration records and the applicant shall be immediately notified. If the Department is not satisfied as to the signature on the application, the applicant shall be notified by mail to appear at any office of the Department to answer under oath such questions as may be deemed necessary.

(b) Applications received that change a person's political party affiliation during a period in which a person may not change that person's own political party affiliation in accordance with provisions of this title shall be held by the Department and processed when the period to change a person's political party affiliation reopens.

(c) Notwithstanding subsection (a) of this section a person may change his or her party affiliation in the year of a general election during the period from the last Saturday in May through September 1 if:

(1) The statewide and county chair of a political party provide a written affidavit to the Department stating that such person has asked or agreed to be a candidate for office of that political party and the statewide and county chair of a political party want the person to be a candidate for office representing the political party; and

(2) The person provides an affidavit to the Department stating that such person is changing political parties to be a candidate for office of the political party providing the affidavit described in paragraph (c)(1) of this section and a withdrawal form for any other candidacies.

(15 Del. C. 1953, § 1751; 50 Del. Laws, c. 169, § 42; 52 Del. Laws, c. 59; 55 Del. Laws, c. 78, § 4; 57 Del. Laws, c. 181, § 38; 57 Del. Laws, c. 567, § 16; 58 Del. Laws, c. 148, § 32; 58 Del. Laws, c. 215, § 41; 61 Del. Laws, c. 418, § 6; 67 Del. Laws, c. 354, § 15; 69 Del. Laws, c. 191, § 3; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, § 15; 72 Del. Laws, c. 275, § 6; 73 Del. Laws, c. 251, § 1; 74 Del. Laws, c. 411, § 19; 75 Del. Laws, c. 232, §§ 28, 29; 78 Del. Laws, c. 36, § 3; 78 Del. Laws, c. 154, § 6; 79 Del. Laws, c. 232, § 2; 79 Del. Laws, c. 275, § 41; 82 Del. Laws, c. 170, § 2.)

## Subchapter VII

## Agency Based Registration

## § 2050. Registration through state agencies [Effective until fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) Registration through the Division of Motor Vehicles.

(1) For each person who is not registered to vote and is of sufficient age to register to vote and whose information is not transmitted to the Department of Elections pursuant to § 2050A of this title, each application for a motor vehicle driver's license under the laws of Delaware (including any renewal application) shall serve as an application for voter registration. However, any person who, at the time of the transaction with the Division of Motor Vehicles, provides a document that demonstrates noncitizenship shall not be offered the opportunity to register to vote. The Division of Motor Vehicles may not offer an opportunity to register to vote to an individual applying for a driving privileges card or permit under § 2711(d) of Title 21.

(2) [Repealed.]

(3) An applicant for a motor vehicle license under this section may decline in writing to be registered to vote by way of the application for a motor vehicle driver's license. The fact that an applicant has declined to be registered through the motor vehicle application process shall not be used for any purpose other than voter registration.

(4) Applications for a motor vehicle license under this section shall include as a part of the application a voter registration component. The voter registration component may not require any information which duplicates information required in the motor vehicle license component other than a second signature or information listed in paragraph (a)(5)a. of this section. If the applicant desires not to register to vote, the transmission of an electronic record will notify the Department of Elections of the applicant's intention.

(5) The voter registration component of the motor vehicle license application under this section shall contain all of the following:

a. The minimum amount of information necessary to ensure the prevention of duplicate voter registrations and preserve the ability of election officials to determine eligibility of the applicant and otherwise administer voter registration and the election process.

b. A statement setting forth voting eligibility requirements and an attestation that the applicant meets the requirements.

c. The signature of the applicant under penalty of perjury.

d. No requirement of notarization or other formal authorization.

(6) [Repealed.]

(b) Registration through other state agencies.

(1) The Secretary or Chief Administrative Officer of each of the state agencies under paragraph (b)(2) of this section shall be a voter registration agency for purposes of this subchapter and must provide the voter registration services listed in paragraph (b)(3) of this section for its employees and the public it serves.

(2) In addition to the voter registration procedure provided for elsewhere in this chapter, an individual who is qualified to register to vote may complete a voter registration application or apply to change a previous voter registration at any of the following state agencies:

a. Department of Health and Social Services, Division of Social Services.

b. Department of Labor, Division of Employment and Training and Division of Vocational Rehabilitation.

c. Any other state agency that the Secretary or Chief Administrative Officer for that state agency selects to provide voter registration services for its employees and the public it serves.

(3) At each voter registration agency established by this subsection, all of the following services must be made available:

a. Distribution of mail voter registration application forms as required by subchapter IV of this chapter in conjunction with the voter registration agency's own application for the service it provides to the public, and with each of the agency's applications for recertification, renewal, or change of address form relating to the services the agency provides, unless the individual, in writing, declines to register to vote. To the greatest extent practicable, the voter registration agencies' forms must incorporate a means by which an individual who completes the forms may decline, in writing, to register to vote.

b. Employees of the voter registration agency who are trained to provide nonpartisan voter registration assistance, who routinely inquire of individuals served by the agency whether they wish to register to vote, and who, if requested, assist such individuals in completing the registration forms, must provide to each individual who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the agency with regard to the completion of its own forms. A voter registration agency employee who provides such assistance may not do any of the following:

1. Seek to influence an applicant's political preference or party registration.

2. Display any such political preference or party allegiance.

3. Make any statement to an applicant to take any action of which the purpose or effect is to discourage the applicant from registering to vote.

c. Acceptance of completed voter registration applications for transmittal to the appropriate office of the Department of Elections.

1. Information relating to a declination to register to vote in connection with an application made at a voter registration agency may not be used for any purpose other than voter registration.

2. Voter registration agencies must do all of the following:

A. Inform all applicants for voter registration of voter eligibility requirements.

B. Inform all applicants for voter registration of the penalties provided under law for submission of a false voter registration application.

C. Ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(4) Notwithstanding the provisions of paragraph (b)(3) of this section, a voter registration agency may use an electronic tool developed by the State Election Commissioner to register clients to vote and to update voter registration records.

(69 Del. Laws, c. 76, § 1; 72 Del. Laws, c. 275, § 7; 77 Del. Laws, c. 227, §§ 31, 32; 79 Del. Laws, c. 231, § 1; 83 Del. Laws, c. 71, § 1.)

## § 2050. Registration through state agencies [Effective upon fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) Registration through the Division of Motor Vehicles.

(1) The Division of Motor Vehicles is a voter registration agency for purposes of this subchapter and must provide the voter registration services under § 2050A of this title.

(2)-(6) [Repealed.]

(b) Registration through other state agencies.

(1) The Secretary or Chief Administrative Officer of each of the state agencies under paragraph (b)(2) of this section shall be a voter registration agency for purposes of this subchapter and must provide the voter registration services listed in paragraph (b)(3) of this section for its employees and the public it serves.

(2) In addition to the voter registration procedure provided for elsewhere in this chapter, an individual who is qualified to register to vote may complete a voter registration application or apply to change a previous voter registration at any of the following state agencies:

a. Department of Health and Social Services, Division of Social Services.

b. Department of Labor, Division of Employment and Training and Division of Vocational Rehabilitation.

c. Any other state agency that the Secretary or Chief Administrative Officer for that state agency selects to provide voter registration services for its employees and the public it serves.

(3) At each voter registration agency established by this subsection, all of the following services must be made available:

a. Distribution of mail voter registration application forms as required by subchapter IV of this chapter in conjunction with the voter registration agency's own application for the service it provides to the public, and with each of the agency's applications for recertification, renewal, or change of address form relating to the services the agency provides, unless the individual, in writing, declines to register to vote. To the greatest extent practicable, the voter registration agencies' forms must incorporate a means by which an individual who completes the forms may decline, in writing, to register to vote.

b. Employees of the voter registration agency who are trained to provide nonpartisan voter registration assistance, who routinely inquire of individuals served by the agency whether they wish to register to vote, and who, if requested, assist such individuals in completing the registration forms, must provide to each individual who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the agency with regard to the completion of its own forms. A voter registration agency employee who provides such assistance may not do any of the following:

1. Seek to influence an applicant's political preference or party registration.

2. Display any such political preference or party allegiance.

3. Make any statement to an applicant to take any action of which the purpose or effect is to discourage the applicant from registering to vote.

c. Acceptance of completed voter registration applications for transmittal to the appropriate office of the Department of Elections.

1. Information relating to a declination to register to vote in connection with an application made at a voter registration agency may not be used for any purpose other than voter registration.

2. Voter registration agencies must do all of the following:

A. Inform all applicants for voter registration of voter eligibility requirements.

B. Inform all applicants for voter registration of the penalties provided under law for submission of a false voter registration application.

C. Ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(4) Notwithstanding the provisions of paragraph (b)(3) of this section, a voter registration agency may use an electronic tool developed by the State Election Commissioner to register clients to vote and to update voter registration records.

(69 Del. Laws, c. 76, § 1; 72 Del. Laws, c. 275, § 7; 77 Del. Laws, c. 227, §§ 31, 32; 79 Del. Laws, c. 231, § 1; 83 Del. Laws, c. 71, § 1; 85 Del. Laws, c. 63, § 14(b).)

## § 2050A. Automatic voter registration at the Division of Motor Vehicles and other agencies [Effective until fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) Each person who, in the course of business with the Division of Motor Vehicles, provides documentation demonstrating United States citizenship, shall be confirmed in the Division of Motor Vehicles database as meeting the citizenship requirement for eligibility to vote. The course of business with the Division of Motor Vehicles applies to any person who comes to an office of the Division of Motor Vehicles or accesses its website in order to conduct any of the following transactions:

(1) The issuance or replacement of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

(2) The renewal of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

(3) The change of an individual's legal name or residence address listed on a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

(b) (1) For each individual who is confirmed in the Division of Motor Vehicles database as meeting the citizenship requirement for eligibility to vote, and who is not registered to vote and who is of sufficient age to register to vote, the Division of Motor Vehicles shall provide to the Department of Elections all of the following information about the individual:

a. The individual's name.

b. The individual's date of birth.

c. The individual's driver's license or state ID number.

d. The individual's residence address and mailing address, if different from the residence address.

e. The individual's county of residence.

f. The individual's citizenship status.

g. An electronic image of the individual's signature.

(2) The Division of Motor Vehicles shall transmit the information in paragraph (b)(1) of this section to the Department of Elections electronically, at least on a daily basis, and in a format agreed upon by the Division of Motor Vehicles and the Department of Elections. The Department of Elections must be able to upload the information onto the statewide computerized voter registration database.

(c) Nothing in this section shall be construed to amend the substantive qualifications for voter registration in this State or to require documentary proof of citizenship for voter registration.

(d) (1) Upon receiving a complete electronic record for an individual who is not registered to vote, is of sufficient age to register to vote, and who has demonstrated United States citizenship, the Department of Elections shall, upon determination that the individual is eligible to register to vote, do all of the following:

a. Register the individual to vote.

b. Mark the individual as unaffiliated.

c. Send the individual a notice under paragraph (e)(1) of this section.

(2) If the Department of Elections determines that a person under paragraph (d)(1) of this section is ineligible to register to vote, the Department of Elections may not register the individual to vote or send the individual a notice under paragraph (e)(1) of this section.

(3) If the electronic record received for an individual does not include the information required by paragraph (b)(1) of this section, the Department of Elections shall ask the individual to provide the necessary additional information, pursuant to procedures set out by Department of Elections regulations.

(e) (1) For any individual registered to vote pursuant to paragraph (d)(1) of this section, the Department of Elections shall send to the person's address of record, by nonforwardable mail, a notice that the individual has been registered to vote that contains a postage paid preaddressed return form by which the person may affiliate with a political party or decline to be registered.

(2) A notice mailed under paragraph (e)(1) of this section must include an explanation of the eligibility requirements to register to vote and a statement indicating that if the person is not eligible, the person should decline to register using the preaddressed return form. The notice must also state the penalties for submission of a false application.

(3) The notice provided under paragraph (e)(1) of this section must also include a statement indicating that if the person declines to register to vote, the fact that the person has declined registration will remain confidential and will be used only for election administration purposes, and a statement indicating that if a person does not decline registration, the office at which the person was registered will remain confidential and will be used only for election administration purposes.

(4) The notice provided under paragraph (e)(1) of this section must include a statement instructing the person to select a political party in order to vote in that party's political primary. The notice must also inform the person that they may affiliate with a political party by using the State's online voter registration system.

(5) The notice provided under paragraph (e)(1) of this section must provide information regarding participation in the Address Confidentiality Program pursuant to § 1303 of this title.

(6) The Department of Elections shall prescribe the form of the notice described in paragraph (e)(1) of this section. Such notice may be combined with the notice provided to newly registered voters required under § 2014(c) of this title.

(f) (1) If a person returns the notice provided under paragraph (e)(1) of this section and declines to be registered, the person's registration is cancelled, and the person is deemed to have never registered. If the person has voted in an election after the transfer of the person's record but before the notice is returned, the returned form is of no effect and the person is registered as of the date of the person's application with the Division of Motor Vehicles.

(2) If a person returns the notice provided under paragraph (e)(1) of this section and affiliates with a party, the person is registered as of the date of the person's application with the Division of Motor Vehicles, and the person's affiliation shall be marked effective as of the date the affiliation information is received.

(3) If a person returns the notice provided under paragraph (e)(1) of this section without marking the option to decline or the option to affiliate with a party, the returned form is of no effect. The person is registered as of the date of the person's application with the Division of Motor Vehicles.

(4) If a notice provided under paragraph (e)(1) of this section is returned as undeliverable, the Department of Elections must send the person an address verification request pursuant to § 2014(c) of this title.

(5) Information relating to the return of a notice form declining to be registered may not be used for any purpose other than election administration.

(g) (1) The Division of Motor Vehicles shall provide notice of a change of name or address to the Department of Elections for an individual who meets all of the following requirements:

a. Is registered to vote in this state.

b. Comes to an office of the Division of Motor Vehicles or accesses its website in order to conduct any of the following transactions:

1. The issuance or replacement of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

2. The renewal of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

3. The change of an individual's legal name or residence address listed on a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

c. Provides information indicating a different name or address from that on the individual's voter registration record.

(2) This information shall be transmitted electronically, at least on a daily basis, and in a format agreed upon by the Division of Motor Vehicles and the Department of Elections. The Department of Elections must be able to upload the information onto the statewide computerized voter registration database.

(3) The Department of Elections must change the person's registration record to reflect the change of name or address, mark the registration record as "active," and send to the person's address of record, by forwardable mail, notice of the change and a postage paid preaddressed return form by which the person may verify or correct the information. Such notice may be combined with the notice required under § 2014(c) of this title.

(4) If the person returns the form described in paragraph (g)(3) of this section and indicates that the change to the registration records was in error, the Department of Elections must immediately correct the person's previously updated information in the statewide voter registration database.

(h) (1) Each state agency that provides voter registration services pursuant to § 2050(b) of this title shall annually provide to the Department of Elections a list with each designated office, the type of services the office provides, and a designated voter registration contact for that office.

(2) At the earliest practicable time, the State Election Commissioner or the Commissioner's designee shall assess which voter registration agencies collect sufficient information from applicants to verify eligibility for voter registration purposes or update information for an existing registration.

(3) If, after conducting the assessment required by paragraph (h)(2) of this section, the State Election Commissioner or the Commissioner's designee determines that a state agency collects the necessary information to confirm eligibility for registration or update information for an existing registration in the regular course of business, the Department of Elections shall establish a schedule under which the agency must begin providing electronic records regarding individuals eligible to register to vote and updated information for individuals already registered to vote in this state to the Department of Elections.

(4) The agency shall provide electronic records to the Department of Elections, and the Department of Elections shall process electronic records received from the agency substantially in accordance with the procedures set out in this section for the Division of Motor Vehicles, subject to any modifications necessary to comply with federal law.

(i) The Department of Elections, officials from the Division of Motor Vehicles, and officials from any other agencies designated under paragraph (h)(3) of this section shall work jointly to provide registration and materials educating the public about the procedures established in this section.

(j) The Department of Elections shall establish adequate and reasonable technological security requirements for the exchange or transfer of data related to voter registration between the Department of Elections and the Division of Motor Vehicles or any other agency designated pursuant to paragraph (h)(3) of this section. No agency may begin to exchange or transfer data under this section unless that agency adheres to the technological security requirements established by the Department of Elections under this subsection.

(k) The Department of Elections, in consultation with the Division of Motor Vehicles and any other agencies designated pursuant to paragraph (h)(3) of this section, shall audit the system established by this section for quality of data prior to implementation. Following implementation, the Department of Elections shall conduct regular audits and random checks of the system to ensure accuracy and reliability.

*(l)* (1) The Department of Elections shall produce an annual public report to the Governor and General Assembly that includes all of the following:

a. The number of records transferred to the Department of Elections under this section, categorized by the source agency.

b. The number of voters newly added to the statewide voter registration list because of records transferred, categorized by the source agency.

c. The number of voters on the statewide voter registration list whose information was updated because of records transferred, categorized by the source agency and the type of information update.

d. The number of individuals who declined voter registration.

e. Information on the implementation of audits, security, and privacy protocols.

f. Any efforts the Department of Elections and source agencies plan to make to improve the efficiency and effectiveness of the voter registration process, by source agency.

(2) For items in paragraphs (*l*)(1)a. through d. of this section, the report shall be subcategorized by sex and age of the individuals included.

(3) The report may not include any personal identifying information.

(m) (1) Unless a person who is ineligible to register to vote intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register, the transfer of the person's electronic record to the Department of Elections under this section does not constitute the completion of a voter registration form by that person, and that person may not be considered to have registered to vote or made a false claim to United States citizenship. If such a registration is processed by the Department of Elections, it is presumed to have been officially authorized by the state, and the person is not subject to any penalty under this code.

(2) If an individual who is ineligible to vote becomes registered to vote under this section, that individual is not guilty of wrongful registration under § 2302 of this title unless the individual intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register.

(3) If an individual who is ineligible to vote becomes registered to vote under this subchapter and votes or attempts to vote in an election held after the effective date of the individual's registration, that individual is presumed to have a defense under § 5104 of this title and is not guilty of fraudulent voting under § 5128 of this title unless the individual intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register.

(n) The Division of Motor Vehicles and the Department of Elections may promulgate regulations to implement and enforce the provisions of this section.

(83 Del. Laws, c. 71, § 2.)

## § 2050A. Automatic voter registration at the Division of Motor Vehicles and other agencies [Effective upon fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) (1) Except as provided under paragraphs (a)(2) and (a)(3) of this section and subject to paragraphs (a)(4) and (a)(5) of this section, an individual who conducts any of the following transactions with the Division of Motor Vehicles, in person or on the Division's website, is to be automatically registered to vote as part of the transaction:

a. The issuance or replacement of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

b. The renewal of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

c. The change of an individual's legal name or residence address listed on a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

(2) An individual conducting a transaction under paragraphs (a)(1)a. through (a)(1)c. of this section may decline to be registered to vote.

(3) The Division of Motor Vehicles may not register an individual to vote under this subsection if any of the following apply:

a. At the time of the transaction with the Division of Motor Vehicles, the individual provides a document that demonstrates the individual is not a United States citizen.

b. The Division of Motor Vehicles has information that the individual is not a United States citizen.

c. The individual is applying for a driving privileges card or permit under § 2711(d) of Title 21.

d. The individual declines to be registered to vote under paragraph (a)(2) of this section. The fact that the individual declines to be registered to vote under this subsection is confidential and may not be used for any purpose other than voter registration.

(4) The application associated with a transaction under paragraphs (a)(1)a. through (a)(1)c. of this section must include as part of the individual's application a voter registration component.

a. The voter registration component of the application must include all of the following:

1. The minimum amount of information necessary to ensure the prevention of duplicate voter registrations and preserve the ability of election officials to determine the individual's eligibility to vote and otherwise administer voter registration and the election process. This information must include the individual's choice of political party affiliation or choice to not be affiliated with a political party.

2. A statement setting forth voting eligibility requirements and an attestation that the individual meets the requirements.

3. The signature of the individual under penalty of perjury.

b. The voter registration component of the application is not required to include a notarization or other formal authorization.

(5) The voter registration component may not require any information which duplicates information required as part of the transaction under paragraphs (a)(1)a. through (a)(1)c. of this section other than a second signature or information under paragraph (a)(4)a. of this section.

(b) (1) For each individual who is confirmed in the Division of Motor Vehicles database as meeting the citizenship requirement for eligibility to vote, and who is not registered to vote and who is of sufficient age to register to vote, the Division of Motor Vehicles shall provide to the Department of Elections all of the following information about the individual:

a. The individual's name.

b. The individual's date of birth.

c. The individual's driver's license or state ID number.

d. The individual's residence address and mailing address, if different from the residence address.

e. The individual's county of residence.

f. [Repealed.]

g. An electronic image of the individual's signature.

h. The individual's choice of political party affiliation or choice to not be affiliated with a political party.

i. If the individual declines to be registered to vote under paragraph (a)(2) of this section.

(2) The Division of Motor Vehicles shall transmit the information in paragraph (b)(1) of this section to the Department of Elections electronically, at least on a daily basis, and in a format agreed upon by the Division of Motor Vehicles and the Department of Elections. The Department of Elections must be able to upload the information onto the statewide computerized voter registration database.

(c) Nothing in this section shall be construed to amend the substantive qualifications for voter registration in this State or to require documentary proof of citizenship for voter registration.

(d) (1) Upon receiving a complete electronic record for an individual who is not registered to vote, is of sufficient age to register to vote, has demonstrated United States citizenship, and did not elect to decline to register to vote under paragraph (a)(2) of this section, the Department of Elections shall, upon determination that the individual is eligible to register to vote, do all of the following:

a. Register the individual to vote.

b. Register the individual's choice of political party affiliation or choice to not be affiliated with a political party.

c. Send the individual a notice under paragraph (e)(1) of this section.

(2) If the Department of Elections determines that an individual under paragraph (d)(1) of this section is ineligible to register to vote, the Department of Elections may not register the individual to vote or send the individual a notice under paragraph (e)(1) of this section.

(3) If the electronic record received for an individual does not include the information required by paragraph (b)(1) of this section, the Department of Elections shall ask the individual to provide the necessary additional information, pursuant to procedures set out by Department of Elections regulations.

(e) (1) For any individual registered to vote pursuant to paragraph (d)(1) of this section, the Department of Elections shall send to the individual's address of record the notice required under § 2014(c) of this title, which may include any additional information the Department of Elections determines is appropriate. If the notice is returned as undeliverable, the Department of Elections shall send the person an address verification request under § 2014(c) of this title.

(2)-(6) [Repealed.]

(f) [Repealed.]

(g) (1) The Division of Motor Vehicles shall provide notice of a change of name or address to the Department of Elections for an individual who meets all of the following requirements:

a. Is registered to vote in this state.

b. Comes to an office of the Division of Motor Vehicles or accesses its website in order to conduct any of the following transactions:

1. The issuance or replacement of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

2. The renewal of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

3. The change of an individual's legal name or residence address listed on a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's Permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

c. Provides information indicating a different name or address from that on the individual's voter registration record.

(2) This information shall be transmitted electronically, at least on a daily basis, and in a format agreed upon by the Division of Motor Vehicles and the Department of Elections. The Department of Elections must be able to upload the information onto the statewide computerized voter registration database.

(3) The Department of Elections must change the person's registration record to reflect the change of name or address, mark the registration record as "active," and send to the person's address of record, by forwardable mail, notice of the change and a postage paid preaddressed return form by which the person may verify or correct the information. Such notice may be combined with the notice required under § 2014(c) of this title.

(4) If the person returns the form described in paragraph (g)(3) of this section and indicates that the change to the registration records was in error, the Department of Elections must immediately correct the person's previously updated information in the statewide voter registration database.

(h) (1) Each state agency that provides voter registration services pursuant to § 2050(b) of this title shall annually provide to the Department of Elections a list with each designated office, the type of services the office provides, and a designated voter registration contact for that office.

(2) At the earliest practicable time, the State Election Commissioner or the Commissioner's designee shall assess which voter registration agencies collect sufficient information from applicants to verify eligibility for voter registration purposes or update information for an existing registration.

(3) If, after conducting the assessment required by paragraph (h)(2) of this section, the State Election Commissioner or the Commissioner's designee determines that a state agency collects the necessary information to confirm eligibility for registration or update information for an existing registration in the regular course of business, the Department of Elections shall establish a schedule under which the agency must begin providing electronic records regarding individuals eligible to register to vote and updated information for individuals already registered to vote in this state to the Department of Elections.

(4) The agency shall provide electronic records to the Department of Elections, and the Department of Elections shall process electronic records received from the agency substantially in accordance with the procedures set out in this section for the Division of Motor Vehicles, subject to any modifications necessary to comply with federal law.

(i) The Department of Elections, officials from the Division of Motor Vehicles, and officials from any other agencies designated under paragraph (h)(3) of this section shall work jointly to provide registration and materials educating the public about the procedures established in this section.

(j) The Department of Elections shall establish adequate and reasonable technological security requirements for the exchange or transfer of data related to voter registration between the Department of Elections and the Division of Motor Vehicles or any other agency designated pursuant to paragraph (h)(3) of this section. No agency may begin to exchange or transfer data under this section unless that agency adheres to the technological security requirements established by the Department of Elections under this subsection.

(k) The Department of Elections, in consultation with the Division of Motor Vehicles and any other agencies designated pursuant to paragraph (h)(3) of this section, shall audit the system established by this section for quality of data prior to implementation. Following implementation, the Department of Elections shall conduct regular audits and random checks of the system to ensure accuracy and reliability.

*(l)* (1) The Department of Elections shall produce an annual public report to the Governor and General Assembly that includes all of the following:

a. The number of records transferred to the Department of Elections under this section, categorized by the source agency.

b. The number of voters newly added to the statewide voter registration list because of records transferred, categorized by the source agency.

c. The number of voters on the statewide voter registration list whose information was updated because of records transferred, categorized by the source agency and the type of information update.

d. The number of individuals who declined voter registration.

e. Information on the implementation of audits, security, and privacy protocols.

f. Any efforts the Department of Elections and source agencies plan to make to improve the efficiency and effectiveness of the voter registration process, by source agency.

(2) For items in paragraphs (*l*)(1)a. through d. of this section, the report shall be subcategorized by sex and age of the individuals included.

(3) The report may not include any personal identifying information.

(4) To meet the requirement to produce the report to the General Assembly, the Department of Elections shall provide the report to all of the following:

a. The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

b. The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

c. The Director and Librarian of the Division of Legislative Services.

(m) (1) Unless a person who is ineligible to register to vote intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register, the transfer of the person's electronic record to the Department of Elections under this section does not constitute the completion of a voter registration form by that person, and that person may not be considered to have registered to vote or made a false claim to United States citizenship. If such a registration is processed by the Department of Elections, it is presumed to have been officially authorized by the state, and the person is not subject to any penalty under this code.

(2) If an individual who is ineligible to vote becomes registered to vote under this section, that individual is not guilty of wrongful registration under § 2302 of this title unless the individual intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register.

(3) If an individual who is ineligible to vote becomes registered to vote under this subchapter and votes or attempts to vote in an election held after the effective date of the individual's registration, that individual is presumed to have a defense under § 5104 of this

title and is not guilty of fraudulent voting under § 5128 of this title unless the individual intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register.

(n) The Division of Motor Vehicles and the Department of Elections may promulgate regulations to implement and enforce the provisions of this section.

(83 Del. Laws, c. 71, § 2; 85 Del. Laws, c. 63, § 14(c).)

### § 2051. Appointment of voter registration coordinator — Coordination among voter registration agencies, Department of Elections and Department of Technology and Information.

(a) The State Election Commissioner shall be the statewide coordinator for agency based registration.

(b) Each of the voter registration agencies identified in this subchapter shall appoint an existing employee to implement and oversee the training necessary to provide nonpartisan voter registration, and to collect and enter on each registration application all information required to properly identify the applicant, including a complete location of residence. The employee designated to assist registrants at each voter registration agency shall further ensure that each voter registration application to be transmitted to the appropriate Department of Elections contains both the correct identification of the voter registration agency office, the origin and signature of the employee of the voter registration agency office who prepared or assisted in preparing the application and who witnessed the applicant's signature.

(c) The statewide coordinator shall ensure that all applicable intake and application forms used by each agency shall be the same forms used by the Department of Elections.

(d) The statewide coordinator shall provide properly trained personnel to transmit a sufficient number of appropriate applications to each voter registration agency and to transmit completed voter registration applications to the Department of Elections within 3 business days after completion to the Department of Elections. This requirement may be satisfied by putting the completed applications into the State mail within 3 business days.

(e) The statewide coordinator shall provide procedural assistance to each registration agency for appropriate training of the employee designated to assist in voter registration.

(f) The statewide coordinator shall institute appropriate procedures to facilitate implementation of the provisions of this subchapter and to ensure coordination of those procedures among the Department of Elections, the Department of Technology and Information and the voter registration agencies.

(69 Del. Laws, c. 76, § 1; 70 Del. Laws, c. 274, § 5; 74 Del. Laws, c. 128, §§ 2, 3; 79 Del. Laws, c. 275, § 42.)

### § 2052. Statistical compilations.

The Department of Elections shall collect, maintain and publish statistical data reflecting the number of electors enfranchised pursuant to this subchapter by each of the voter registration agencies created herein.

(69 Del. Laws, c. 76, § 1; 79 Del. Laws, c. 275, § 43.)

### § 2053. Effective date; title.

The provisions of this subchapter VII shall take effect on January 30, 1994, and shall be known as the "Agency Based Registration Act."

(69 Del. Laws, c. 76, § 1.)

## Subchapter VIII

## Registration by Governmental and Private Entities

### § 2060. Application.

Governmental and private entities may apply to the State Election Commissioner 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 State Election Commissioner 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 target audience and/or scope of the drive or continuing voter registration activity.

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

(5) 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 State Election Commissioner 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 State Election Commissioner.

(6) The number of applications requested.

(70 Del. Laws, c. 188, § 22; 77 Del. Laws, c. 227, §§ 2, 33.)

## § 2061. Training.

The State Election Commissioner 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 State Election Commissioner. Individuals who complete the training required by the Commissioner shall be certified as a temporary registrar for a period of 2 years or for the duration of the proposed voter registration drive whichever is shorter.

(70 Del. Laws, c. 188, § 22; 77 Del. Laws, c. 227, §§ 2, 34-36.)

## § 2062. Approval.

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

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

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

(70 Del. Laws, c. 188, § 22; 77 Del. Laws, c. 227, §§ 2, 37.)

## § 2063. Pickup and return of materials.

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

(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 State Election Commissioner 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 State Election Commissioner 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 State Election Commissioner.

(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.

(70 Del. Laws, c. 188, § 22; 77 Del. Laws, c. 227, § 2.)

## § 2064. Procedures.

(a) Entities conducting voter registration shall account for the disposition of every application provided by the Department of Elections or the office of the State Election Commissioner by application number. The State Election Commissioner 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 Department of Elections or the office of the State Election Commissioner 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 State Election Commissioner.

(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 State Election Commissioner.

(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 Department of Elections has verified and accepted the application.

(70 Del. Laws, c. 188, § 22; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 44.)

## § 2065. Application date.

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

(70 Del. Laws, c. 188, § 22; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 45.)

# Part II
# Registration of Voters
## Chapter 21
## Registration Appeals

### § 2101. Right to appeals; person entitled.

(a) From the decision of the Department 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.

(b) The word "court" as used in this chapter shall mean either the Resident Judge of the county in which the person appealing the decision resides, or, in case of such judge's disability or absence from the county, any judge entitled to sit in the Supreme Court.

(21 Del. Laws, c. 36, § 16; Code 1915, § 1637; 34 Del. Laws, c. 106, § 1; Code 1935, §§ 1724, 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 2101; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 213, § 38; 79 Del. Laws, c. 275, § 46.)

### § 2102. Notice of appeal.

(a) In order to prosecute an appeal, the person taking the same shall notify the Department or registration officers of the decision from which the appeal is taken and also the person affected by the appeal, stating in the notice the time when the appeal will be presented.

(b) To take an appeal from a decision of the registration officers it shall not be necessary for the appellant to declare that appellant's own intention so to do to the registration officers other than by the notice to the Department and the registration officers as provided in subsection (a) of this section.

(c) No entry in the registration records with respect to an appeal shall affect the right to appeal.

(21 Del. Laws, c. 36, § 11; Code 1915, § 1636; 34 Del. Laws, c. 106, § 1; Code 1935, §§ 1723, 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 2102; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 46.)

### § 2103. Notice of appeal to correct name; correction by judge.

Any person applying to the court to have any name appearing in any manner incorrectly in the Election District Record for such person's election district to be corrected shall give notice as provided in this chapter to the Department of that person's intention to make application for the correction thereof, so that the Department or its duly authorized representatives shall and may be present with the appropriate registration records to make such corrections therein as the court shall order and direct, and shall also give notice of that person's intention to the person affected, as provided in this chapter.

(21 Del. Laws, c. 36, § 16; Code 1915, § 1637; 34 Del. Laws, c. 106, § 1; Code 1935, § 1724; 15 Del. C. 1953, § 2103; 50 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 46.)

### § 2104. Manner of giving notice; time; proof.

(a) All notices required to be served upon any person by this chapter shall be in writing and shall be served personally or by registered mail, return receipt requested, addressed to the person's address that appears in the County Master Record.

(b) All required notices shall be served at least 5 days prior to the day on which the appeal or application is made to the court. The date of personal service or the date of mailing shall be considered as the first day in computing the 5 days' period.

(c) In all cases where service is made by registered mail, proof of such service shall be by affidavit showing the date of mailing and by the return receipt which shall be annexed to the affidavit showing that the person sought to be served received or refused the notice by registered mail or that the person sought to be served was unknown at the address appearing in the County Master Record.

(d) No appeal shall be considered by the court unless it is satisfied that notice has been given as required by this section.

(21 Del. Laws, c. 36, § 16; Code 1915, § 1637; 34 Del. Laws, c. 106, § 1; Code 1935, § 1724; 44 Del. Laws, c. 108, § 1; 15 Del. C. 1953, § 2104; 50 Del. Laws, c. 171, § 1.)

### § 2105. Affidavit of appellant.

No appeal shall be received and acted upon by the court unless the appellant shall at the time of presenting that appellant's appeal also make and file therewith an affidavit that notice of that appellant's intention to present the appeal on the day was given to the Department or registration officers or both, and to the person affected by the appeal, and that such appeal is made in good faith and based upon facts within the knowledge of the person making and filing such affidavit.

(Code 1935, § 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 2105; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 46.)

### § 2106. Disposition of appeals.

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.

(21 Del. Laws, c. 36, § 16; 23 Del. Laws, c. 56, § 1; Code 1915, § 1637; 34 Del. Laws, c. 106, § 1; Code 1935, §§ 1724, 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 2106; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 171, § 1; 57 Del. Laws, c. 181, § 40.)

## § 2107. Limit on appeals presenting the same issue.

Once an appeal has been determined, no appeal shall thereafter be heard or allowed by the court which presents the same or substantially the same issue as has already been determined in a prior appeal.

(45 Del. Laws, c. 148, § 35; 45 Del. Laws, c. 149, § 35; 15 Del. C. 1953, § 2107; 50 Del. Laws, c. 171, § 1.)

## § 2108. Duty of registration officers to attend appeals.

The registration officers of an election district shall attend and be present at all hearings of which they had notice, before the court sitting for that purpose, of appeals which have been taken from their decision.

(21 Del. Laws, c. 36, § 17; Code 1915, § 1638; 34 Del. Laws, c. 106, § 1; Code 1935, § 1725; 15 Del. C. 1953, § 2108; 50 Del. Laws, c. 171, § 1.)

## § 2109. Alternate registrars.

All the powers and duties conferred or enjoined upon registration officers by this chapter are expressly made the powers and duties of all alternate registration officers in the absence of any registration officer from that registration alternate officer's election district or the registrar's disability to perform the duties imposed upon such registration officer by this chapter.

(21 Del. Laws, c. 36, § 18; Code 1915, § 1639; 34 Del. Laws, c. 106, § 1; Code 1935, § 1726; 15 Del. C. 1953, § 2109; 49 Del. Laws, c. 4, § 4; 49 Del. Laws, c. 17, § 16; 50 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1.)

## § 2110. Order by court.

The court hearing any appeal shall order and direct the Department to make such entries in the registration records as the law and the facts shall warrant.

(21 Del. Laws, c. 36, § 16; Code 1915, § 1637; 34 Del. Laws, c. 106, § 1; Code 1935, § 1724; 15 Del. C. 1953, § 2110; 50 Del. Laws, c. 171, § 1; 79 Del. Laws, c. 275, § 46.)

## § 2111. Finality of decisions.

The decision of the court on any appeal provided for in this chapter shall be final.

(Code 1935, § 1744; 45 Del. Laws, c. 145, § 15; 15 Del. C. 1953, § 2111; 50 Del. Laws, c. 171, § 1.)

## § 2112. Costs.

The person who makes the affidavit taking such appeal shall pay all the costs of the appeal if the appeal is finally dismissed. The costs shall be fixed by the court and taxed upon the appellant at the time of such dismissal.

(Code 1915, § 1637; 37 Del. Laws, c. 117, § 9A; Code 1935, § 1724; 15 Del. C. 1953, § 2112; 50 Del. Laws, c. 171, § 1.)

## § 2113. Registration appeal dockets.

(a) The Department shall provide books of permanent record to be known as "registration appeal dockets," in which a permanent record shall be made and preserved of all registration appeals made to, and acted upon by, the court hearing registration appeals. The dockets shall contain the following information in respect to each appeal:

(1) Date of the appeal;

(2) Name of the appellee;

(3) The ground or grounds of each appeal;

(4) The name of the person or persons making the affidavit or affidavits on each appeal;

(5) The determination of the court on each of the grounds of appeal asserted in each such appeal.

(b) The docket may contain such other information or data as may be required to make a complete record of each appeal acted upon. All entries in the dockets shall be under the supervision and direction of the court and the record of each appeal shall be approved by the court hearing the appeal. The record of each appeal shall fully disclose each and every ground upon which the appeal is filed. The registration appeal dockets shall remain in the care and custody of the Department and shall be produced before the court by the Department whenever required by the court sitting for the purpose of hearing appeals.

(45 Del. Laws, c. 148, § 35; 45 Del. Laws, c. 149, § 35; 15 Del. C. 1953, § 2113; 50 Del. Laws, c. 171, § 1; 79 Del. Laws, c. 275, § 46.)

## § 2114. Timing of appeal.

Notwithstanding 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.

(73 Del. Laws, c. 34, § 6; 70 Del. Laws, c. 186, § 1.)

# Part II
# Registration of Voters
## Chapter 23
## Penal and Enforcement Provisions

### § 2301. Neglect of duty; corrupt or fraudulent conduct; penalty.

Whoever, being a member of the 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 such duty shall be fined not more than $200 or imprisoned not more than 2 years or both.

(45 Del. Laws, c. 144, § 8; 45 Del. Laws, c. 148, § 8; 45 Del. Laws, c. 149, § 8; 15 Del. C. 1953, § 2301; 79 Del. Laws, c. 275, § 47.)

### § 2302. Wrongful registration; assault; riot; breach of peace; penalty.

Whoever causes or attempts to cause himself or herself to be registered in:

(1) The name of any other person living or dead or under any fictitious name; or

(2) Any election district in this State, knowing that he or she has not the right to be registered; or

(3) Whoever, knowing himself or herself to be registered in any election district in this State, causes or attempts to cause himself or herself to be registered in any other election district in this State without having first caused that person's own record to be removed from the Election District Record in which that person's original permanent registration record may have been previously entered; or

(4) Whoever, knowing himself or herself to be disqualified as a voter at the next following general election, causes or attempts to cause himself or herself to be entered in the Election District Record in any election district in this State as a registered voter therein or unlawfully interferes with any registrar, alternate registrar or assistant registrar in the discharge of his or her duties under this title; or

(5) Whoever makes any assault or commits any assault and battery or incites or creates any riot or breach of the peace at or near to any place of registration in this State during the sitting of any registration officers;

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.

(19 Del. Laws, c. 38, § 21; 21 Del. Laws, c. 36, § 24; Code 1915, § 1645; 34 Del. Laws, c. 106, § 1; Code 1935, § 1732; 15 Del. C. 1953, § 2302; 50 Del. Laws, c. 170, § 1; 70 Del. Laws, c. 186, § 1.)

### § 2303. Registration records; fraudulent entries; alterations, obliterations or omissions; loss; destruction; mutilation; secretion; false copies; penalty.

(a) Whoever, being a registrar, alternate registrar or assistant registrar:

(1) Fraudulently enters or permits to be entered in any registration record the name of any person as a registered voter who is not entitled to be entered therein as a registered voter; or

(2) Fraudulently refuses or omits to register or fraudulently misspells in any registration record in his or her charge the name of any person entitled under this title to have his or her name entered in such registration records; or

(3) Fraudulently removes from any Election District Record in his or her charge the original permanent registration record of any person entered therein; or

(4) Makes any entry in any registration record, except at the time and in the manner in this title provided; or

(5) Does anything which is by this title forbidden to do; or

(6) Whoever, being a registrar, alternate registrar or assistant registrar, inspector or judge of election:

a. Loses any registration records which may be in his or her charge or custody; or

b. Wilfully destroys, mutilates, defaces, falsifies or fraudulently removes or secretes any registration record; or

c. Knowingly makes any false entry in or false copy of any registration record or any part thereof; or

d. Fraudulently makes any entry, erasure or alteration in any registration record;

shall be deemed to have knowingly and wilfully violated his or her official duty and shall be fined in such amount or imprisoned for such term or both as the court in its discretion may determine.

(b) Whoever, other than the officials referred to in subsection (a) of this section, makes, alters or obliterates any entry in any registration record, or wilfully destroys, mutilates, defaces, falsifies or removes or secretes any registration record, shall be fined in such amount or imprisoned for such term, or both, as the court in its discretion may determine.

(19 Del. Laws, c. 38, §§ 20, 22; 21 Del. Laws, c. 36, § 25; Code 1915, § 1644; 34 Del. Laws, c. 106, § 1; Code 1935, § 1731; 15 Del. C. 1953, § 2303; 50 Del. Laws, c. 170, § 2; 70 Del. Laws, c. 186, § 1.)

### § 2304. Alcoholic liquor in registration places; penalty.

Whoever, during the sitting of the registration officers in any election district in this State, brings, takes, orders or sends into, or attempts to bring, take or send into, any place of registration any alcoholic liquor, or, at any such time or place, drinks or partakes of any such liquor, shall be fined not more than $100 or imprisoned not more than 90 days, or both.

(19 Del. Laws, c. 39, § 32; 21 Del. Laws, c. 36, § 22; Code 1915, § 1643; 34 Del. Laws, c. 106, § 1; Code 1935, § 1730; 15 Del. C. 1953, § 2304.)

## § 2305. Intimidation of registration officers; penalty.

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 a registration 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.

In any trial under this section the acts of any officer of a corporation, so far as they affect an employee or servant of such corporation, shall be taken and held to be the acts of the corporation, whether special or general authority as to such acts from the corporation is shown or not.

Nothing contained in this section shall be construed to relieve any officer of a corporation from individual liability under this section.

(45 Del. Laws, c. 144, § 24; 45 Del. Laws, c. 148, § 24; 45 Del. Laws, c. 149, § 24; 15 Del. C. 1953, § 2305; 70 Del. Laws, c. 186, § 1.)

## § 2306. Notice to Attorney General of violations of registration laws.

The Department shall notify the Attorney General of all violations of the registration laws.

(45 Del. Laws, c. 144, § 9; 45 Del. Laws, c. 148, § 9; 45 Del. Laws, c. 149, § 9; 15 Del. C. 1953, § 2306; 49 Del. Laws, c. 4, § 5; 79 Del. Laws, c. 275, § 48.)

## § 2307. Unauthorized entering of registration area; interference with registration; penalty.

(a) Whoever, not being a registration officer or other department of elections personnel, enters the prohibited registration area, as stipulated in § 2011 of this title, during the hours of registration other than to register 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 prohibited registration area, as stipulated in § 2011 of this title, during the hours of registration for the purpose of interfering with the registration officers in the discharge of their duties or whoever attempts to molest, disturb or prevent the registration officers or any of those seeking to register from proceeding regularly with registration, shall be fined not less than $500 nor more than $1,000 or imprisoned not less than 90 days nor more than 3 years, or both.

(15 Del. C. 1953, § 2307; 58 Del. Laws, c. 401, § 3.)

## § 2308. Failure to file financial disclosure.

The Commissioner upon receiving notice pursuant to § 5815(c) of Title 29 that a candidate for state office has violated subchapter II, Chapter 58 of Title 29, shall publish such candidate's name on the Department of Elections website if:

(1) For a candidate in a primary election such candidate had not complied with subchapter II, Chapter 58 of Title 29 by August 1 of an election year.

(2) For a candidate in a general election such candidate has not complied with subchapter II, Chapter 58 of Title 29 by October 1 of an election year.

(79 Del. Laws, c. 351, § 3.)

# Part III
# Primary Elections and Nominations of Candidates
## Chapter 30
## Ballot Qualifications

### § 3001. Political parties.

No political party shall be listed on any general election ballot unless, 21 days prior to the date of the primary election, there shall be registered in the name of that party a number of voters equal to at least $^{10}/_{100}$ of 1 percent of the total number of voters registered in the State as of December 31 of the year immediately preceding the general election year.

(77 Del. Laws, c. 429, § 2.)

### § 3002. Unaffiliated candidates.

(a) No person shall qualify to appear on the general election ballot of this State as a candidate unaffiliated with a political party unless such person fulfills the requirements of this chapter and is so certified by the State Election Commissioner, if a statewide candidate, or the Department office for the county where the candidate resides, if not a statewide candidate.

(b) A candidate may not be listed as an unaffiliated candidate on any general election ballot unless the candidate files, on forms promulgated by the State Election Commissioner, on or before the close of the official business day on September 1 of the general election year, a sworn declaration with the State Election Commissioner, if a statewide candidate, or the Department office for the county where the candidate resides, if a nonstatewide candidate, stating that the candidate has not been affiliated with any political party for at least 90 days before the filing of the declaration, as required by this title. By September 1 of a general election year, the candidate shall file nominating petitions, as prescribed in this chapter, signed by not less than 1% of the total number of voters registered, as of December 31 of the year immediately preceding the general election year in the State, or if a nonstatewide candidate, of those voters registered to vote for that office which such individual seeks. To be removed from a general election ballot, the candidate must withdraw the nominating petitions on or before 4:30 p.m. on the first Friday after the certificate of nomination is submitted.

(c) The nominating petition shall contain such information and be on a form as prescribed by the State Election Commission. The following information shall, however, be contained in the petition:

(1) Name of the unaffiliated candidate and the office for which the candidate is filing;

(2) Signature, printed name, address at which registered, social security number and date on which signed by signer;

(3) A statement that the signer understands that by intentionally entering false information on the petition the signer may be subject to prosecution for perjury;

(4) A sworn notarized statement of the person circulating the petition that person witnessed the placing of each signature on the petition.

(d) Such petition shall be circulated and executed between January 1 and July 15 of the year in which the general election is held. Each registered voter signing shall do so upon a petition prepared for the county in which that registered voter is registered, and the petition shall be filed with the Department. The signatures and other information thereon shall be verified by the department receiving the petition.

(e) Signatures may be rejected for the following reasons:

(1) The signer was not a registered voter on the date the signer signed the petition;

(2) The signer's place of residence or the signer's Social Security number do not match those appearing in the permanent registration record;

(3) The signer did not list that signer's own Social Security number;

(4) It appears that the signature is a forgery;

(5) The signer's identity cannot be verified because the information and/or signature submitted is illegible, incomplete or obscured.

(f) Where a petition or a part thereof is rejected, the individual submitting same shall have the right to learn the reason or reasons for such rejection and an opportunity to examine the signatures rejected.

(g) An unaffiliated candidate for a statewide office, the General Assembly, or any elected county office must request a criminal history background check from the State Bureau of Identification no earlier than 90 days before the candidate filing deadline and provide proof of the request before filing a declaration as required in subsection (b) of this section.

(1) An unaffiliated candidate who files a declaration under subsection (b) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (g)(5) of this section.

(2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification Central Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification, under this section, is not a public record, as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid for by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine by September 20 of each general election year that a candidate is qualified under § 21 of Article II of the Delaware Constitution before an unaffiliated candidate's name may be listed on any general election ballot.

(61 Del. Laws, c. 418, § 7; 67 Del. Laws, c. 354, § 20; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 49; 82 Del. Laws, c. 170, § 3; 83 Del. Laws, c. 210, § 4; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 185, § 3.)

## § 3003. County ballots.

The Department shall not list a political party on any ballot within the county unless at least 1 candidate for that political party qualifies to appear on at least 1 ballot in the county.

(74 Del. Laws, c. 411, § 20; 79 Del. Laws, c. 275, § 50.)

# Part III
# Primary Elections and Nominations of Candidates

## Chapter 31
## Primary Elections

### Subchapter I
### General Provisions

### § 3101. Nomination, withdrawal, and primary election dates.

The following schedule applies for all candidates:

(1) Notification of candidacy shall be on or before 12:00 noon of the second Tuesday in July.

(2) Such notification of candidacy may be withdrawn on or before 4:30 p.m. on the first Friday after the second Tuesday in July. In the event the first Friday after the second Tuesday in July is a legal holiday, then the final day to withdraw is the next day which is not a Saturday, Sunday, or a legal holiday.

(3) Primary elections for all political parties shall be conducted on the second Tuesday after the first Monday in September.

(4) [Repealed.]

(20 Del. Laws, c. 393, § 18; 22 Del. Laws, c. 285, § 1; 27 Del. Laws, c. 66, § 1; Code 1915, § 1692; 40 Del. Laws, c. 142, § 7; Code 1935, § 1780; 45 Del. Laws, Sp. Sess., c. 3, § 1; 45 Del. Laws, c. 150, § 5; 15 Del. C. 1953, § 3102; 50 Del. Laws, c. 426, § 1; 57 Del. Laws, c. 241, § 2; 58 Del. Laws, c. 258, §§ 1, 2; 58 Del. Laws, c. 368, § 1; 60 Del. Laws, c. 712, § 2; 61 Del. Laws, c. 418, § 9; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 343, § 1; 77 Del. Laws, c. 269, §§ 2-4; 80 Del. Laws, c. 342, §§ 1, 3; 83 Del. Laws, c. 164, § 1.)

### § 3101A. Direct primary elections.

The nominations of candidates by all major political parties for all offices to be decided at a general election shall be conducted by direct primary. All such primaries shall be conducted by the Department under the applicable provisions of this title.

(60 Del. Laws, c. 712, § 1; 61 Del. Laws, c. 418, § 10; 79 Del. Laws, c. 275, § 51.)

### § 3102. Primary elections in all districts to be held on same day.

The primary elections for major political parties shall be held in the various districts on the same day as elsewhere provided in this title.

(20 Del. Laws, c. 393, § 2; 27 Del. Laws, c. 66, § 1; Code 1915, § 1679; Code 1935, § 1770; 15 Del. C. 1953, § 3103; 50 Del. Laws, c. 426, § 7; 57 Del. Laws, c. 241, § 3; 75 Del. Laws, c. 232, § 30.)

### § 3103. Filing fees.

(a) Filing fees for primary election for candidates for any office of any political party shall be set in the following manner:

(1) Candidates for statewide office shall be set by the state executive committee of the respective political party;

(2) Candidates for county or countywide office and members of the General Assembly shall be set by the county executive committee of the respective political party of the county in which the contest is to be held;

(3) Candidates for municipal office for any municipality which holds its election at the time of the general election shall be set by the city executive committee of the respective political party of the city in which the contest is to be held.

(b) The filing fee shall not be greater than 1% of the total salary for the entire term of office for which the candidate is filing except for candidates who fulfill the requirements of subsections (d) and (e) of this section.

(c) The state chair, county chair and city chairs of each political party shall notify the State Election Commissioner and the Department of the amount of the filing fee set pursuant to this section. The notification shall be no later than July 1 of each general election year.

(d) A person who establishes indigency to the Commissioner may, in lieu of the filing fee, present a nomination petition by the deadline for notification of candidacy, in a form prescribed by the State Election Commissioner, bearing the signatures, in the manner hereinafter prescribed, of 1% of the persons who, at the time such petition is presented, are registered voters in all of the election districts in which such candidate would appear on the ballot. Each person who signs a nomination petition shall sign but 1 such petition for each office to be filled, and must be a registered member of the party designated in such petition; provided however, that where there are to be elected 2 or more persons to the same office, each signer may sign petitions for as many candidates for such office, as, and no more than, the signer could vote for at the succeeding election. Each signer of such petition shall declare the signer’s street address, the date of signature and that the signer is a registered voter of the county and of the party therein named. No nomination petition shall be circulated before the year in which the election is to take place, and no signature shall be counted unless it bears a date affixed not earlier than January 1 of the year in which the election is to take place. Said nomination petition may be on 1 or more sheets, and different sheets must be used for signers who reside in different counties. If more than 1 sheet is used, they shall be bound together when offered for filing, and each sheet shall be numbered consecutively. Each sheet shall bear the affidavit of the person responsible for circulating the petition that

to the best of affiant's knowledge and belief, the signers are registered voters in election districts in which such candidate would appear on the ballot and members of the political party of the candidate.

(e) For purposes of this section, a person is "indigent" only if such person is receiving benefits under the Supplemental Security Income Program for Aged, Blind and Disabled under Subchapter XVI of Chapter 7 of Title 42 of the United States Code [42 U.S.C. § 1381 et seq.], or if the Commissioner determines that such person meets the income and resources tests for such benefits under 42 U.S.C. § 1382(a), as applied to Delaware residents. The Commissioner shall require any person who seeks to be treated as indigent under this section to provide such information under oath necessary to determine any claim of indigence, including copies of such person's personal income tax returns and may require the person to authorize the Commissioner to receive information from banks, the Social Security Administration, credit reporting services and any other source of information as may be necessary to make the determination under this section.

(f) When submitting filing fees, the state, county chair and city chairs of each political party shall notify the State Election Commissioner and the Department whether filing fee checks are to be held in the office where the candidate will file or if they are to be turned over to the respective state, county or city chair of each political party.

(15 Del. C. 1953, § 3104; 57 Del. Laws, c. 241, § 4; 57 Del. Laws, c. 567, § 18B; 58 Del. Laws, c. 519; 60 Del. Laws, c. 398, § 1; 60 Del. Laws, c. 712, §§ 3-5; 61 Del. Laws, c. 418, § 11; 69 Del. Laws, c. 244, §§ 1-3; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 305, § 1; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 52.)

## § 3104. Hours at polling places.

The time for opening the polls for the purpose of conducting a primary election shall be 7:00 in the morning, and the time for closing the polls at such primary election shall be 8:00 in the evening.

(20 Del. Laws, c. 393, § 18; 22 Del. Laws, c. 285, § 1; 27 Del. Laws, c. 66, § 1; Code 1915, § 1692; 40 Del. Laws, c. 142, § 7; Code 1935, § 1780; 45 Del. Laws, c. 150, § 5; 15 Del. C. 1953, § 3105; 50 Del. Laws, c. 426, § 8.)

## § 3105. Procedure when no contest.

In case there be no contest for any office in any particular election district or districts the department shall be governed accordingly and shall not hold a primary election in any such election district or districts.

(Code 1935, § 1780; 45 Del. Laws, c. 150, § 5; 15 Del. C. 1953, § 3106; 50 Del. Laws, c. 426, § 9.)

## § 3106. Filing of candidacy for nomination at a primary election; withdrawal.

(a) Any person desiring to be a candidate shall give notice in the following manner:

(1) Candidates for statewide office:

a. Any statewide candidate shall notify the chair of the state committee of that statewide candidate's respective political party, or the chair's designee in writing, on forms prescribed by the State Election Commissioner on or before the deadline set forth in § 3101(1) of this title.

b. At the time of giving notice as required above, each candidate shall tender the required filing fee, if any, by giving a check to the State Election Commissioner, payable to the state committee of the candidate's political party, together with a copy of the notice given the party's state chair. At such time, the Commissioner shall receipt a third copy of said notice, to be provided the candidate.

(2) Candidates for all other offices:

a. All candidates for county or countywide office, members of the General Assembly, or municipal office for any municipality holding its election at the time of the general election shall notify the county chair, or the county chair's designee, in writing, or the city chair, or the city chair's designee, if applicable for municipal candidates, of their respective political party in their county of residence on forms prescribed by the State Election Commissioner on or before the deadline under § 3101(1) of this title.

b. At the time of giving notice as required under paragraph (a)(2) of this section, each candidate shall tender the required filing fee, if any, by giving a check to the Department office for the county in which the candidate resides, payable to the county committee of the candidate's political party, or city committee, if applicable for municipal candidates, together with a copy of the notice given to the party chair. At such time, the Department office shall receipt a copy of the notice to the candidate.

(b) If any of the filing fees mentioned in subsection (a) of this section are not required, each candidate shall still give notice to the Department office for the county in which the candidate resides, as specified in paragraphs (a)(1) and (2) of this section, and the Department office shall receipt a copy of the notice to the candidate.

(c) Any candidate who has filed for nomination under subsection (a) or (b) of this section may withdraw the filing by notifying the Department office with which the candidate filed on forms prescribed by the State Election Commissioner on or before the deadline under § 3101(2) of this title. The Department office for the county in which the candidate resides shall promptly notify the same political party chair who received the original notice of filing. The political party shall return the candidate's filing fee. If a candidate withdraws after the deadline under § 3101(2) of this title, the candidate shall forfeit the filing fee to the political party.

(d) Following the deadline for withdrawal of candidates, the State Election Commissioner shall promptly turn over any remaining filing fee checks in the possession of the Commissioner. At the same time, the Commissioner shall notify the Department of all those statewide candidates who have qualified under this section. The Department shall also at this time submit to the county chair or city chair

any remaining filing fee checks in the possession of the county departments and shall notify the Commissioner of all persons who have qualified as candidates.

(e) Any notice of candidacy or withdrawal of candidacy required by this section shall include the signature of each candidate, together with the candidate's proper and correct name typed or printed, and the address from which the candidate is registered to vote at the time of filing. Additionally, each candidate shall provide the Commissioner of Elections with proof of their primary residential address in accordance with § 3114 of this title.

(f) At the time of the filing of the notice required by this section, as well as at the time of the primary election, the person filing such notice shall be a registered member of the party whose nomination such person seeks, as shown on the voter rolls of the Department.

(g) All candidates for statewide office, the General Assembly, or any elected county office must request a criminal history background check no earlier than the first date an individual may file as a candidate and no later than the filing deadline from the State Bureau of Identification and provide proof that the criminal history background check has been requested before giving notice under subsection (a) of this section.

(1) A candidate who gives notice under subsection (a) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (g)(5) of this section.

(2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification Central Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record, as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid for by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine, by August 1 of each general election year that a candidate is qualified under § 21 of Article II of the Delaware Constitution before the candidate's name may be listed on a ballot in a primary election.

(20 Del. Laws, c. 393, § 39; 27 Del. Laws, c. 66, § 1; Code 1915, § 1713; Code 1935, § 1801; 45 Del. Laws, c. 150, § 10; 15 Del. C. 1953, § 3107; 57 Del. Laws, c. 241, § 5; 57 Del. Laws, c. 567, § 18C; 58 Del. Laws, c. 148, § 34; 58 Del. Laws, c. 215, § 18; 58 Del. Laws, c. 258, §§ 3-5; 58 Del. Laws, c. 368, §§ 2, 3; 60 Del. Laws, c. 398, § 2; 60 Del. Laws, c. 712, § 6; 61 Del. Laws, c. 484, § 1; 67 Del. Laws, c. 354, § 21; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 305, § 4; 78 Del. Laws, c. 36, § 1; 79 Del. Laws, c. 275, § 53; 82 Del. Laws, c. 170, § 4; 83 Del. Laws, c. 359, § 1; 84 Del. Laws, c. 185, § 4.)

## § 3107. Determination of nominee.

Any candidate for party nomination to any office who receives a plurality of the votes cast in that candidate's party's primary election for that office shall be the nominee of that candidate's party for such office.

(20 Del. Laws, c. 393, § 19; 22 Del. Laws, c. 285, § 2; 27 Del. Laws, c. 66, § 1; Code 1915, § 1693; 34 Del. Laws, c. 108, § 5; Code 1935, § 1781; 45 Del. Laws, c. 150, § 6; 15 Del. C. 1953, § 3108; 49 Del. Laws, c. 4, § 5; 49 Del. Laws, c. 276, § 2; 50 Del. Laws, c. 426, § 10; 57 Del. Laws, c. 241, § 6; 57 Del. Laws, c. 567, §§ 18D, 18E; 58 Del. Laws, c. 258, §§ 6, 7; 58 Del. Laws, c. 368, § 4; 60 Del. Laws, c. 712, § 7; 70 Del. Laws, c. 186, § 1.)

## § 3108. Primary election districts; conduct of primary elections.

The Department shall, at least 2 weeks before a primary election, determine and establish primary election districts, each of which shall consist of 1 or more entire election districts in the same representative district.

The Department and the election officers shall conduct the primary elections in the same way that general elections are conducted and in accordance with the applicable provisions of this title, except that the voting machines shall be operated so that the only buttons open to each voter shall be the buttons for candidates of the party of the voter's party affiliation as shown by the voter's original permanent registration record.

The primary election officers and clerks shall be chosen by the Department from among the election officers and clerks selected for the general election for the election district or districts contained in the primary election district, and for each such primary election district the election officers and clerks shall be divided as equally as possible between the 2 principal parties.

(20 Del. Laws, c. 393, § 23; 27 Del. Laws, c. 66, § 1; Code 1915, § 1697; Code 1935, § 1785; 15 Del. C. 1953, § 3109; 50 Del. Laws, c. 426, § 11; 50 Del. Laws, c. 631, § 1; 51 Del. Laws, c. 107, § 1; 52 Del. Laws, c. 87; 57 Del. Laws, c. 567, § 17; 70 Del. Laws, c. 506, § 1; 79 Del. Laws, c. 275, § 54.)

## § 3109. Public notice of time and place.

Notice of primary elections shall at a minimum be given by publication of a notice of election in a daily newspaper of general circulation during 3 of the 10 days prior to a primary election with the last publication being the day before the aforesaid primary, or in the last issue of a weekly newspaper printed in a county before the aforesaid primary. Such notice shall also be, posted on the State's, the State Election Commissioners' and the Department's websites.

(20 Del. Laws, c. 393, § 2; 27 Del. Laws, c. 66, § 1; Code 1915, § 1679; Code 1935, § 1770; 15 Del. C. 1953, § 3110; 51 Del. Laws, c. 107, § 2; 58 Del. Laws, c. 215, § 19; 77 Del. Laws, c. 227, §§ 2, 39; 79 Del. Laws, c. 275, § 55.)

## § 3110. Qualifications of voters.

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.

(20 Del. Laws, c. 393, § 20; 22 Del. Laws, c. 285, § 3; 27 Del. Laws, c. 66, § 1; Code 1915, § 1694; 40 Del. Laws, c. 142, § 8; Code 1935, § 1782; 45 Del. Laws, c. 150, § 7; 15 Del. C. 1953, § 3111; 50 Del. Laws, c. 426, § 2; 57 Del. Laws, c. 181, § 42; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 40.)

## § 3111. Expenses paid by State.

The expenses for holding primary elections under this chapter, including stationery, and pay of officers and clerks shall be paid by the State.

(20 Del. Laws, c. 393, § 35; 27 Del. Laws, c. 66, § 1; Code 1915, § 1709; 30 Del. Laws, c. 102, § 1; Code 1935, § 1797; 45 Del. Laws, c. 150, § 9; 15 Del. C. 1953, § 3113; 51 Del. Laws, c. 149, § 3.)

## § 3112. Sale of alcoholic liquor on day of primary election.

Repealed by 76 Del. Laws, c. 237, § 4, effective June 18, 2008.

## § 3113. Nominating conventions.

The method of nominating candidates for the national Electoral College, for offices within a particular political party and for formulation of the party platform may be by convention.

(15 Del. C. 1953, § 3116; 57 Del. Laws, c. 241, § 8; 57 Del. Laws, c. 567, § 18F; 58 Del. Laws, c. 258, § 8; 60 Del. Laws, c. 712, § 8.)

## § 3114. Candidate residency requirements.

(a) Each candidate shall provide the Commissioner with all of the following information and documentation:

(1) a. A notarized affidavit, in a form approved by the Commissioner signed by the candidate, verifying the candidate's primary residential address. This affidavit must state that it is being signed by the candidate under penalty of perjury.

b. For purposes of this section, "primary residence" or "primary residential address" means the candidate's place of residence under § 103 of this title.

(2) Proof of home ownership as evidenced by:

a. A copy of a deed to the candidate's primary residence,

b. A mortgage payment billing statement verifying the address, or

c. Any other document verifying home ownership for the candidate's primary residence.

d. If the home ownership is in the name of a person other than the candidate, or in the name of a legal entity, such as a trust, partnership, or corporation, the candidate must submit an affidavit signed by the homeowner or authorized legal representative of the owner entity verifying that the candidate is living in the home.

(3) a. If the candidate's primary residence is rented or leased by the candidate, the candidate must provide proof of residency by providing a signed copy of a current and legally-enforceable lease or rental agreement. If the lease or rental agreement expiration date is less than 90 days from the date of filing their notice of candidacy, the candidate must provide a letter, dated within 30 days of filing the notice of candidacy from the property manager or property owner verifying that the candidate is continuing to reside in the residence.

b. If a candidate is primarily residing at a residence without a lease or rental agreement and the candidate's name does not otherwise appear in the proof of home ownership, the candidate must have the property manager, or property owner sign an affidavit, in a form approved by the Commissioner of Elections, verifying the candidate's residency in the property.

(4) a. A copy of any currently valid Delaware motor vehicle registration in the candidate's name showing the candidate's address.

b. A copy of a current valid Delaware driver's license in the candidate's name showing the candidate's address.

c. If the residential address on either the driver's license or the motor vehicle registration is different from the candidate's primary residential address, the candidate must provide documentation from the Delaware Division of Motor Vehicles that the driver's license or motor vehicle registration is in the process of being changed to the candidate's primary residential address.

d. If a candidate does not own a motor vehicle or does not have a currently valid Delaware driver's license, the candidate must submit any other Delaware-issued identification showing the address on the identification is consistent with the address of the candidate's primary residence.

e. If the candidate has no documentation required under this paragraph (a)(4), the candidate must submit a utility bill in the candidate's name showing the candidate's address.

(b) (1) Failure to provide the documents required by this section on or before the deadline to file a notice of candidacy will disqualify a candidate from meeting the residency requirement to be a candidate.

(2) Wilfully submitting false, forged, or altered documents; or coercing, or unduly influencing persons providing affidavit documents will, in addition to any other legal remedy available for such fraudulent act, disqualify a candidate from being a candidate.

(c) (1) The Commissioner shall, within 7 calendar days from the filing of a notice of candidacy and submission of documents, review and verify all documents submitted under this section to confirm the candidate's primary residential address and that the address is located in the area the candidate seeks to represent. The Commissioner shall advise the candidate in writing of the results of this review.

(2) If the Commissioner determines that there are deficiencies in the documents or that there are missing documents, the Commissioner shall advise the candidate in writing what the deficiencies are or what documents are missing. The candidate will have until the closing date for filing a notice of candidacy or 7 calendar days from the Commissioner's letter, whichever is later, to cure the deficiencies or submit missing documents.

(3) If the candidate fails to cure the deficiencies or submit the missing documents within the time limits of this section, the Commissioner will provide a letter to the candidate advising the candidate of the failure to meet the requirements of this section and their ineligibility to be a candidate.

(4) If the candidate cures the deficiencies and submits any missing documents, the Commissioner shall advise the candidate in writing that the requirements of this section have been met.

(d) An incumbent elected official who wants to be a candidate for reelection and who has not relocated to a new primary residence after previously complying with this section, shall comply with this section by providing a copy of their current Delaware driver's license or Delaware identification card and an affidavit stating they have not relocated and all previously supplied documents and information remain true and correct.

(e) [Repealed.]

(83 Del. Laws, c. 359, § 2; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 313, § 5.)

## § 3115. Elected official, primary residency.

(a) If an elected official relocated to a new primary residential address in the district they represent, they must, within 60 days of relocating, advise the Commissioner of Elections of the new address and provide the documents required by § 3114 of this chapter.

(b) Failure to provide the documents required by this section shall subject the elected official to a civil penalty of $100.

(c) Wilfully submitting false, forged, or altered documents, or coercing or unduly influencing persons providing affidavit documents will be an act of fraud.

(83 Del. Laws, c. 359, § 2.)

## § 3116. Fraud prosecution.

Any allegation of fraud relating to a candidate or an elected official's primary residence shall be submitted to the Attorney General for investigation and possible prosecution.

(83 Del. Laws, c. 359, § 2.)

# Subchapter II

# Books, Ballots, Supplies and Polling Places

## § 3121. Registration records used.

(a) The registration records for each election district in this State used for registration purposes for general, supplementary and additional registrations shall be used for all primary elections held under this chapter.

(b) The registration records for each election district in the City of Wilmington shall be used for primary election purposes in accordance with this chapter, and all persons, and only they, whose names appear on such registration records after the same have been added to, revised and corrected, as provided by law, shall be entitled to vote at a primary election to nominate candidates to be voted for at a subsequent municipal election in the City of Wilmington.

(20 Del. Laws, c. 393, § 18; 22 Del. Laws, c. 285, § 1; 27 Del. Laws, c. 66, § 1; Code 1915, § 1692; 40 Del. Laws, c. 142, § 7; Code 1935, §§ 1776, 1780; 45 Del. Laws, c. 150, §§ 2, 5; 15 Del. C. 1953, § 3121; 50 Del. Laws, c. 426, § 4; 75 Del. Laws, c. 232, § 31.)

## § 3122. Delivery of registration records to proper inspectors; penalty.

(a) The Department of Elections shall before 7:00 a.m. of the day on which a primary election is held by any political party deliver to the proper inspector the registration records for each general election district that may be contained within each primary election district, and the inspector shall have the registration records at the place of holding the primary election at the time for opening the polls on primary election day.

(b) In each year in which a municipal election is held in the City of Wilmington the inspector for each primary election district within such City, before 7:00 a.m. of the day on which such primary election is held, shall be furnished by the Department with the registration records for each general election district that may be contained within such inspector's primary election district, and each inspector shall

have the registration records at the place of holding the primary election in the inspector's district at the time for opening the polls on primary election day.

(c) Whoever:

(1) Being a member of the Department of Elections, refuses, neglects or fails to deliver to each inspector of any primary election to be held within the member's county the registration records for each general election district that may be contained in the primary election district to which such registration records apply; or

(2) Being an inspector, refuses, neglects or fails to have such registration records at the place of holding the primary election for any general or special election or any municipal election in the City of Wilmington at the time designated in this chapter;

shall, for each such offense, be fined $100, and the person's office shall be forfeited.

(d) Each day of refusal, neglect or failure shall constitute a separate offense under this section.

(e) For the purposes of this section, the term "registration records" means poll lists and signature cards, and/or an electronic device that contains the names and addresses of the registered voters in the election district.

(20 Del. Laws, c. 393, § 24; 22 Del. Laws, c. 285, § 4; 27 Del. Laws, c. 66, § 1; Code 1915, § 1698; 34 Del. Laws, c. 108, § 7; Code 1935, § 1786; 43 Del. Laws, c. 127, § 3; 45 Del. Laws, c. 150, § 8; 15 Del. C. 1953, § 3122; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 426, §§ 4, 12; 57 Del. Laws, c. 567, § 18; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 23; 75 Del. Laws, c. 232, § 32; 79 Del. Laws, c. 275, § 56.)

## § 3123. Use of ballot.

All primary elections shall be by ballot.

(20 Del. Laws, c. 393, § 2; 27 Del. Laws, c. 66, § 1; Code 1915, § 1679; Code 1935, § 1770; 15 Del. C. 1953, § 3123.)

## § 3124. Ballots for voting devices.

(a) The Department shall cause to be created the ballots to be used in any primary election.

(b) The names of all candidates for nomination for the same office must be placed under the title of the office, the surname of candidates to be placed in alphabetical order, and may not be separated one from another by any other matter.

(20 Del. Laws, c. 393, § 39; 27 Del. Laws, c. 66, § 1; Code 1915, § 1713; Code 1935, § 1801; 45 Del. Laws, c. 150, § 10; 15 Del. C. 1953, § 3124; 49 Del. Laws, c. 276, § 3; 51 Del. Laws, c. 107, § 3; 57 Del. Laws, c. 567, § 19; 58 Del. Laws, c. 148, §§ 35-37; 60 Del. Laws, c. 414, § 7; 61 Del. Laws, c. 480, § 4; 75 Del. Laws, c. 232, § 33; 79 Del. Laws, c. 275, § 57; 82 Del. Laws, c. 170, § 5.)

## § 3125. Department to furnish voting devices, flags, supplies, and instructions for polling places.

For each polling place, the Department shall furnish all of the following:

(1) A flag or poster of suitable size for lettering thereon in at least 3-inch letters with the words POLLING PLACE.

(2) A flag of the United States of America no smaller in size than the polling place flag under paragraph (1) of this section.

(3) Poll list, stationary, and other such supplies customary and necessary for the use of the officers conducting such primary election.

(4) Written instructions and excerpts from those parts of this title as the Department deems necessary and appropriate to assist the election officers in the proper performance of the officers' duties.

(5) A proper number of voting devices of the type used in general elections, which devices must be duly inspected, prepared, and certified under Chapter 50A of this title for general elections.

(20 Del. Laws, c. 393, § 26; 27 Del. Laws, c. 66, § 1; Code 1915, § 1700; Code 1935, § 1788; 42 Del. Laws, c. 117, § 1; 43 Del. Laws, c. 127, § 4; 15 Del. C. 1953, § 3125; 49 Del. Laws, c. 276, § 4; 55 Del. Laws, c. 458, § 1; 57 Del. Laws, c. 567, § 20; 58 Del. Laws, c. 148, §§ 38, 39; 60 Del. Laws, c. 414, § 8; 61 Del. Laws, c. 480, § 5; 70 Del. Laws, c. 188, § 24; 77 Del. Laws, c. 227, § 41; 79 Del. Laws, c. 275, § 58; 82 Del. Laws, c. 170, § 6.)

## § 3126. Voting to be by voting devices.

In every primary election district in which a primary election is to be held under this chapter, voting devices of the type used in general elections, as provided for in Chapter 50A of this title, must be used to record the votes, and the manner of voting must be the same as that set forth in Chapter 49 of this title.

(20 Del. Laws, c. 393, § 27; 27 Del. Laws, c. 66, § 1; Code 1915, § 1701; Code 1935, § 1789; 15 Del. C. 1953, § 3126; 57 Del. Laws, c. 567, § 21; 61 Del. Laws, c. 480, § 6; 70 Del. Laws, c. 506, § 2; 82 Del. Laws, c. 170, § 7.)

## § 3127. Designation of polling places.

The Department shall, at least 2 weeks prior to the primary election, designate the place for holding a primary election in each primary election district in the same manner as it designates polling places for a general election. The Department may require any individual polling place, that is located in a state facility, public school, or other government-owned or -operated facility within the county, to be closed to persons other than the voters voting on the day of the primary election if it finds that the polling place cannot or will not

provide sufficient access and facilities for the purposes of the primary election without such closure. The Department shall not exercise its authority to close a state facility, public school or other government-owned and -operated facility without prior consultation with the authorized representative of such facility and such consultation shall include all reasonable efforts to resolve any access issues that may exist without the need to close such facility.

(20 Del. Laws, c. 393, § 23; 27 Del. Laws, c. 66, § 1; Code 1915, § 1697; Code 1935, § 1785; 15 Del. C. 1953, § 3128; 50 Del. Laws, c. 426, § 15; 50 Del. Laws, c. 631, § 2; 58 Del. Laws, c. 148, § 40; 74 Del. Laws, c. 343, § 2; 79 Del. Laws, c. 275, § 59.)

## Subchapter III

## Election Officers

### § 3141. Form of oath.

Before opening the election, the presiding officers and judges shall each take and subscribe an oath according to the following form:

"I do solemnly swear (or affirm) that in the primary election to be held on the . . . . . day of . . . . . A. D. . . . . I will not knowingly or willfully receive or consent to the receiving of the vote of any alien, and also that I will not receive or consent to the receiving of the vote of any person whom I shall believe not entitled to vote, unless my associates shall adjudge such person to be entitled to vote. That I will not receive or reject, nor concur in receiving or rejecting any vote through partiality or under bias, and that I will determine every matter that shall come before me and perform every act and duty by law required of me, touching the primary election, truly, faithfully and impartially, according to the best of my skill and judgment; that I will cause the ballots that shall be taken at such primary election to be fully read and ascertained, and a true statement thereof to be made, according to the best of my knowledge and ability; that I have not received, nor will I receive directly or indirectly from or through any candidate to be voted for at such primary election, or any representative of any candidate or other person, any money, pay or other valuable thing or reward; that I have not been promised, or in any manner been led to believe that I will at any time directly or indirectly receive any money, pay or other valuable thing or reward from such candidate or representative of such candidate or other person other than that provided by law and if I shall discover any partiality, unfairness or corruption in the conducting of the primary election, I shall disclose the same to the executive authority that shall have directed the holding of the primary election and to the Attorney General to the end that the subject may be investigated, so help me God (or so I solemnly affirm)."

(20 Del. Laws, c. 393, § 5; 27 Del. Laws, c. 66, § 1; Code 1915, § 1682; Code 1935, § 1773; 15 Del. C. 1953, § 3143.)

### § 3142. Powers to preserve peace.

Each of the election officers of any primary election shall have the same powers as provided in § 4946 of this title.

(20 Del. Laws, c. 393, § 34; 27 Del. Laws, c. 66, § 1; Code 1915, § 1708; Code 1935, § 1796; 15 Del. C. 1953, § 3147; 58 Del. Laws, c. 148, § 41.)

### § 3143. Compensation.

Compensation of the officers and clerks for the holding of primary elections shall be the same as the compensation for officers and clerks in general elections.

(20 Del. Laws, c. 393, § 35; 27 Del. Laws, c. 66, § 1; Code 1915, § 1709; 30 Del. Laws, c. 102, § 1; Code 1935, § 1797; 45 Del. Laws, c. 150, § 9; 15 Del. C. 1953, § 3148; 50 Del. Laws, c. 555; 52 Del. Laws, c. 14.)

## Subchapter IV

## Procedure at Polling Places

### § 3161. Voting procedure [Effective until fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) The voting procedure at any primary election shall be the same as at any general election, except that the officers shall first determine from the voter's original permanent registration record whether the voter's party affiliation is the same as the party holding the primary election, and, if they are not the same, the voter shall not be permitted to vote in the primary election.

(b) Notwithstanding any provision to the contrary, if a qualified unaffiliated voter who is registered to vote for the first time pursuant to § 2050A of this title appears at a primary election and indicates the intent to enroll in the party holding the primary election, such voter shall be enrolled immediately in that party and be permitted to cast a regular ballot for the primary election.

(20 Del. Laws, c. 393, § 20; 22 Del. Laws, c. 285, § 3; 27 Del. Laws, c. 66, § 1; Code 1915, § 1694; 40 Del. Laws, c. 142, § 8; Code 1935, § 1782; 45 Del. Laws, c. 150, § 7; 15 Del. C. 1953, § 3161; 50 Del. Laws, c. 426, § 5; 51 Del. Laws, c. 107, § 5; 57 Del. Laws, c. 567, § 23; 83 Del. Laws, c. 71, § 3.)

### § 3161. Voting procedure [Effective upon fulfillment of 85 Del. Laws, c. 63, § 14(f)].

(a) The voting procedure at any primary election shall be the same as at any general election, except that the officers shall first determine from the voter's original permanent registration record whether the voter's party affiliation is the same as the party holding the primary election, and, if they are not the same, the voter shall not be permitted to vote in the primary election.

(b) [Repealed.]

(20 Del. Laws, c. 393, § 20; 22 Del. Laws, c. 285, § 3; 27 Del. Laws, c. 66, § 1; Code 1915, § 1694; 40 Del. Laws, c. 142, § 8; Code 1935, § 1782; 45 Del. Laws, c. 150, § 7; 15 Del. C. 1953, § 3161; 50 Del. Laws, c. 426, § 5; 51 Del. Laws, c. 107, § 5; 57 Del. Laws, c. 567, § 23; 83 Del. Laws, c. 71, § 3; 85 Del. Laws, c. 63, § 14(d).)

## § 3162. Return of registration records; failure; penalty.

(a) The inspector, immediately after the close of the primary election, shall return the registration records used by that inspector at any primary election to the Department, which shall preserve them.

(b) Whoever, being an inspector, neglects, refuses or fails to return the registration records as directed in this section shall, for each such offense, be fined in such amount or imprisoned for such term, or both, as the court in its discretion may determine.

(20 Del. Laws, c. 393, § 20; 22 Del. Laws, c. 285, § 3; 27 Del. Laws, c. 66, § 1; Code 1915, § 1694; 40 Del. Laws, c. 142, § 8; Code 1935, § 1782; 45 Del. Laws, c. 150, § 7; 15 Del. C. 1953, § 3164; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 426, §§ 4, 6; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 60.)

## § 3163. Receiving illegal or refusing legal votes; penalty.

Whoever, at any primary election, being a presiding officer or judge, knowingly and wilfully receives, or advises or consents to the receiving of, the vote of any person not entitled to vote at such primary election; or whoever, at any primary election, being a presiding officer or judge, knowingly and wilfully refuses to receive the vote of any person entitled to vote at such primary election, shall, for every such offense, pay $100 to any person who sues for the same or be fined not less than $100, and, in either case, be imprisoned until the judgments, fines and costs are paid in full or discharged by the court.

(20 Del. Laws, c. 393, § 21; 27 Del. Laws, c. 66, § 1; Code 1915, § 1695; Code 1935, § 1783; 15 Del. C. 1953, § 3165.)

## § 3164. Challengers.

(a) Each candidate for nomination at any primary election may appoint and accredit some suitable person as a challenger. One challenger for each candidate whose name appears on the ballot for that election district may be present inside the polling place and shall be permitted to observe the conduct of the primary election and all the election records. The challengers may be changed and their places filled in like manner during the day.

(b) The duties, privileges and activities of these challengers shall be governed by § 4934(a) and (b) and other pertinent sections of this title, consistent with this chapter.

(20 Del. Laws, c. 393, § 32; 27 Del. Laws, c. 66, § 1; Code 1915, § 1706; Code 1935, § 1794; 15 Del. C. 1953, § 3166; 50 Del. Laws, c. 426, § 16; 57 Del. Laws, c. 181, § 43; 58 Del. Laws, c. 148, § 43.)

## § 3165. Challenges; oath of voter; penalty.

Repealed by 77 Del. Laws, c. 227, § 42, effective Feb. 1, 2010.

## § 3166. Illegal election conduct; general penalties.

(a) Whoever, at any primary election:

(1) Falsely personates any elector or other person and votes or attempts to vote in or upon the name of any person, whether living or dead, or in or upon any false, assumed or fictitious name, or in or upon any name not that person's own; or

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

(3) Votes in any other primary election district than the 1 in which that person is a bona fide resident; or

(4) Votes or attempts to vote more than 1 ballot at any primary election district; or

(5) Solicits from any candidate or from any other person or receives, directly or indirectly from such candidate or from any other person, any money, or promise of place or position, or any valuable consideration of any kind, for that person's vote or support; or

(6) Not being entitled thereto, votes or attempts or offers to vote in any primary election district; or

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

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

(9) By force, threat, menace, intimidation, bribery or reward or offer to or promise thereof, or otherwise unlawfully either directly or indirectly, influences or attempts to influence any elector in giving that person's vote; or

(10) Promises any place or position for the purpose of securing any voter's support; or

(11) Prevents or hinders or attempts to prevent or hinder any qualified voter from freely exercising the rights of suffrage; or

(12) By any such means induces or attempts to induce any such voter to refuse to exercise any such right; or

(13) By any such means or otherwise compels or induces or attempts to compel or induce any inspector of any primary election or other officer of any primary election to receive the vote of any person not legally qualified or entitled to vote at the primary election in such district; or

(14) Knowingly, wilfully or fraudulently interferes with, delays or hinders in any manner any inspector of any primary election, clerk or other officer of such election in the discharge of such officer's duty; or

(15) By any such means or other unlawful means, knowingly, wilfully or fraudulently counsels, advises, induces or attempts to induce any inspector of any primary election, clerk or other officer of any primary election, whose duty it is to ascertain, proclaim, announce or declare the result of any such primary election or to give or make any certificate, document, report, return or other evidence in relation thereto, to refuse or neglect to comply with such officer's duty or to violate any law regulating the same, or to receive the vote of any person in any primary election district not entitled to vote therein or to refuse to receive the vote of any person entitled to vote therein; or

(16) Aids, counsels or advises, procures or assists any voter, person or inspector of any primary election or other officer of such primary election to do any act by law forbidden, or in this chapter constituted an offense, or to omit to do any act by law directed to be done;

shall, when not in this chapter otherwise particularly specified, for each offense be fined not more than $200 or imprisoned not more than 2 years, or both.

(b) Whoever votes at the primary election of more than 1 political party before any 1 general election shall be punished as provided in subsection (a) of this section.

(c) Any act or deed declared an offense by the general laws of this State concerning elections and not in this section particularly mentioned shall also be an offense in all primary elections, and shall be punished in the same form and manner as is provided for the punishment of similar offenses by the general laws; and all the penalties and provisions of the general laws shall apply in such case with equal force and shall be as effective as though fully set out in this chapter.

(20 Del. Laws, c. 393, § 22; 27 Del. Laws, c. 66, § 1; Code 1915, § 1696; Code 1935, § 1784; 15 Del. C. 1953, § 3168; 70 Del. Laws, c. 186, § 1.)

## § 3167. Bribery at primary elections; penalty.

Whoever, either in or out of this State, receives or accepts, or offers to receive or accept, or pays, transfers or delivers, or offers, or promises to pay, transfer or deliver, or contributes or offers, or promises to contribute to another to be paid or used, any money, or other valuable thing as a compensation, inducement or reward for the giving or withholding or in any manner influencing the giving or withholding a vote at any primary election held for the purpose of selecting delegates or representatives to any political convention thereafter to be held for the purpose of selecting candidates for public office or for the purpose of selecting delegates to a national political convention thereafter to be held for the purpose of nominating candidates for the office of President and Vice President of the United States, shall be fined not less than $100 nor more than $5,000 or imprisoned not less than 1 month nor more than 3 years, or both.

(Code 1915, § 1715A; 29 Del. Laws, c. 109, § 1; Code 1935, § 1803; 15 Del. C. 1953, § 3169.)

## § 3168. Stealing, destroying or falsifying registration records; penalty.

(a) Whoever, being an inspector of any primary election, clerk or other officer or person having the custody of any registration records, oaths, return of votes, certificates, poll lists or any paper, document or evidence of any description in this chapter directed to be made, filed or preserved, steals, wilfully destroys, mutilates, defaces, falsifies or fraudulently removes or secretes the whole or any part thereof, or fraudulently makes any entry, erasure or alteration therein, except as allowed and directed by this chapter, or permits any other person to do so, shall, for every such offense, be fined not more than $200 or imprisoned not more than 2 years, or both.

(b) Whoever, other than an officer mentioned in subsection (a) of this section, commits any of the acts specified in such subsection (a) or advises, procures or abets the commission of the same shall, for every such offense, be fined not more than $200 or imprisoned not more than 2 years, or both.

(20 Del. Laws, c. 393, §§ 16, 17; 27 Del. Laws, c. 66, § 1; Code 1915, §§ 1690, 1691; Code 1935, §§ 1778, 1779; 45 Del. Laws, c. 150, § 4; 15 Del. C. 1953, § 3170; 50 Del. Laws, c. 426, § 4.)

## § 3169. Alcoholic liquor in locale of primary election; penalty.

Whoever, during the time that any primary election is in progress in any primary election district or during the time the ballots cast thereat are being counted:

(1) Brings, takes, orders or sends into, or attempts to bring, take or send into any place of holding any primary election, any alcoholic liquor whatever; or

(2) At any such time and place drinks or partakes of any alcoholic liquor;

shall, for every such offense, be fined not less than $5.00 nor more than $10.

(20 Del. Laws, c. 393, § 25; 27 Del. Laws, c. 66, § 1; Code 1915, § 1699; Code 1935, § 1787; 15 Del. C. 1953, § 3171.)

## § 3170. Tabulation of vote.

As soon as the polls are closed at a primary election, the votes shall be tabulated as set forth in Chapter 49 of this title.

(20 Del. Laws, c. 393, § 28; 27 Del. Laws, c. 66, § 1; Code 1915, § 1702; Code 1935, § 1790; 15 Del. C. 1953, § 3172; 57 Del. Laws, c. 567, § 26; 58 Del. Laws, c. 148, § 44.)

### § 3171. Certification of results.

The inspector and judges shall remove the paper tape containing the total vote cast for each candidate from each voting machine in the election district. Each copy of each paper tape shall then be signed by the inspector, judges and clerks and sealed in an envelope, which shall be signed across its sealed fold by each election officer. This envelope, together with other required records and supplies, shall immediately be delivered to the department of elections by the inspector.

(20 Del. Laws, c. 393, § 29; 27 Del. Laws, c. 66, § 1; Code 1915, § 1703; Code 1935, § 1791; 15 Del. C. 1953, § 3173; 49 Del. Laws, c. 276, § 6; 50 Del. Laws, c. 426, § 17; 57 Del. Laws, c. 567, § 27; 58 Del. Laws, c. 148, § 144; 70 Del. Laws, c. 506, § 3.)

### § 3172. Calculation of votes; ties.

(a) The Department shall forthwith calculate the total number of votes cast for each candidate in any contest and certify the candidate or candidates receiving the highest number of votes.

(b) In the case of any objection or dispute, the State Board of Elections shall convene within 48 hours of the closing of the polls to examine the matter, reviewing such records and hearing such testimony as it shall deem necessary. The Board shall determine the result of the contested election and certify the name of the winning candidate or candidates. In the case of statewide contests, the State Election Commissioner shall be immediately notified of the Board's determination.

(c) In all cases of a tie vote, the Department shall immediately notify the chair and secretary of the county committee of the political party holding the primary election. This committee shall convene within 5 days of such notification to determine which candidate shall be entitled to the nomination.

(d) In cases where there is a tie vote in a statewide contest, the State Election Commissioner shall immediately notify the chair and secretary of the state committee of the political party involved, and that committee shall convene within 5 days, as provided above, to decide upon the nomination.

(e) If the number of votes separating a candidate and the closest opposing candidate in a primary election is less than 1,000 votes, in the case of a statewide contest, or ½ of 1% of all votes cast for the 2 candidates, in the case of any other contest, whichever is less, the Department shall recount the ballots cast in that election at state expense as part of the canvass of the vote.

(20 Del. Laws, c. 393, § 38; 27 Del. Laws, c. 66, § 1; Code 1915, § 1712; Code 1935, § 1800; 15 Del. C. 1953, § 3174; 58 Del. Laws, c. 148, § 145; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 34; 79 Del. Laws, c. 275, § 61; 82 Del. Laws, c. 170, § 8.)

### § 3173. Vote required for nomination.

In all cases the candidate receiving the highest number of votes shall be declared the nominee of the political party holding a primary election.

(20 Del. Laws, c. 393, § 37; 27 Del. Laws, c. 66, § 1; Code 1915, § 1711; Code 1935, § 1799; 15 Del. C. 1953, § 3175.)

### § 3174. Death, physical, mental or other incapacity of nominee.

Whenever it shall be determined that a duly nominated candidate will be unable to serve if elected because of death, physical, mental or other incapacity, the vacancy shall be filled as provided in § 3303 of this title. If the vacancy occurs subsequent to the dates specified in § 3303 of this title, it shall be filled in accordance with § 3306 of this title.

(20 Del. Laws, c. 393, § 37; 27 Del. Laws, c. 66, § 1; Code 1915, § 1711; Code 1935, § 1799; 15 Del. C. 1953, § 3176; 60 Del. Laws, c. 414, § 9.)

## Subchapter V

## Presidential Primary Election

### § 3181. Primary to be held.

(a) Except as provided in subsection (b) of this section, a presidential primary election for major political parties shall be conducted on the fourth Tuesday in April in the calendar year of a presidential election.

(b) The requirements of this subchapter shall not require a presidential primary election for a political party in any year in which such a primary election would otherwise be required under the provisions of this subchapter, if the chairperson of the political party notifies the State Election Commissioner in writing that such political party elects not to be governed by the provisions of this subchapter prior to the close of business on the earlier of the first business day in the year in which a President of the United States is to be elected or 120 days before the day of the presidential primary.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, §§ 1, 2; 74 Del. Laws, c. 74, § 1; 75 Del. Laws, c. 232, § 37; 78 Del. Laws, c. 156, § 1; 78 Del. Laws, c. 304, § 2; 84 Del. Laws, c. 111, § 1.)

### § 3182. Conduct of election.

Except as otherwise provided in this subchapter, the presidential primary election shall be conducted in accordance with the laws governing statewide office primaries.

(68 Del. Laws, c. 365, § 1.)

## § 3183. Nomination; withdrawal.

(a) Notification of candidacy shall be no later than the sixtieth day before the day of the presidential primary election. If the filing deadline is a Saturday, Sunday or legal holiday, the last day to give notification shall be the next day that is not a Saturday, Sunday or a legal holiday.

(b) The chairperson of each political party participating in the presidential primary shall, no later than 4:30 p.m. the Wednesday following the deadline set in accordance with subsection (a) of this section, provide the State Election Commissioner with a list of all persons affiliated with such party, not already on the ballot pursuant to subsection (a) of this section, who have become eligible by the close of business on the preceding day to receive payments from the Presidential Primary Matching Payment Account of the Internal Revenue Code and who have not previously announced their withdrawal from the national presidential race and/or who have not announced the suspension of their presidential campaign. The State Election Commissioner shall place all such persons on the presidential primary ballot for their respective party. Prior to, or concurrently with, the filing of the above-mentioned list with the State Election Commissioner, each state chairperson shall notify the candidate or the candidate's campaign, that the candidate's name has been (or will be) provided to the State Election Commissioner pursuant to this subsection. A candidate placed on the ballot pursuant to this subsection, or a candidate already on the ballot pursuant to subsection (a) of this section, may have that candidate's own name removed from the ballot provided that no later than the close of the business day the Friday following the deadline set in accordance with subsection (a) of this section, the candidate files an affidavit with the State Election Commissioner stating that the candidate is not currently and does not intend to become a candidate in any other state's presidential primary and that the candidate is not currently (or is no longer), and does not intend to become, a candidate for the presidential nomination of the candidate's party.

(c) In the event that only 1 candidate files for a party's nomination by the filing deadline set forth in subsection (a) of this section and no additional candidates are added to the ballot pursuant to subsection (b) of this section, that candidate shall be considered as having received 100% of the vote for that party's presidential primary election automatically upon the expiration of the filing deadline and thus declared the winner of that election. In the event no candidate files for the party's nomination, no election shall be held for that party's nomination.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, §§ 4-8; 70 Del. Laws, c. 294, §§ 1, 2; 74 Del. Laws, c. 74, § 2; 75 Del. Laws, c. 232, §§ 35, 36; 78 Del. Laws, c. 154, §§ 1-3; 84 Del. Laws, c. 252, § 1; 84 Del. Laws, c. 252, § 2.)

## § 3184. Candidates for presidential election.

A candidate shall be eligible for the presidential primary election if:

(1) Such candidate is affiliated with a political party appearing on the ballot of the previous general election, and has become eligible to receive payments from the Presidential Primary Matching Payment Account of the Internal Revenue Code; or

(2) Such candidate files a petition with the State Election Commissioner bearing at least 500 valid signatures of registered voters of this State of the same political party as the candidate at the time of the filing in accordance with § 3183(a) of this title.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 245, §§ 9, 10.)

## § 3185. Selection of delegates to national conventions; forwarding of rules to State Election Commissioner.

Delegates and alternate delegates to a national convention of a political party shall be apportioned, selected and/or elected in such manner as the rules of the party may provide. The chair of any political party shall certify and forward to the State Election Commissioner a copy of the party rules at least 30 days prior to the last day on which candidates for the President of the United States must provide notification of their candidacy pursuant to this subchapter.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 186, § 1.)

## § 3186. Delegate and alternate delegate commitments; authorization required; petitions.

Repealed by 70 Del. Laws, c. 245, § 11, effective July 18, 1995.

## § 3187. Filing requirements.

A candidate filing in accordance with § 3183(a) of this title for the presidential primary election shall on a form prescribed by the State Election Commissioner, certify 1 individual, who is registered to vote in the State and of the same political party affiliation as the candidate, who is authorized by the candidate to act on the candidate's behalf in all election-related matters. The candidate will be held jointly responsible with the candidate's authorized representative for compliance with all of the election laws for the State.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, § 13; 70 Del. Laws, c. 294, § 3.)

## § 3188. Nomination of delegates and alternate delegates; qualifications.

Repealed by 70 Del. Laws, c. 245, § 12, effective July 18, 1995.

## § 3189. Presidential primary election ballots, voting in presidential election; change of party affiliation.

The name of each presidential candidate in the presidential primary shall appear on the primary election ballot in accordance with § 3124(b) of this title. In any presidential primary election, each voter shall be permitted to vote 1 vote for 1 presidential candidate of the

party of the voter's registration as shown by the voter's original permanent registration record. The last day that a voter may change his or her political party affiliation before the presidential primary election shall be the sixtieth day before the day of the aforesaid election.

(68 Del. Laws, c. 365, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, § 14; 75 Del. Laws, c. 232, § 38; 78 Del. Laws, c. 154, § 4.)

## § 3190. Polling places; voting machines; election officers.

The Department of Elections:

(1) May combine all election districts voting at a location into a single voting district;

(2) May combine other election districts as necessary for the efficient conduct of the election;

(3) Shall assign a minimum of 2 voting machines and a maximum of 5 voting machines to a voting district; and

(4) Shall assign a sufficient number of election officers to each voting district.

(68 Del. Laws, c. 365, § 1; 78 Del. Laws, c. 154, § 5; 79 Del. Laws, c. 275, § 62.)

# Part III
# Primary Elections and Nominations of Candidates
## Chapter 33
## Nominations of Candidates by Parties

### § 3301. Certificates of nomination.

(a) Candidates for political parties who must file for election in accordance with § 3101 of this title, and who either receive the majority vote at the subsequent primary election or are unopposed in the party for the office for which the candidate has filed shall be considered nominated.

(b) The presiding officer and secretary of the state convention or committee of each political party eligible to place candidates on the ballot shall submit certificates of nomination for electors of President and Vice-President of the United States together with the name of the candidates for President and Vice-President to the State Election Commissioner.

(c) The presiding officer and secretary of the state convention or committee of each political party eligible to place candidates on the ballot may submit a candidate for federal and statewide offices by submitting a certificate of nomination to the State Election Commissioner:

(1) For any office for which no candidate has filed in accordance with § 3101 of this title, or

(2) For any office for which candidates are selected by the state nominating convention of a minor political party.

(d) The presiding officer and secretary of the county committee of each political party eligible to place candidates on the ballot shall submit a certificate of nomination for candidates for the General Assembly and county and municipal offices to the Department office for the county in which the candidate resides, as follows:

(1) For any office for which no candidate has filed in accordance with § 3101 of this title.

(2) For any office for which candidates are selected by the state nominating convention of a minor political party.

(e) For minor political parties not required to select candidates under Chapter 31 of this title, each party shall select its candidates at the party's state or county nominating convention held on or before August 1 in the year of a general election and shall file the certificates of nomination of the selected candidates within 10 business days of the nominating convention. To be removed from a general election ballot, the candidate must withdraw the certificate of nomination on or before 4:30 p.m. on the first Friday after the day the certificate of nomination is submitted.

(f) Nominating certificates shall be in writing and, in each case, shall contain the name of each person nominated, the person's residence and the office for which the person is nominated, other than the names of the candidates for President and Vice-President for which no residence need be given. The persons making such certificates shall add to their signatures their respective places of residence and shall acknowledge such certificate before an officer duly authorized to take acknowledgments of deeds, and a certificate of such acknowledgment shall be fixed to the instrument.

(g) No such state nominating convention shall have completed its business relative to such nominations until such time as 1 nominee for each of the aforesaid offices shall have received a vote greater than 50% of the total number of eligible delegate votes at such convention, which polled vote shall be considered final.

(h) The State Election Commissioner shall verify that the nominations of candidates submitted to the State Election Commissioner and the eligibility of each political party to make such nominations conform to the requirements under this title. The Department offices shall do the same concerning certificates of nomination submitted to the offices.

(i) The State Election Commissioner shall forthwith send a copy of each certificate of nomination submitted to the Commissioner to the Department offices. The Department offices shall forthwith send a copy of each certificate of nomination submitted to the offices to the State Election Commissioner.

(j) Notwithstanding anything else set forth herein to the contrary, a candidate for office nominated by a party under this section upon the filing of a certificate of nomination must be a registered member of the party nominating such candidate at the time the certificate of nomination is filed, as shown on the voter rolls of the Department (except in the case of presidential and vice-presidential nominees, who need not be registered voters in the State).

(k) All candidates for statewide office, the General Assembly, or any elected county office, who have not already obtained a criminal history background check under § 3106 of this title in the same general election year, must request a criminal history background check, no earlier than 90 days before the candidate filing deadline and no later than the filing deadline, from the State Bureau of Identification and provide proof that the criminal history background check has been requested before being nominated as a candidate.

(1) A candidate will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (k)(5) of this section.

(2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of Identification's receipt of the candidate's request a report of the candidate's criminal history record or a statement that the State Bureau of Identification Central Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid for by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine by October 1 of each general election year that a candidate is qualified under § 21 of Article II of the Delaware Constitution before accepting the certificate of nomination for a candidate under this section.

(19 Del. Laws, c. 37, § 4; 27 Del. Laws, c. 65, § 4; Code 1915, § 1722; Code 1935, § 1811; 43 Del. Laws, c. 129, § 1; 44 Del. Laws, c. 119, § 1; 15 Del. C. 1953, § 3301; 57 Del. Laws, c. 241, § 9; 57 Del. Laws, c. 567, §§ 28, 29; 58 Del. Laws, c. 258, § 9; 60 Del. Laws, c. 447, §§ 1-4; 61 Del. Laws, c. 418, §§ 12, 13; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 39; 77 Del. Laws, c. 227, §§ 2, 43; 78 Del. Laws, c. 36, § 2; 79 Del. Laws, c. 232, § 1; 79 Del. Laws, c. 275, § 63; 82 Del. Laws, c. 170, § 9; 83 Del. Laws, c. 210, § 5; 84 Del. Laws, c. 185, § 5.)

## § 3302. Party title, figure or device.

(a) The certificates of nomination shall designate a title for the party which the convention or committee represents, together with any simple figure or device by which its lists of candidates may be designated on the ballot. The figure or title or device selected and designated by the state conventions or committee of any party shall be used by that party throughout this State. Only 1 figure or device shall be used by a party at any election. The same title, figure or device shall not be used by more than 1 party, and the party first certifying a name, title, figure or device to the Department shall have prior right to use the same, and provided further that the Democratic Party and the Republican Party shall have exclusive use of such title and no other party shall use the word “Democratic” or “Republican” or any variation thereof in its title. Such figure or device may be the figure of a star, an eagle, a plow, or some such appropriate symbol, but the coat of arms or seal of this State or of the United States or the flag of the United States or of this State shall not be used as such figure or device.

(b) In case of a division in any party and claim by 2 or more factions to the same party name or title, figure or device, if the division occurs at a state convention or extends throughout this State, the State Board of Elections shall, within 10 days after any one of them has received the certificates of the contending factions, assemble in Dover, and determine to which faction the name, title or figure properly belongs, giving the preference to the convention held at the time and place designated in the call of the regularly constituted party authorities; if, within 5 days after, the other faction presents no other party name or title, figure or device and certifies the same to the Board, the latter shall again immediately assemble and select some suitable title, figure or device for such faction and the name shall be placed above the list of its candidates on the ballots. If the certificate of the contending factions are not received by the Board in time for them to assemble at Dover before publishing the device and list of candidates in the newspapers, then and in that case the Board shall determine for itself which faction shall be entitled to the name, title, figure or device and shall select a name, title, figure or device for the other faction.

(19 Del. Laws, c. 37, § 4; 27 Del. Laws, c. 65, § 4; Code 1915, § 1722; Code 1935, § 1811; 43 Del. Laws, c. 129, § 1; 44 Del. Laws, c. 119, § 1; 15 Del. C. 1953, § 3302; 55 Del. Laws, c. 15; 60 Del. Laws, c. 447, §§ 5-7; 79 Del. Laws, c. 275, § 63.)

## § 3303. Time of filing certificates.

(a) (1) Except as provided under paragraphs (a)(2) and (a)(4) of this section and §§ 3002(b) and 3301(e) of this title, a certification of nomination must be filed before the close of the official business day on or before September 1 of the year of any general election, as follows:

a. For statewide office, with the State Election Commissioner.

b. For nonstatewide office, with the Department office for the county in which the nominee resides.

(2) If September 1 is a Sunday or legal holiday, a certificate of nomination under paragraph (a)(1) of this section must be filed on the next official business day.

(3) A certificate of nomination must be on the form specified by the State Election Commissioner.

(4) A nominee nominated for office by a national nominating convention must be named on a certificate of nomination to be filed before 12:00 noon on the earlier of the following:

a. The Tuesday following the national nominating convention.

b. September 15 of the election year.

(b) Except as provided under §§ 3002(b) and 3301(e) of this title, to be removed from a general election ballot, a nominee must withdraw the certificate of nomination on or before 4:30 p.m. of the first Friday after the deadline for filing the certificate under subsection (a) of this section.

(19 Del. Laws, c. 37, § 6; 27 Del. Laws, c. 65, § 6; Code 1915, § 1723; Code 1935, § 1812; 43 Del. Laws, c. 129, § 2; 45 Del. Laws, Sp. Sess., c. 4, § 1; 15 Del. C. 1953, § 3303; 55 Del. Laws, c. 324; 56 Del. Laws, c. 433, § 1; 58 Del. Laws, c. 258, § 10; 60 Del. Laws, c. 412, § 1; 60 Del. Laws, c. 447, § 8; 74 Del. Laws, c. 42, § 1; 75 Del. Laws, c. 232, § 40; 77 Del. Laws, c. 227, §§ 2, 44; 78 Del. Laws, c. 304, § 3; 79 Del. Laws, c. 275, § 63; 82 Del. Laws, c. 170, § 10; 83 Del. Laws, c. 210, § 6.)

## § 3304. Duties of State Election Commissioner.

(a) The State Election Commissioner, upon receiving the certificates of the several party conventions or committees, or any supplemental certificate, of the respective nominations of the candidates for electors of President and Vice-President of the United States

and the names of the candidates for President and Vice-President of the United States as provided in this chapter, not less than 50 days before the day fixed by law for the ensuing general election, under the Commissioner's hand and seal of office, shall certify to the Department the names of the candidates for President and Vice-President of the United States of the political parties, together with the designated title of each party and the figure or device of each party as certified to the Commissioner.

(b) The State Election Commissioner, before the day of the ensuing general election, under the Commissioner's hand and seal of office, shall certify to the Prothonotary of the Superior Court in each county the nominations of the candidates for electors of President and Vice-President of the United States and the names of the candidates for President and Vice-President of the United States of each political party as shall have been duly certified to the Commissioner, which certificates shall be presented by the Prothonotary to the Superior Court of the county upon its convening for the performance of the duties imposed upon it by article V of the Constitution of this State.

(Code 1935, § 1811; 44 Del. Laws, c. 119, § 1; 45 Del. Laws, c. 154, § 1; 15 Del. C. 1953, § 3304; 60 Del. Laws, c. 447, § 9; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 63.)

## § 3305. Preservation of certificates for 6 months.

The State Election Commissioner and the Department shall cause to be preserved in their respective offices all certificates of nomination filed under this chapter for 6 months after the date of filing thereof.

(19 Del. Laws, c. 37, § 5; 27 Del. Laws, c. 65, § 5; Code 1915, § 1723; Code 1935, § 1812; 43 Del. Laws, c. 129, § 2; 45 Del. Laws, Sp. Sess., c. 4, § 1; 15 Del. C. 1953, § 3305; 60 Del. Laws, c. 447, § 10; 79 Del. Laws, c. 275, § 63.)

## § 3306. Supplemental certificates of nomination.

(a) Whenever it shall be determined, subsequent to the dates specified in §§ 3301 and 3303 of this title, that a duly nominated candidate will be unable to serve if elected because of death, physical, mental or other incapacity, the state, county or city (if a municipality holds its election at the time of the general election) committee shall convene within 24 hours of said determination to authorize the filing of a supplemental certificate of nomination for a substitute candidate, or to decline to issue such a certificate. However, in the case of the death of a candidate, said committee may convene within a reasonable period of time sufficient to have the new candidate's name placed on the ballot, but in no case later than 5 days from the date of death.

(b) Such certificate, if issued, shall be delivered to the officer or officers to whom the original certificate was submitted no later than 12:00 noon of the day following that meeting at which the certificate was authorized. However, if said meeting shall occur within 5 days of the day of election, the certificate shall be delivered immediately.

(19 Del. Laws, c. 37, § 4; 27 Del. Laws, c. 65, § 4; Code 1915, § 1722; Code 1935, § 1811; 43 Del. Laws, c. 129, § 1; 44 Del. Laws, c. 119, § 1; 47 Del. Laws, c. 274, § 1; 15 Del. C. 1953, § 3306; 60 Del. Laws, c. 412, § 2; 79 Del. Laws, c. 232, § 3.)

## § 3307. Publication of candidates.

Repealed by 77 Del. Laws, c. 227, § 45, effective Feb. 1, 2010.

## § 3308. Penalties.

Whoever:

(1) Falsely makes or fraudulently defaces or fraudulently destroys any certificate of nomination or any part thereof; or

(2) Files any certificate of nomination, knowing the same or any part thereof to be falsely made; or

(3) Suppresses any certificate of nomination which has been duly filed or any part thereof; or

(4) Conspires with other persons, 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 imprisoned not more than 5 years.

(19 Del. Laws, c. 37, § 30; 27 Del. Laws, c. 65, § 27; Code 1915, § 1734; Code 1935, § 1823; 15 Del. C. 1953, § 3308.)

# Part III
# Primary Elections and Nominations of Candidates
## Chapter 34
## Write-In Candidates

### § 3401. Write-in candidates in general.

Except as otherwise provided in this title, if the name of the person for whom a voter desires to vote does not appear on a general or special election ballot, the voter may write in the name of that person.

(76 Del. Laws, c. 315, § 1.)

### § 3402. Write-in candidates for a general election.

(a) Superior Court shall only count a write-in vote for a person who has declared oneself a write-in candidate for the office for which that person was written-in in accordance with this chapter. Superior Court shall count a write-in vote for a candidate on a general or special election ballot if the write-in vote is for the office for which the person is a candidate.

(b) Superior Court shall account for write-in votes cast for other than declared write-in candidates as "Other Write-in Votes."

(c) A person shall declare as a write-in candidate for an office by filing a Write-in Candidate Declaration with the State Election Commissioner for a statewide office or the Department office for the county in which the election is to be held for General Assembly, county, or City of Wilmington offices no later than 4:30 p.m. on September 20 in the year of a general election. If September 20 is a Saturday, Sunday, or holiday, the declaration must be filed no later than 4:30 p.m. on the next day that is not a Saturday, Sunday, or holiday. If the boundary of a General Assembly office includes more than 1 county, the person shall file that person's Write-in Candidate Declaration with the Department office for the county in which that person is a registered voter.

(d) The State Election Commissioner or Department office for the county in which a person who has filed a Write-in Candidate Declaration is a registered voter shall determine whether the person is eligible to be a candidate for the office for which the person has filed the Declaration.

(e) A person shall not declare oneself a write-in candidate if that person is a candidate on the general election ballot.

(f) A person shall not declare oneself a write-in candidate for more than one office. The filing of a declaration for another office prior to the declaration deadline established in this chapter shall make any previous declaration null and void.

(g) Once a person has withdrawn as a candidate or write-in candidate for an office, that person shall not declare oneself a write-in candidate for the same office in the same year.

(h) A declared write-in candidate shall comply with the requirements in Chapter 80 of this title.

(i) A declared write-in candidate may withdraw that candidate's candidacy by filing a withdrawal form with the office at which that candidate filed the candidate's Write-in Candidate Declaration no later than 15 days prior to the date of the election.

(j) A write-in candidate for statewide office, the General Assembly, or any elected county office must request a criminal history background check no earlier than 90 days before the candidate filing deadline and no later than the filing deadline from the State Bureau of Identification and provide proof that the criminal history background check has been requested before filing a Write-in Candidate Declaration as required under subsection (c) of this section.

(1) A write-in candidate who files a declaration under subsection (c) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (j)(5) of this section.

(2) The State Bureau of Identification must provide, within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification Central Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid for by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine no later than 4 weeks prior to the general election that a candidate is qualified under § 21 of Article II of the Delaware Constitution before a write-in candidate's name may be listed on any general election ballot.

(76 Del. Laws, c. 315, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 82 Del. Laws, c. 170, § 11; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 185, § 6.)

### § 3403. Forms.

The State Election Commissioner, in collaboration with the Department offices, shall promulgate the Write-in Candidate Declaration and the withdrawal form.

(76 Del. Laws, c. 315, § 1; 77 Del. Laws, c. 227, § 2; 82 Del. Laws, c. 170, § 12.)

## § 3404. Write-in candidate lists.

Each Department office shall issue at least 2 copies of the list of declared write-in candidates for each office on a ballot in the county to the election officers at each election district in the county. The election officers shall post 1 copy of the list in a conspicuous location in the polling place.

(76 Del. Laws, c. 315, § 1; 82 Del. Laws, c. 170, § 13.)

## § 3405. Write-in candidates for a special election.

Section 3402 of this title shall apply for a special election except that a person shall file that person's Write-in Candidate Declaration no later than the eighth day prior to the date of the election and may not withdraw that person's declaration.

(76 Del. Laws, c. 315, § 1.)

# Part IV
# General Elections

## Chapter 41
## General Provisions

### § 4101. Residency requirements for candidates.

The residency requirements for candidates for elective office shall be as set forth in the municipal charter, state statute or state Constitution governing the qualifications of candidates for elective office in the city, county, area or district in which the candidate proposes to seek elective office. In instances where a court has declared a residency requirement to be unconstitutional and until such time as a new residency requirement becomes effective, no person may be a candidate for elective office unless such person has been a resident of the city, county, area or district for a period of at least 1 year prior to seeking elective office.

(15 Del. C. 1953, § 4101; 58 Del. Laws, c. 520.)

### § 4102. Election districts; boundaries.

The boundaries of the election districts in each county shall be established and designated by the department of elections for the county, subject to the limitations in this chapter.

(Code 1935, § 1750; 46 Del. Laws, c. 315, § 1; 15 Del. C. 1953, § 4102.)

### § 4103. Division of election districts.

(a) The Department may divide such of the election districts, and such only, as by the election last preceding such division shall be found to contain a greater number of voters than can conveniently vote therein. Each election district so divided shall be at all times wholly within boundaries of 1 representative district.

(b) The Department shall designate each election district by an appropriate title that will distinguish it from every other election district.

(c) The division of election districts shall be made at any time after a general election is held and before March 1 of the next succeeding general election year.

(Code 1935, § 1750; 45 Del. Laws, c. 148, § 10; 45 Del. Laws, c. 149, § 10; 46 Del. Laws, c. 315, § 1; 15 Del. C. 1953, § 4103; 51 Del. Laws, c. 236; 79 Del. Laws, c. 275, § 64.)

### § 4104. Notice of change of election district boundaries in New Castle County.

Repealed by 61 Del. Laws, c. 480, § 7, effective July 11, 1978.

### § 4105. Composition of election districts.

(a) The Department shall create election districts consisting of a minimum of 500 registered voters and a maximum of 3000 registered voters, except where such composition would cause a conflict with representative, senatorial or councilmemberic boundary lines.

(b) Allowance for individual exceptions may be made by the State Election Commissioner.

(c) The Department shall designate all election districts before March 1 in any election year, except in election year 2022, wherein the Department shall designate all election districts before April 1, 2022.

(15 Del. C. 1953, § 4105; 55 Del. Laws, c. 259; 57 Del. Laws, c. 181, § 45; 58 Del. Laws, c. 215, § 44; 60 Del. Laws, c. 405, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 272, § 1; 79 Del. Laws, c. 275, § 65; 83 Del. Laws, c. 276, § 1.)

### § 4106. Voting places.

Repealed by 74 Del. Laws, c. 411, § 21, effective Aug. 5, 2004.

### § 4107. Maps at each polling place.

Transferred.

### § 4108. Candidates for election.

For state and/or county offices, no person shall simultaneously be a candidate for election to 2 or more different offices, nor may a person simultaneously be a candidate for election for 2 or more different political parties.

(79 Del. Laws, c. 202, § 1.)

# Part IV
# General Elections

## Chapter 43
## Presidential Electors; United States Senators; Representatives in Congress

(84 Del. Laws, c. 44, § 1.)

### Subchapter I
### Election and Meeting of Presidential Electors; United States Senators; Representatives in Congress

(84 Del. Laws, c. 44, § 1.)

### § 4301. Presidential electors; election.

Electors of a President and Vice-President of the United States must be chosen at the general election held in the year of a presidential election. The election of the electors must be conducted in the same places, manner, and form and by the same persons and officers, and under the same regulations in all respects, as the general election for the same year.

(Code 1852, §§ 399, 401; 11 Del. Laws, c. 8; Code 1915, §§ 1856, 1858; Code 1935, §§ 1975, 1977; 15 Del. C. 1953, § 4301; 84 Del. Laws, c. 44, § 1.)

### § 4302. Proclamation of number to be chosen.

The Governor in October next preceding every election of presidential electors shall by proclamation make known the number of presidential electors to be chosen and the day of the election.

(Code 1852, § 400; Code 1915, § 1857; Code 1935, § 1976; 15 Del. C. 1953, § 4302; 84 Del. Laws, c. 44, § 1.)

### § 4303. Meeting and voting of electors.

(a) The electors chosen or appointed in this State for the election of a President and Vice President of the United States shall meet and give their votes at Dover on the day determined by Congress for that purpose.

(b) In all cases, an elector chosen or appointed in this State for the election of a President and Vice President of the United States under this chapter shall cast the elector's vote for the presidential and vice presidential nominees, or their legal successors, of the political party or unaffiliated presidential candidate that nominated the elector.

(Code 1852, § 408; Code 1915, § 1865; Code 1935, § 1984; 15 Del. C. 1953, § 4303; 68 Del. Laws, c. 436, §§ 1, 2; 82 Del. Laws, c. 7, § 2; 84 Del. Laws, c. 44, § 1.)

### § 4304. Substitute electors [Repealed].

(Code 1852, § 409; Code 1915, § 1866; Code 1935, § 1985; 15 Del. C. 1953, § 4304; 70 Del. Laws, c. 186, § 1; repealed by 84 Del. Laws, c. 44, § 1, effective June 9, 2023.)

### § 4305. Clerk of electors; compensation.

The electors may employ a clerk, who shall receive for that clerk's own services the sum of $10.

(Code 1852, § 410; Code 1915, § 1867; Code 1935, § 1986; 15 Del. C. 1953, § 4305; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 44, § 1.)

### § 4306. Compensation of electors and clerk.

The electors respectively shall receive for attendance and travel the same compensation as members of the General Assembly, to be paid, as also the compensation of the clerk, by the State Treasurer on a warrant signed by the electors out of any money in the treasury not otherwise appropriated.

(Code 1852, § 411; Code 1915, § 1868; Code 1935, § 1987; 15 Del. C. 1953, § 4306; 84 Del. Laws, c. 44, § 1.)

### § 4307. United States Senator.

A Senator from this State in the Senate of the United States shall be chosen by election at the general elections held in 1954 and in every sixth year thereafter and in 1958 and in every sixth year thereafter. The election of a United States Senator shall be conducted in the same places, manner and form and by the same persons and officers and under the same regulations in all respects as the general election for the same year.

(Code 1915, § 1888; Code 1935, § 2007; 15 Del. C. 1953, § 4307; 84 Del. Laws, c. 44, § 1.)

### § 4308. Representative in Congress.

A Representative for the people of this State in the Congress of the United States shall be chosen at the biennial general election. The election of a Representative in Congress shall be conducted in the same places, manner and form and by the same persons and officers and under the same regulations in all respects, as the election for members of the General Assembly, and the votes given for Representative

in Congress shall be calculated and ascertained at the same time and place, in the same manner and by and under the same means and regulations as those for members of the General Assembly.

(Code 1852, §§ 412, 413; 11 Del. Laws, c. 362, § 2; Code 1915, §§ 1877, 1878; Code 1935, §§ 1996, 1997; 15 Del. C. 1953, § 4308; 84 Del. Laws, c. 44, § 1.)

### § 4309. Governor and Lieutenant Governor; joint election.

Repealed by 61 Del. Laws, c. 480, § 9, effective July 11, 1978.

### § 4310. Qualifications of voters.

All citizens of this State having the right to vote for representatives in the General Assembly are qualified to vote for presidential electors, United States Senator and Representative in Congress.

(Code 1852, § 398; Code 1915, §§ 1855, 1889; Code 1935, §§ 1974, 2008; 15 Del. C. 1953, § 4309; 57 Del. Laws, c. 169, § 2; 84 Del. Laws, c. 44, § 1.)

## Subchapter II

## Uniform Faithful Presidential Electors Act

(84 Del. Laws, c. 44, § 2.)

### § 4321. Short title.

This subchapter may be cited as the "Uniform Faithful Presidential Electors Act."

(84 Del. Laws, c. 44, § 2.)

### § 4322. Definitions.

For purposes of this chapter:

(1) "Cast" means accepted by the Secretary of State in accordance with § 4327(b) of this title.

(2) "Elector" means an individual selected as a presidential elector under this chapter.

(3) "President" means President of the United States.

(4) "Unaffiliated presidential candidate" means a candidate for President who qualifies for the general election ballot in this State by means other than nomination by a political party.

(5) "Vice President" means Vice President of the United States.

(84 Del. Laws, c. 44, § 2.)

### § 4323. Designation of State's electors.

For each elector position in this State, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the Secretary of State and State Election Commissioner the names of 2 qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee." Except as otherwise provided in §§ 4325 through 4328 of this title, this State's electors are the winning elector nominees under the laws of this State.

(84 Del. Laws, c. 44, § 2.)

### § 4324. Pledge.

Each elector nominee and alternate elector nominee of a political party shall execute the following pledge:

"If selected for the position of elector, I agree to serve and to mark my ballots for President and Vice President for the nominees for those offices of the party that nominated me."

Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge:

"If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate."

The executed pledges must accompany the submission of the corresponding names to the Secretary of State and State Elections Commissioner.

(84 Del. Laws, c. 44, § 2.)

### § 4325. Certification of electors.

In submitting this State's certificate of ascertainment as required by 3 U.S.C. § 5, the Governor shall certify this State's electors and state in the certificate all of the following:

(1) That the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy.

(2) That if a substitute elector is appointed to fill a vacancy, the Governor will submit an amended certificate of ascertainment stating the names on the final list of this State's electors.

(84 Del. Laws, c. 44, § 2.)

## § 4326. Presiding officer; elector vacancy.

(a) The Secretary of State shall preside at the meeting of electors described in § 4327 of this title.

(b) The position of an elector not present to vote is vacant. The Secretary of State shall appoint an individual as a substitute elector to fill a vacancy as follows:

(1) If the alternate elector is present to vote, by appointing the alternate elector for the vacant position.

(2) If the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party or unaffiliated presidential candidate.

(3) If the number of alternate electors present to vote is insufficient to fill any vacant position under paragraphs (b)(1) and (b)(2) of this section, by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only 1 remains.

(4) If there is a tie between at least 2 nominees for substitute elector in a vote conducted under paragraph (b)(3) of this section, by appointing an elector chosen by lot from among those nominees.

(5) If all elector positions are vacant and cannot be filled under paragraphs (b)(1) through (b)(4) of this section, by appointing a single presidential elector, with remaining vacant positions to be filled under paragraph (b)(3) of this section and, if necessary, paragraph (b)(4) of this section.

(c) To qualify as a substitute elector under subsection (b) of this section, an individual who has not executed the pledge required under § 4324 of this title shall execute the following pledge:

"I agree to serve and to mark my ballots for President and Vice President consistent with the pledge of the individual to whose elector position I have succeeded."

(84 Del. Laws, c. 44, § 2.)

## § 4327. Elector voting.

(a) At the time designated for elector voting and after all vacant positions have been filled under § 4326 of this title, the Secretary of State shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of President and Vice President, respectively, along with the elector's signature and the elector's legibly printed name.

(b) Except as otherwise provided by law of this State other than this subchapter, each elector shall present both completed ballots to the Secretary of State, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under § 4324 or § 4326(c) of this title. Except as otherwise provided by law of this State other than this subchapter, the Secretary of State may not accept and may not count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under § 4324 or § 4326(c) of this title vacates the office of elector, creating a vacant position to be filled under § 4326 of this title.

(d) The Secretary of State shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this State's electoral votes have been cast and recorded.

(84 Del. Laws, c. 44, § 2.)

## § 4328. Elector replacement; associated certificates.

(a) After the vote of this State's electors is completed, if the final list of electors differs from any list that the Governor previously included on a certificate of ascertainment prepared and transmitted under 3 U.S.C. § 5, the Secretary of State immediately shall prepare an amended certificate of ascertainment and transmit it to the Governor for the Governor's signature.

(b) The Governor immediately shall deliver the signed amended certificate of ascertainment to the Secretary of State and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this State's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the certificate of ascertainment previously submitted.

(c) The Secretary of State shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The Secretary of State shall process and transmit the signed certificate with the amended certificate of ascertainment under 3 U.S.C. §§ 9, 10, and 11.

(84 Del. Laws, c. 44, § 2.)

## § 4329. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(84 Del. Laws, c. 44, § 2.)

# Part IV
# General Elections

## Chapter 43A
## The Agreement Among the States to Elect the President by National Popular Vote; Effect [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6]

(82 Del. Laws, c. 7, § 1.)

## Subchapter I
## The Agreement Among the States to Elect the President by National Popular Vote [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6]

(82 Del. Laws, c. 7, § 1.)

### § 4300A. Adoption of the Agreement Among the States to Elect the President by National Popular Vote [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

This State hereby enters into the Agreement Among the States to Elect the President by National Popular Vote ("agreement") with all other jurisdictions legally joining the agreement in form substantially as set forth in this chapter.

(82 Del. Laws, c. 7, § 1.)

### § 4301A. Article I; membership [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

(82 Del. Laws, c. 7, § 1.)

### § 4302A. Article II; right of the people in member states to vote for President and Vice President [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

(82 Del. Laws, c. 7, § 1.)

### § 4303A. Article III; manner of appointing presidential electors in member states [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

(a) Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each state of the United States and the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

(b) The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner."

(c) The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

(d) At least 6 days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

(e) The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by Congress.

(f) In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

(g) If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

(h) The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

(i) This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

(82 Del. Laws, c. 7, § 1.)

### § 4304A. Article IV; other provisions [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

(a) This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

(b) Any member state may withdraw from this agreement, except that a withdrawal occurring 6 months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

(c) The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

(d) This agreement terminates if the electoral college is abolished.

(e) If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

(82 Del. Laws, c. 7, § 1.)

### § 4305A. Article V; definitions [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

For purposes of this agreement:

(1) "Chief executive" shall mean the Governor of a state of the United States or the Mayor of the District of Columbia.

(2) "Elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate.

(3) "Chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate.

(4) "Presidential elector" shall mean an elector for President and Vice President of the United States.

(5) "Presidential elector certifying official" shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors.

(6) "Presidential slate" shall mean a slate of 2 persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state.

(7) "State" shall mean a state of the United States and the District of Columbia.

(8) "Statewide popular election" shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

(82 Del. Laws, c. 7, § 1.)

## Subchapter II

## Effect of the Agreement Among the States to Elect the President by National Popular Vote [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6]

(82 Del. Laws, c. 7, § 1.)

### § 4306A. Effect; State Election Commissioner duties [Applicable upon notice that this chapter governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

(a) The State Election Commissioner shall provide written notice to the Registrar of Regulations that is published in the Register of Regulations when subchapter I of this chapter, the Agreement Among the States to Elect the President by National Popular Vote, governs a presidential election.

(b) If, after providing notice under subsection (a) of this section, subchapter I of this chapter, the Agreement Among the States to Elect the President by National Popular Vote, no longer governs a presidential election, the State Election Commissioner shall provide written notice to the Registrar of Regulations that is published in the Register of Regulations stating that subchapter I of this chapter, the Agreement Among the States to Elect the President by National Popular Vote, no longer governs a presidential election.

(c) Notwithstanding subsections (a) and (b) of this section, on or before August 1 of a year in which there is a presidential election, the State Election Commissioner shall provide written notice to the Registrar of Regulations that is published in the Register of Regulations that states whether or not subchapter I of this chapter, the Agreement Among the States to Elect the President by National Popular Vote, governs the presidential election.

(82 Del. Laws, c. 7, § 1.)

# Part IV
# General Elections

## Chapter 44
## Registration and Voting for Presidential Electors Only by United States Citizens Who Fail to Fulfill Certain Residence Requirements

**§§ 4401-4408. Registration qualifications; time of registration; place of registration; records; method of registration; place of voting; eligibility for absentee voting; voting officials; voting procedure; tallying and recording of vote [Repealed].**

Repealed by 75 Del Laws, c. 232, § 43, effective Feb. 1, 2006.

# Part IV
# General Elections
## Chapter 45
## Ballots, Election Supplies and Polling Places

### § 4501. Single ballot for all candidates.

There shall be a single ballot for Presidential, Vice-Presidential, state, county and district candidates.

(Code 1915, § 1725; Code 1935, § 1811; 43 Del. Laws, c. 129, § 1; 44 Del. Laws, c. 119, § 1; 47 Del. Laws, c. 149, § 1; 15 Del. C. 1953, § 4501.)

### § 4502. Form and designation of ballots [For application of this section, see 83 Del. Laws, c. 353, § 6].

(a) (1) 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 under § 5005A [repealed] of this title.

(2) In those years in which a President and Vice President of the United States are to be elected, the ballot must be designated "Presidential, Vice Presidential, State, County, and District Ballot"; in other years, the ballot must be designated "State, County, and District Ballot".

(3) The names of all candidates of any party must be placed under the title and device of such party as designated in the certificate filed with the Department by the party's authorized agent or, if none is designated, under some suitable title or device to be selected by the Department.

(4) When a President and Vice President are to be elected, the names of the candidates for those offices must be placed at the top of the list of candidates for all offices to be voted upon.

(5) The device named and chosen and the lists of candidates of the Democratic Party must 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 decides.

(6) The names of unaffiliated candidates must appear in alphabetical order, under the heading "Unaffiliated Candidates", after the listing of various political parties.

(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 in accordance with this chapter shall conform as far as possible to the following design except that the write-in column may be placed on either side of the ballot.

**OFFICIAL BALLOT Presidential, Vice-Presidential, State, County and District Ballot**

| WRITE IN | | PARTY EMBLEM<br>Name of Party | PARTY EMBLEM<br>Name of Party | PARTY EMBLEM<br>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 or mail ballots may be laid out with candidate names under an office title. If this form is used, party logos are not to be used and the political party of each candidate shall be listed beside or below the name of each candidate. The candidates shall be listed in the order specified in subsection (a) of this section. Except, that in a primary election the candidates shall be listed in alphabetic order and the political party shall be listed for each office.

(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 State Election Commissioner 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.

(19 Del. Laws, c. 37, § 8; 20 Del. Laws, c. 396, § 2; 27 Del. Laws, c. 65, § 8; Code 1915, §§ 1725, 1725A; 28 Del. Laws, c. 95; Code 1935, § 1814; 43 Del. Laws, c. 129, § 4; 44 Del. Laws, c. 119, § 3; 45 Del. Laws, Sp. Sess., c. 4, § 3; 47 Del. Laws, c. 149, §

3; 15 Del. C. 1953, § 4502; 59 Del. Laws, c. 54, § 1; 61 Del. Laws, c. 418, § 14; 61 Del. Laws, c. 480, §§ 10, 11; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, § 4; 77 Del. Laws, c. 227, §§ 2, 46-48; 82 Del. Laws, c. 170, § 14; 82 Del. Laws, c. 245, § 2; 82 Del. Laws, c. 245, § 4; 83 Del. Laws, c. 353, § 2; 85 Del. Laws, c. 313, § 2.)

## § 4503. Creating ballots [For application of this section, see 83 Del. Laws, c. 353, § 6].

The Department shall create the ballots to be used in the voting devices and print or cause to have printed sufficient mail and absentee ballots for any election conducted by the Department under the provisions of this title.

(19 Del. Laws, c. 37, § 11; 20 Del. Laws, c. 396, § 8; 22 Del. Laws, c. 62, § 3; 27 Del. Laws, c. 65, § 10; Code 1915, § 1728; 28 Del. Laws, c. 96; Code 1935, § 1817; 42 Del. Laws, c. 118; 43 Del. Laws, c. 129, § 5; 45 Del. Laws, Sp. Sess., c. 4, § 2; 45 Del. Laws, c. 154, § 3; 47 Del. Laws, c. 149, § 4; 48 Del. Laws, c. 375, § 1; 15 Del. C. 1953, § 4503; 49 Del. Laws, c. 294, §§ 2, 3; 54 Del. Laws, c. 69, § 1; 57 Del. Laws, c. 567, §§ 32, 33; 58 Del. Laws, c. 148, §§ 45, 46; 77 Del. Laws, c. 227, § 49; 79 Del. Laws, c. 275, § 66; 82 Del. Laws, c. 170, § 15; 82 Del. Laws, c. 245, § 2; 82 Del. Laws, c. 245, § 4; 83 Del. Laws, c. 353, § 3.)

## § 4504. Envelopes for ballots and other election supplies; obtaining and packaging.

Repealed by 77 Del. Laws, c. 227, § 50, effective Feb. 1, 2010.

## § 4505. Substitution of candidate's name after creation of ballots [For application of this section, see 83 Del. Laws, c. 353, § 6].

Whenever a supplemental certificate of nomination is filed naming a substitute candidate, as elsewhere provided in this title, the Department shall promptly notify electors using absentee or mail ballots of the substitution and do either of the following:

(1) Provide new ballots, if there is sufficient time before the election.

(2) Take other appropriate measures if there is insufficient time before the election to provide new ballots.

(19 Del. Laws, c. 37, § 9; 27 Del. Laws, c. 65, § 9; Code 1915, § 1726; Code 1935, § 1815; 15 Del. C. 1953, § 4506; 58 Del. Laws, c. 148, § 47; 61 Del. Laws, c. 480, § 12; 79 Del. Laws, c. 275, § 67; 82 Del. Laws, c. 170, § 16; 82 Del. Laws, c. 245, § 2; 82 Del. Laws, c. 245, § 4; 83 Del. Laws, c. 353, § 4.)

## § 4506. Tally sheets [Repealed].

(21 Del. Laws, c. 38, § 5; Code 1915, § 1744; Code 1935, § 1833; 15 Del. C. 1953, § 4511; 49 Del. Laws, c. 294, § 9; 58 Del. Laws, c. 148, § 49; 77 Del. Laws, c. 227, § 51; 79 Del. Laws, c. 275, § 67; repealed by 82 Del. Laws, c. 170, § 17, effective July 30, 2019.)

## § 4507. Sheet containing oaths of election officers, certificate of qualification, laws.

Repealed by 77 Del. Laws, c. 227, § 52, effective Feb. 1, 2010.

## § 4508. Certificates of the vote cast in each election district [Transferred].

Transferred to § 5010 of this title by 85 Del. Laws, c. 313, § 6, effective June 24, 2026.

## § 4509. Materials and supplies necessary to conduct the election.

(a) The county director or deputy county director of each county office shall furnish the necessary materials, voter information, and supplies expected to enable conduct of the election to each election district. This shall include all of the following:

(1) A map of the representative district in which the election district is located of sufficient size to clearly show the boundaries of the election districts.

(2) A sufficient number of ballots and other supplies expected to enable the efficient administration of the election.

(b) The Commissioner shall prepare a report within 30 days after the certification of each election detailing the number of ballots supplied to each election district, the number of ballots used, and the number of remaining blank ballots. The report shall be delivered to the Governor, the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Attorney General and posted on the Department of Elections website.

(19 Del. Laws, c. 37, § 32; 21 Del. Laws, c. 38, § 3; 26 Del. Laws, c. 48, § 1; 27 Del. Laws, c. 65, § 29; Code 1915, §§ 1735, 1742; Code 1935, §§ 1824, 1831; 44 Del. Laws, c. 120, § 1; 44 Del. Laws, c. 123, § 1; 45 Del. Laws, c. 148, § 31; 45 Del. Laws, c. 149, § 31; 45 Del. Laws, c. 154, §§ 5, 7; 15 Del. C. 1953, § 4515; 49 Del. Laws, c. 294, § 11; 50 Del. Laws, c. 175, § 1; 58 Del. Laws, c. 148, §§ 51-54; 60 Del. Laws, c. 414, § 10; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 54; 79 Del. Laws, c. 275, § 68; 84 Del. Laws, c. 106, § 1.)

## §§ 4510, 4511. Supplies for election officers; custody of records and supplies; maps and lists of election districts; reuse of election supplies.

Repealed by 77 Del. Laws, c. 227, § 55, effective Feb. 1, 2010.

## § 4512. Polling places; designation and preparation.

(a) The Department shall designate and procure for each election district in its county a polling place.

(b) The Department 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 State 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 designate a private residence as a polling place. If the Department is uncertain of the accessibility of a proposed or existing polling place, or receives written notice of a deficiency from the State Council for Persons with Disabilities or a registered voter, it shall request a site assessment from the Architectural Accessibility Board and defer to the findings of the Board. The Department shall not issue more than 5 such requests on an annual basis without the consent of the Board.

(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 Department, 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:

(1) Agencies or subdivisions of this State; or

(2) Recipients of state funding in excess of $10,000 in the 2 years preceding such designation,

it shall be the duty of the officials of such agencies or subdivisions or said recipients of state funding 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 or said recipient of state funding.

(f) The Department 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 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.

(19 Del. Laws, c. 39, § 3; 19 Del. Laws, c. 37, § 1; 21 Del. Laws, c. 38, § 2; 27 Del. Laws, c. 65, § 1; Code 1915, §§ 1672, 1738; 37 Del. Laws, c. 125; Code 1935, §§ 1759, 1827; 42 Del. Laws, c. 115, § 10; 42 Del. Laws, c. 116, § 1; 43 Del. Laws, c. 124, § 1; 44 Del. Laws, c. 112, § 1; 44 Del. Laws, c. 122, § 1; 45 Del. Laws, c. 148, § 25; 45 Del. Laws, c. 149, § 25; 15 Del. C. 1953, § 4518; 57 Del. Laws, c. 181, § 47; 57 Del. Laws, c. 567, § 39A; 58 Del. Laws, c. 148, §§ 55-58; 58 Del. Laws, c. 215, § 21; 58 Del. Laws, c. 398, § 2; 61 Del. Laws, c. 480, § 13; 63 Del. Laws, c. 26, § 1; 73 Del. Laws, c. 306, § 1; 77 Del. Laws, c. 227, § 56; 77 Del. Laws, c. 446, § 1; 78 Del. Laws, c. 297, § 1; 79 Del. Laws, c. 275, § 69.)

## § 4513. Substitute polling places.

If at any time it becomes impracticable to hold an election in the public building designated by the Department for any election district or districts, the Department may designate another public building as near as can be conveniently obtained to the place previously selected. In such event, sufficient public notice thereof shall be given by suitable news media.

(19 Del. Laws, c. 37, § 1; 21 Del. Laws, c. 38, § 2; 27 Del. Laws, c. 65, § 1; Code 1915, § 1738; 37 Del. Laws, c. 125; Code 1935, § 1827; 44 Del. Laws, c. 122, § 1; 15 Del. C. 1953, § 4519; 57 Del. Laws, c. 181, § 48; 58 Del. Laws, c. 215, § 22; 79 Del. Laws, c. 275, § 70.)

## § 4514. Expenses of general election.

Except where otherwise provided by statute, all necessary costs and expenses incurred in carrying into effect Part IV of this title shall be paid by the State.

(27 Del. Laws, c. 65, § 34; Code 1915, §§ 1675, 1815; 38 Del. Laws, c. 88, § 1; Code 1935, §§ 1762, 1766, 1904; 42 Del. Laws, c. 115, § 11; 45 Del. Laws, c. 147, § 14; 45 Del. Laws, c. 148, §§ 28, 31, 32; 45 Del. Laws, c. 149, §§ 28, 31, 32; 15 Del. C. 1953, § 4520; 51 Del. Laws, c. 149, § 4; 77 Del. Laws, c. 227, § 57.)

## § 4515. Payment procedures.

The Department following an election conducted under this title shall ascertain the amount due to each election officer for that election officer's service and promptly pay them. The Department may combine the pay for a primary and a general election. Election officers shall be paid no later than December 15 in the year of a general election.

(19 Del. Laws, c. 39, § 28; Code 1915, § 1675; Code 1935, §§ 1762, 1766; 42 Del. Laws, c. 115, § 11; 45 Del. Laws, c. 147, § 14; 45 Del. Laws, c. 148, §§ 28, 32; 45 Del. Laws, c. 149, §§ 28, 32; 15 Del. C. 1953, § 4521; 51 Del. Laws, c. 149, § 5; 58 Del. Laws, c. 148, § 59; 75 Del. Laws, c. 232, § 44; 79 Del. Laws, c. 275, § 71.)

## § 4516. Use of prerecorded or automated voice message.

[Transferred to 15 Del. C. § 8045A of this title by 82 Del. Laws, c. 170, § 18, effective July 30, 2019.]

(77 Del. Laws, c. 280, § 1; 82 Del. Laws, c. 170, § 18.)

# Part IV
# General Elections

## Chapter 47
## Election Officers

### Subchapter I
### Appointment of Election Officers

### § 4701. Appointment; term [Repealed].

(19 Del. Laws, c. 39, § 3; 20 Del. Laws, c. 393, § 10; 21 Del. Laws, c. 40, § 3; 21 Del. Laws, c. 41, § 1; Code 1915, §§ 1665, 1666, 1717; 37 Del. Laws, c. 119; Code 1935, §§ 1752, 1753, 1806; 42 Del. Laws, c. 115, §§ 6, 7; 43 Del. Laws, c. 128, § 1; 45 Del. Laws, c. 147, §§ 5, 6; 45 Del. Laws, c. 148, § 30; 45 Del. Laws, c. 149, § 30; 45 Del. Laws, c. 151, § 2; 15 Del. C. 1953, § 4701; 49 Del. Laws, c. 4, § 5; 58 Del. Laws, c. 215, § 24; 67 Del. Laws, c. 354, § 22; 70 Del. Laws, c. 490, § 1; 74 Del. Laws, c. 89, § 1; 75 Del. Laws, c. 232, § 45; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 72; repealed by 82 Del. Laws, c. 170, § 19, effective July 30, 2019.)

### § 4702. Appointment of election officers.

The Department may appoint election officers to serve in the polling places.

(67 Del. Laws, c. 354, § 25; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 46; 79 Del. Laws, c. 275, § 72; 82 Del. Laws, c. 170, § 20.)

### §§ 4703, 4704. Oath of office for election officers; certificate of appointment.

Repealed by 75 Del. Laws, c. 232, § 47, effective Feb. 1, 2006.

### § 4705. Removal from office.

The Department may remove from office any inspector or judge of election or clerk appointed by it for want of requisite qualifications or for cause. Such removal, unless made while such person is actually on duty on a day of election and for improper conduct as an inspector or judge of election or clerk, shall only be made after notice which shall set forth clearly and distinctly the reasons for the removal.

(21 Del. Laws, c. 40, § 3; Code 1915, §§ 1665, 1666; 37 Del. Laws, c. 119; Code 1935, §§ 1752, 1753; 45 Del. Laws, c. 147, §§ 5, 6; 45 Del. Laws, c. 148, § 30; 45 Del. Laws, c. 149, § 30; 15 Del. C. 1953, § 4705; 58 Del. Laws, c. 148, § 63; 67 Del. Laws, c. 354, § 24; 79 Del. Laws, c. 275, § 72.)

### § 4706. Vacancies; alternates.

The Department shall appoint replacements for election officers who are unable to perform their duties due to illness, disability or for any other reason.

(21 Del. Laws, c. 40, § 3; Code 1915, §§ 1666, 1669; 37 Del. Laws, c. 119; Code 1935, §§ 1753, 1756; 45 Del. Laws, c. 147, §§ 6, 9; 45 Del. Laws, c. 148, § 30; 45 Del. Laws, c. 149, § 30; 15 Del. C. 1953, § 4706; 49 Del. Laws, c. 294, § 12; 58 Del. Laws, c. 148, §§ 64, 65; 67 Del. Laws, c. 354, §§ 23, 24; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 48; 79 Del. Laws, c. 275, § 72.)

### § 4707. Compensation.

(a) The compensation for election officers is set at the rates in effect as of January 1, 2005. These rates may be adjusted periodically as authorized in the State's Budget Act.

(b) Election officers shall be paid $15 for each day's service in performing any duty required on a day other than a day of an election except as otherwise provided in this title.

(c) Election officers required to attend an additional training session other than that required in § 4741 of this title shall be paid $25 for that training.

(26 Del. Laws, c. 42; Code 1915, § 1792; 30 Del. Laws, c. 104; Code 1935, § 1881; 45 Del. Laws, c. 154, § 15; 48 Del. Laws, c. 69, § 1; 15 Del. C. 1953, § 4707; 57 Del. Laws, c. 181, § 49; 58 Del. Laws, c. 215, § 26; 61 Del. Laws, c. 335, §§ 2-3; 64 Del. Laws, c. 408, § 1; 66 Del. Laws, c. 303, § 262(b), (c); 67 Del. Laws, c. 354, § 24; 75 Del. Laws, c. 232, § 49.)

### § 4708. Exemptions from military duty and service as inspector, judge of election or clerk.

The inspector or judge of election or clerk during the time he or she holds office shall be exempt from the performance of military duty.

No person who by the laws of this State is exempt from jury duty shall be required to serve as an inspector or judge of election or clerk.

(19 Del. Laws, c. 39, § 3; 24 Del. Laws, c. 244, § 1; 25 Del. Laws, c. 235, § 1; Code 1915, § 1719; Code 1935, §§ 1753, 1808; 45 Del. Laws, c. 147, § 6; 15 Del. C. 1953, § 4708; 58 Del. Laws, c. 148, § 66; 67 Del. Laws, c. 354, § 24; 70 Del. Laws, c. 186, § 1.)

## § 4709. Employment protection.

(a) If an employee has vacation time accrued and available for use and is not in a critical need position, an employer shall not deprive an employee of employment, nor threaten or otherwise coerce an employee with respect thereto, because the employee is serving as an election officer on an election day or is otherwise serving in accordance with this chapter.

(b) Any employer who violates subsection (a) of this section is guilty of criminal contempt, and upon conviction may be fined not more than $500 or imprisoned not more than 6 months, or both.

(c) If an employer discharges an employee in violation of subsection (a) of this section, the employee may file a civil action in Superior Court within 90 days for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. An employee who prevails shall be allowed a reasonable attorney's fee fixed by the Court.

(d) The Superior Court shall have original and exclusive jurisdiction over any violation of this section.

(e) For purposes of this section, a "critical need position" is one in the field of public safety, corrections, transportation, health care, utilities, a small business employing 20 or less persons total or is otherwise a necessary position for the business or industry to be in service or operation on election day.

(73 Del. Laws, c. 379, § 1.)

# Subchapter II

# Instruction of Election Officers

## § 4741. Training election officers.

(a) The Department 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 Department shall prior to the day of the election file a report with the State Election Commissioner stating the number of election officers who were trained for the election. This report shall be a public record.

(15 Del. C. 1953, § 4741; 57 Del. Laws, c. 181, § 52; 58 Del. Laws, c. 148, § 73; 75 Del. Laws, c. 232, § 50; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 73.)

# Part IV
# General Elections

## Chapter 49
## Conduct of Election

### Subchapter I
### Procedure Prior to Opening Polls

### § 4901. Notice of election.

Notice of an election shall be given by suitable news media and/or by publishing the same at least 5 days prior to any election.

(21 Del. Laws, c. 38, § 8; Code 1915, § 1747; Code 1935, § 1836; 45 Del. Laws, c. 154, § 8; 15 Del. C. 1953, § 4901; 58 Del. Laws, c. 215, § 34.)

### § 4902. Absence of election officer on election day; notice to Department.

If on the day of holding an election any election officer authorized by law to serve at the election in any election district is absent from the place of election at 7:00 a.m., the inspector, if present, or, in the absence of the inspector, then any judge who may be present, shall immediately notify the Department office in that inspector's or judge's county of the absence.

(21 Del. Laws, c. 38, § 9; Code 1915, § 1748; Code 1935, § 1837; 45 Del. Laws, c. 154, § 9; 15 Del. C. 1953, § 4902; 58 Del. Laws, c. 148, §§ 74, 75; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 74; 82 Del. Laws, c. 170, § 21.)

### § 4903. Reading of election law provisions to election officers.

Before reading and subscribing of the oath, the inspector shall read §§ 5123, 5124 and 5125 of this title to the assembled election officers.

(19 Del. Laws, c. 37, § 25; 27 Del. Laws, c. 65, §§ 22, 32; Code 1915, §§ 1761, 1763; Code 1935, §§ 1850, 1852; 15 Del. C. 1953, § 4903; 75 Del. Laws, c. 232, § 51.)

### § 4904. Oath at polling place before opening an election.

Before opening the election, the inspector, judges, clerks and any other appointed election officers shall subscribe to the following oath:

"I do solemnly swear (or affirm) that in the election to be held on the ..... day of ..... A. D. ..... I will not knowingly or willfully receive or consent to the receiving of the vote of any alien, and also that I will not receive or consent to the receiving of the vote of any person whom I shall believe not entitled to vote, unless my associates shall adjudge such person to be entitled to vote. That I will not receive or reject, nor concur in receiving or rejecting any vote through partiality or under bias, and that I will determine every matter that shall come before me and perform every act and duty by law required of me, touching the election, truly, faithfully and impartially, according to the best of my skill and judgment; that I will cause the ballots that shall be taken at such election to be fully read and ascertained, and a true statement thereof to be made, according to the best of my knowledge and ability; that I have not received, nor will I receive directly or indirectly from or through any candidate to be voted for at such election, or any other person, any money, pay or other valuable thing or reward; that I have not been promised, or in any manner been led to believe that I will at any time directly or indirectly receive any money, pay or other valuable thing or reward from such candidate or other person other than that provided by law and if I shall discover any partiality, unfairness or corruption in the conduct of the election, I shall disclose the same to the Department of Elections that is conducting the election and to the Attorney General to the end that the subject may be investigated, so help me God (or so I solemnly affirm)."

(21 Del. Laws, c. 38, §§ 7, 12; Code 1915, §§ 1746, 1751; Code 1935, §§ 1835, 1840; 15 Del. C. 1953, § 4904; 75 Del. Laws, c. 232, § 52; 84 Del. Laws, c. 233, § 31.)

### §§ 4905-4908. Meaning and scope of inspector's or judge's oath; oath of clerk of elections on election day; meaning and scope of clerk's oath; reading of sections declaring meaning and scope of oaths.

Repealed by 75 Del. Laws, c. 232, § 53, effective Feb. 1, 2006.

### § 4909. Administering and signing the oath.

(a) The oath required in § 4904 of this title shall be administered by the inspector to the judges, clerks and other election officers appointed in the election district. A judge shall then administer the oath to the inspector.

(b) All election officers who are subscribing to the oath shall sign the oath of office. The inspector shall administer the oath to any election officer who was not present when the oath was administered to the other election officers. The election officer shall then sign the oath of office.

(21 Del. Laws, c. 38, § 12; Code 1915, § 1751; Code 1935, § 1840; 15 Del. C. 1953, § 4909; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 54.)

## § 4910. Instruction sheets; sample ballots.

(a) The State Election Commissioner, in collaboration with the Department offices, shall design a poster or posters that is uniform throughout the State. The poster or posters must be publicly displayed in each polling place on the day of the election. The poster or posters must contain all of 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) A statement on the importance of verifying that the markings on the voting device-printed paper ballot reflect the voter's intended choices, and instructions on what steps to take if the paper ballot does not reflect the voter's actual choices.

(4) Instructions for mail-in registrants who are first-time voters under § 303(b) of the Help America Vote Act of 2002 [52 U.S.C. § 21083(b)].

(5) 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.

(6) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

(b) The Department 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.

(c) The Department shall deliver sample ballots free of change for each unique ballot in the county to the county chairperson or the agent for the county chairperson for each party on the ballot at least 10 days prior to the date of the election.

(1) Major political parties shall be given 15 sample ballots unless the party chairperson requests fewer or more.

(2) Minor political parties shall be sent 1 sample ballot showing each office on the ballot unless they request more. Minor parties may receive up to 15 sample ballots without charge.

(3) The Department shall establish the cost for additional sample ballots beyond the number specified in paragraphs (c)(1) and (2) of this section above.

(d) In addition to the sample ballots mentioned in subsections (b) and (c) of this section, the Department shall cause to be printed such further number of sample ballots as shall be directed by the chair of any committee of any political party in any county. However, the Department shall not have printed any sample ballots upon the order or request of any chair of any committee of any political party unless the request shall have been made to him or her in writing at least 65 days prior to the holding of the election at which the sample ballots are to be used, nor unless a deposit sufficient to cover the cost of the sample ballots be paid at the time they are ordered.

(19 Del. Laws, c. 37, § 16; 27 Del. Laws, c. 65, § 14; Code 1915, § 1736; Code 1935, § 1825; 45 Del. Laws, c. 154, § 6; 15 Del. C. 1953, § 4910; 49 Del. Laws, c. 294, § 13; 54 Del. Laws, c. 69, § 1; 58 Del. Laws, c. 148, § 76; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, § 6; 74 Del. Laws, c. 168, § 6; 75 Del. Laws, c. 232, §§ 55-57; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 75; 82 Del. Laws, c. 170, § 22.)

## § 4911. Display of flags, signs and maps at polling places.

(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 Department.

(b) The Department 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.

(Code 1935, § 1759; 42 Del. Laws, c. 116, § 1; 43 Del. Laws, c. 124, § 1; 44 Del. Laws, c. 112, § 1; 45 Del. Laws, c. 148, § 27; 45 Del. Laws, c. 149, § 27; 15 Del. C. 1953, §§ 4107, 4912; 55 Del. Laws, c. 458, § 2; 58 Del. Laws, c. 92; 58 Del. Laws, c. 148, § 78; 61 Del. Laws, c. 480, § 8; 67 Del. Laws, c. 354, § 28; 70 Del. Laws, c. 188, § 25; 79 Del. Laws, c. 275, § 75.)

## § 4912. Procedure prior to opening of polls.

(a) The election officers of each election district shall arrive at the polling place 1 hour before the time set for opening of the polls and shall prepare the polling place for the conduct of the election. The election officers shall post conspicuously within the polling place an instruction poster and 2 sample ballots.

(b) The election officers shall verify that the correct devices are in the polling place and that the serial numbers match the numbers on the certificate provided by the Department. The election officers shall report any irregularities with the devices to the Department office in the county where the voting device is located.

(c) The election officers shall observe the opening of the polls procedure for each voting device and ensure that the public counts and the card counts are zero.

(19 Del. Laws, c. 37, § 15; 27 Del. Laws, c. 65, § 13; Code 1915, § 1764; Code 1935, § 1853; 15 Del. C. 1953, § 4913; 49 Del. Laws, c. 294, § 15; 58 Del. Laws, c. 148, § 79; 70 Del. Laws, c. 506, § 7; 75 Del. Laws, c. 149, § 2; 75 Del. Laws, c. 232, § 58; 77 Del. Laws, c. 227, § 58; 82 Del. Laws, c. 170, § 23.)

### § 4913. Presence of party representative to aid in qualification of election officers; presence of other persons.

(a) A single representative of each political party which has nominated a ticket and which is represented on the ballot then printed for any general or special election may at the opening of the election be present to aid in the proper qualification of the election officers, but as soon as the election officers shall be qualified or ready to open the election, or the proper hour therefor having arrived, such representatives of such political party shall immediately retire from the voting room or the place where the election is held.

(b) No person, other than the election officers, and the party representatives mentioned in subsection (a) of this section shall enter the room in which the voting is to take place before the opening of the polls.

(21 Del. Laws, c. 38, § 16; Code 1915, § 1755; Code 1935, § 1844; 15 Del. C. 1953, § 4915.)

## Subchapter II

## Regulations Governing Conduct of Elections During Hours of Voting

### § 4931. Time and manner of opening election.

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.

(21 Del. Laws, c. 38, § 17; 23 Del. Laws, c. 57; Code 1915, § 1756; 32 Del. Laws, c. 100, § 1; Code 1935, § 1845; 44 Del. Laws, c. 124; 15 Del. C. 1953, § 4931; 50 Del. Laws, c. 22, § 1; 50 Del. Laws, c. 172, § 1.)

### § 4932. Location of election officers within voting room; location and care of voting machine [Repealed].

(21 Del. Laws, c. 38, § 15; 22 Del. Laws, c. 63; 27 Del. Laws, c. 65, § 20; Code 1915, § 1754; Code 1935, § 1843; 15 Del. C. 1953, § 4932; 58 Del. Laws, c. 148, § 81; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, § 8; repealed by 82 Del. Laws, c. 170, § 24, effective July 30, 2019.)

### § 4933. Persons permitted in the voting room.

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

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

(2) The State Election Commissioner 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 person pursuant to § 4937(e) of this title, or a person providing voter assistance pursuant to § 4943 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 (a)(1) and (2) of this section 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.

(21 Del. Laws, c. 38, §§ 15, 16; 22 Del. Laws, c. 63; Code 1915, §§ 1754, 1755; Code 1935, §§ 1843, 1844; 15 Del. C. 1953, § 4933; 57 Del. Laws, c. 181, § 53; 58 Del. Laws, c. 148, § 82; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 59; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 76; 80 Del. Laws, c. 343, § 1.)

### § 4934. Challengers; appointment and powers.

(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.

(19 Del. Laws, c. 37, § 2; 19 Del. Laws, c. 39, § 14; 20 Del. Laws, c. 396, § 3; 27 Del. Laws, c. 65, § 2; Code 1915, § 1740; Code 1935, § 1829; 15 Del. C. 1953, § 4934; 57 Del. Laws, c. 181, § 54; 70 Del. Laws, c. 186, § 1.)

## § 4935. Special officers at entrance of polling place.

Repealed by 75 Del. Laws, c. 232, § 60, effective Feb. 1, 2006.

## § 4936. Order of voting; determination of challenge.

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.

(19 Del. Laws, c. 37, § 17; 27 Del. Laws, c. 65, § 15; Code 1915, § 1757; Code 1935, § 1846; 15 Del. C. 1953, § 4937; 57 Del. Laws, c. 181, § 57; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 61.)

## § 4937. Voting procedure.

(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.

(19 Del. Laws, c. 37, § 19; 19 Del. Laws, c. 576; 21 Del. Laws, c. 38, § 18; 22 Del. Laws, c. 62; 27 Del. Laws, c. 65, § 16; Code 1915, §§ 1767, 1772; 34 Del. Laws, c. 111, § 1; Code 1935, §§ 1856, 1861; 45 Del. Laws, c. 154, § 12; 15 Del. C. 1953, § 4939; 57 Del. Laws, c. 181, § 58; 58 Del. Laws, c. 148, § 84; 68 Del. Laws, c. 222, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 388, §§ 1, 2; 70 Del. Laws, c. 505, § 3; 72 Del. Laws, c. 470, § 1; 73 Del. Laws, c. 404, § 1; 75 Del. Laws, c. 287, § 1.)

## § 4938. Grounds for admitting a person to a voting machine.

The election officers shall only admit to a voting machine a person whose name appears on the poll list, who is authorized to vote by the department of elections or who is authorized to vote by court order.

(21 Del. Laws, c. 38, § 19; Code 1915, § 1773; 34 Del. Laws, c. 111, § 2; Code 1935, § 1862; 15 Del. C. 1953, § 4944; 50 Del. Laws, c. 172, § 3; 57 Del. Laws, c. 567, § 40; 58 Del. Laws, c. 148, § 85; 60 Del. Laws, c. 414, § 11; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 59.)

## § 4939. Determination of challenge based on identity of voter.

If a vote is objected to for the reason that the person offering to vote is not the person whose original permanent registration record appears in the Election District Record, its admission or rejection shall be determined according to the opinion of a majority of the inspector and judges.

(21 Del. Laws, c. 38, § 19; Code 1915, § 1773; 34 Del. Laws, c. 111, § 2; Code 1935, § 1862; 15 Del. C. 1953, § 4945; 50 Del. Laws, c. 172, § 4; 58 Del. Laws, c. 148, § 86.)

## § 4940. Disqualification because of bribery; determination of challenge.

(a) No person who receives or accepts or offers to receive or accept, or pays, transfers or delivers, or offers or promises to pay, transfer or deliver, or contributes or offers or promises to contribute to another to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of any one qualified to register or for giving or withholding or in any manner influencing the giving or withholding a vote at any general election in this State, shall vote at such election unless such person being challenged for any of said causes takes and subscribes to the following oath or affirmation, which shall be administered by the inspector:

"I, ..... do solemnly swear (or affirm) that I have not received or accepted, or offered to receive or accept, paid or transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed or offered or promised to contribute to another to be paid or used any money or other valuable thing as compensation, inducement or reward for the registering or abstaining from registering of any one qualified to register, or for the giving or withholding a vote at this election.

Signed .....

Sworn and subscribed to before me this ..... day of November, A. D. .....

..... Inspector."

(b) Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or affirmation, but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereof shall bar any prosecution under § 8 of Article V of the Constitution of this State. Such oath or affirmation, when signed and attested as provided in this section, shall be competent evidence in any proceeding against the party making the same.

(c) In order to enable the election officers to carry into effect this section, the Department shall cause to be prepared not less than 15 blank forms of the oath or affirmation provided for in this section and shall cause said oaths to be delivered to each inspector in each of the election districts of that inspector's county at the time provided in § 4509 of this title.

(21 Del. Laws, c. 38, § 19; Code 1915, § 1773; 34 Del. Laws, c. 111, § 2; Code 1935, § 1862; 15 Del. C. 1953, § 4946; 55 Del. Laws, c. 67; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 77.)

## § 4941. Residency of voter.

If a vote is objected to for the reason that the individual is not a resident of the election district listed in that individual's voter registration record, the individual's place of residence is determined under § 103 of this title and the following rules apply:

(1) If an individual who has resided within this State moves outside this State and establishes a new place of residence under § 103(d) of this title, the individual loses their qualification of residence within this State.

(2) An individual registered to vote in this State who has moved from a place of residence located within 1 election district within this State to a new place of residence within a different election district within this State shall be permitted to vote at the polling place for that individual's new place of residence.

(15 Del. C. 1953, § 4947; 58 Del. Laws, c. 215, § 35; 60 Del. Laws, c. 414, § 12; 61 Del. Laws, c. 480, § 14; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 26; 77 Del. Laws, c. 227, § 60; 81 Del. Laws, c. 113, § 1; 85 Del. Laws, c. 313, § 7.)

## § 4942. Electioneering in polling place; penalties; definitions.

(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.

(19 Del. Laws, c. 39, § 31; Code 1915, § 1793; Code 1935, § 1882; 45 Del. Laws, c. 154, § 16; 15 Del. C. 1953, § 4949; 57 Del. Laws, c. 181, § 63; 58 Del. Laws, c. 148, § 88; 58 Del. Laws, c. 215, § 36; 70 Del. Laws, c. 186, § 1.)

## § 4943. Voting assistance based on blindness, disability, or illiteracy; instructions for voters.

(a) 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.

(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.

(20 Del. Laws, c. 396, §§ 1, 10; 27 Del. Laws, c. 65, § 20; Code 1915, § 1739; Code 1935, § 1828; 15 Del. C. 1953, § 4950; 58 Del. Laws, c. 148, § 89; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 304, §§ 4, 5.)

## § 4944. Vote for candidates for President and Vice President as vote for their electors.

A vote for the candidates of a political party for President and Vice President of the United States shall be a vote for all the electors of President and Vice President of such party, the names of whom are on file with the State Election Commissioner and shall be as effective as if the vote was given directly for the electors.

(Code 1935, § 1814A; 44 Del. Laws, c. 119, § 4; 15 Del. C. 1953, § 4951; 82 Del. Laws, c. 141, § 10.)

## § 4945. Majority vote of inspector and judges of election.

The concurrence or assent of a majority of the inspector of election and 2 judges of election in any election district is required for the valid exercise by such persons of any power, authority or duty conferred upon or required of them by this title, unless specifically provided otherwise.

(19 Del. Laws, c. 39, § 23; Code 1915, § 1790; Code 1935, § 1879; 15 Del. C. 1953, § 4952.)

## § 4946. Powers of election officers to preserve order during election; penalty.

(a) The inspectors of election, from the opening of the election until all the duties and proceedings connected therewith are fully completed, may:

(1) Command the peace; and

(2) Require sureties of the peace from any person disturbing the election, or the officers thereof in the performance of their duties; and

(3) Commit to prison for refusal or neglect to find such surety.

Whoever, being an officer or other person, disobeys the lawful commands of any inspector of election, shall be fined $50.

(b) The election officers in each election district, while discharging any of the duties imposed upon them by this title, may:

(1) Preserve order and enforce obedience to their lawful commands at and around the place of election during the time of any election and counting of votes;

(2) Keep the access to such places open and unobstructed;

(3) Prevent and suppress riots, tumult, violence, disorder and all improper practices tending to the intimidation or obstruction of voters, the disturbance or interruption of the voting or counting of votes; and

(4) Protect the voters and challengers from intimidation and violence, and the registers, poll books, boxes, envelopes and ballots from violence and fraud; and

(5) Deputize, if necessary, 1 or more electors to communicate their orders and directions and to assist in the enforcement thereof.

(Code 1852, § 304; 19 Del. Laws, c. 39, § 27; 21 Del. Laws, c. 36, § 20; Code 1915, § 1791; Code 1935, § 1880; 15 Del. C. 1953, § 4953.)

## § 4947. Time and manner of closing election.

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.

(21 Del. Laws, c. 38, § 20; Code 1915, § 1774; 32 Del. Laws, c. 100, § 1; Code 1935, §§ 1768, 1863; 15 Del. C. 1953, § 4954; 50 Del. Laws, c. 22, § 1; 50 Del. Laws, c. 172, § 5; 57 Del. Laws, c. 181, § 64; 70 Del. Laws, c. 186, § 1.)

## § 4948. Provisional ballots.

(a) Provisional ballots must be used in elections for federal offices.

(b) (1) An individual claiming to be properly registered in an election district, but whose eligibility to vote at that election district cannot be determined, is entitled to cast a provisional ballot for the federal offices on the ballot in that election.

(2) Election officers shall inform an individual who is not being permitted to vote, for any reason, that the individual may cast a provisional ballot for the federal offices on the ballot in that election.

(3) The inspector shall return all voted provisional ballots to the Department on the night of the election.

(c) (1) a. An individual voting a provisional ballot must present proof of identity and address to the election officers.

b. The election officers shall indicate the form of the proof provided under paragraph (c)(1)a. of this section on the provisional ballot envelope.

(2) Notwithstanding paragraph (c)(1) of this section, if the individual does not show proof of identity or address, the individual must be permitted to vote by provisional ballot. The election officers shall indicate that the individual did not show proof of identity or address, or both, on the provisional ballot envelope.

(d) [Repealed.]

(e) (1) A provisional ballot must be labeled as a provisional ballot and to the extent possible, must be in the same form as absentee ballots for the federal offices on the ballot in that election.

(2) For a general election, the Department shall provide a minimum of 10 blank provisional ballots to each election district and additional blank provisional ballots as follows:

a. A minimum of 20 blank provisional ballots to election districts with 3 or more assigned voting devices.

b. A minimum of 30 blank provisional ballots to election district with 4 or more assigned voting devices.

(3) For a primary election, the Department shall develop a standard. to determine the number of provisional ballots that should be provided.

(4) The Department 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 an individual who is voting by provisional ballot. When the assistance the voter requests includes marking or assisting in marking the individual's ballot, 2 election officers with different political party affiliations shall provide that assistance.

(g) An individual who spoils their own provisional ballot must upon request, be given a replacement ballot after surrendering the spoiled ballot.

(h) *Tallying provisional ballots.—*

(1) The day following an election in which provisional ballots were used, the Department shall examine the provisional ballots, determine which of those ballots should be tallied in accordance with the rules under paragraphs (h)(2) through (h)(8) of this section, and then tally those ballots.

(2) The Attorney General shall appoint a Deputy Attorney General to advise the Department 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 Department shall sit until the disposition of every provisional ballot has been determined. The Department shall establish an appropriate schedule of breaks, meals, and rest periods.

(5) If the provisional ballot affidavit is incomplete, the provisional ballot must be set aside, must not be opened, and the votes not tallied. An incomplete affidavit is an affidavit that does not include all of the following information about the individual who voted by that provisional ballot:

a. Full name.

b. Complete address.

c. If a primary election, political party affiliation.

d. Date of birth.

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

(7) A provisional ballot cast by an individual who is not registered to vote in this State or who is not registered to vote in the election district in which the provisional ballot was cast must be set aside, must not be opened, and the votes not tallied.

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

(9) The Department shall tally the provisional ballots that meet the requirements under paragraphs (h)(2) through (h)(8) of this section.

(10) After completing the tally under paragraph (h)(9) of this section, the Department shall do either of the following:

a. For a primary election, canvass the provisional ballots.

b. For a general election or a special election, deliver all of the following to the prothonotary:

1. One copy of the provisional ballot tally sheet for each election district.

2. All provisional ballots cast in the election.

3. All affidavits, envelopes, and supporting documentation.

(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 shall enter the appropriate data into a free access system so that an individual who voted by provisional ballot may determine if their ballot was counted, and if it was not counted, all of the reasons it was not counted.

(2) a. The Department shall use the provisional ballot affidavit as authority to register an individual to vote after the individual voted by provisional ballot in an election if all of the following apply:

1. The individual is not already registered to vote.

2. The minimum information required to register an individual to vote is provided.

b. The Department shall use the provisional ballot envelope to update all of the following if the information is different than the information on the individual's voter registration record:

1. The registered voter's name.

2. The registered voter's address.

(74 Del. Laws, c. 168, § 7; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 287, § 2; 77 Del. Laws, c. 227, § 61; 79 Del. Laws, c. 275, § 78; 85 Del. Laws, c. 313, § 8.)

## Subchapter III

## Counting Votes and Post-Election Regulations

### § 4971. Counting absentee votes; penalty for disclosure.

Repealed by 77 Del. Laws, c. 227, § 62, effective Feb. 1, 2010.

### § 4972. Rules regarding what constitutes a legal vote.

(a) (1) Votes cast on a voting device are legal votes once the voter has taken the necessary action or actions to cast a ballot.

(2) A voter who has cast a ballot on a voting device may not cast a second ballot under any circumstances.

(3) The paper ballot reflecting the voter's choices is the legal voted ballot of record.

(b) (1) a. Votes cast by absentee ballots must be counted as the votes are intended on the ballot.

b. The voter shall mark the voter's selections on the absentee ballot as instructed.

(2) If the ballot scanning device is unable to determine the voter's intent, a team of election judges reviews and adjudicates the votes on the absentee ballot. A team of election judges (election judges) may be either of the following:

a. A team of election judges under § 5510 of this title.

b. The county director and county deputy director.

(3) Election judges shall adjudicate the votes on an absentee ballot as follows:

a. Where a voter indicates the voter's own selections in a manner that does not comply with paragraph (b)(1)b. of this section, the election judges shall attempt to determine from the marks on the ballot the candidate or response to a ballot question that the voter intended to select.

b. If it is not possible to determine a voter's choice for an office or response to a ballot question, the ballot may not be counted for that office or ballot question but must be counted for all other offices and ballot questions where the voter's intention can be determined.

c. A voter may only vote for 2 or more choices for any office or ballot question when specifically allowed in the instructions on the ballot.

d. When a voter may make more than 1 choice for an office or a ballot question, the voter may make fewer than the total number of choices allowed.

e. If a ballot is marked for more choices than allowed under paragraph (b)(3)c. of this section, all of the following apply:

1. The votes for that office or ballot question are not counted.

2. The votes for all other offices or ballot questions on the ballot must be counted or adjudicated as required under this section.

f. If a ballot has been defaced or torn so that it is impossible to determine the voter's choice for an office or a ballot question, all of the following apply:

1. The vote for that office or ballot question is not counted.

2. The votes for all other offices and ballot questions on the ballot determined must be counted or adjudicated as required under this section.

g. A misspelled, incomplete, or minor variation of the name of a declared write-in candidate for an office must be counted as a vote for that candidate if any of the following apply:

1. The name as written bears a reasonable resemblance to the declared candidate's name and no other declared write-in candidate for the office has a name so similar to the name as written as to leave a reasonable doubt as to the voter's intention.

2. The last name of a declared write-in candidate constitutes a valid vote unless there are 2 or more candidates for that office with the same last name.

h. Writing in the name of a candidate for President or Vice President constitutes a valid vote for all presidential electors of that party.

(4) When adjudicating the votes on an absentee ballot under paragraph (b)(3) of this section, the election judges must try to reach a decision by consensus. If the election judges cannot reach consensus, the following steps apply:

a. If the election judges are a team under § 5110 of this title, the election judges must confer with the county director and county deputy director, who shall attempt to help the election judges reach a consensus decision.

b. If the election judges are a team under paragraph (b)(2)b. of this section or the election judges do not reach a consensus decision after the discussion under paragraph (b)(4)a. of this section, the county director and county deputy director must confer with the Commissioner and the Commissioner makes the final determination.

(21 Del. Laws, c. 38, § 21; 27 Del. Laws, c. 65, § 24; 27 Del. Laws, c. 65, § 23; Code 1915, §§ 1769, 1770; 40 Del. Laws, c. 143, § 1; Code 1935, §§ 1858, 1859; 44 Del. Laws, c. 122, § 2; 15 Del. C. 1953, § 4974; 58 Del. Laws, c. 148, §§ 92, 93; 61 Del. Laws, c. 480, § 15; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 168, § 8; 76 Del. Laws, c. 315, § 2; 82 Del. Laws, c. 170, § 25; 85 Del. Laws, c. 313, § 3.)

## §§ 4973, 4974. Disqualified ballots; notation and preservation of disqualified or disputed ballots and envelopes.

Repealed by 77 Del. Laws, c. 227, § 62, effective Feb. 1, 2010.

## § 4975. Removing the results from the voting device or devices and dispatching the voted paper ballots in a secured container and the media containing the election results to the Department.

(a) (1) After the polls have closed and the last voter has finished voting and exited the polling place, the inspector shall close and secure each voting device as instructed and complete the required documentation.

(2) After the polls have closed, the election officers shall produce a report of the write-in votes.

(b) After the polls have closed, the election officers shall remove the ballot container and the media containing the election results from each voting device and deliver them to the Department as instructed.

(c)-(e) [Repealed.]

(21 Del. Laws, c. 38, § 22; Code 1915, § 1776; Code 1935, § 1865; 15 Del. C. 1953, § 4977; 49 Del. Laws, c. 294, § 19; 58 Del. Laws, c. 148, § 94; 70 Del. Laws, c. 506, § 9; 77 Del. Laws, c. 227, §§ 2, 63; 82 Del. Laws, c. 170, § 26.)

## § 4976. Counting of write-in votes [Repealed].

(21 Del. Laws, c. 38, §§ 23, 24; Code 1915, §§ 1777, 1778; Code 1935, §§ 1866, 1867; 15 Del. C. 1953, § 4978; 49 Del. Laws, c. 294, § 20; 50 Del. Laws, c. 172, § 6; 57 Del. Laws, c. 567, § 43; 58 Del. Laws, c. 148, § 95; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, §§ 10-13; 76 Del. Laws, c. 315, § 3; repealed by 82 Del. Laws, c. 170, § 27, effective July 30, 2019.)

## § 4977. Persons authorized to be present during the count and tabulation.

Any candidate and any duly accredited challenger may be admitted to the voting room after the closing of the polls to observe the counting and tabulation of votes. Such persons shall be afforded the full opportunity to examine the ballot, results tapes from each voting machine, voting machine certificates and the tally sheets.

(21 Del. Laws, c. 38, § 29; Code 1915, § 1783; 34 Del. Laws, c. 111, § 3; Code 1935, § 1872; 45 Del. Laws, c. 154, § 13; 46 Del. Laws, c. 153, § 2; 15 Del. C. 1953, § 4979; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 172, § 7; 55 Del. Laws, c. 92, § 3; 57 Del. Laws, c. 567, §§ 44, 45; 58 Del. Laws, c. 148, § 96; 70 Del. Laws, c. 506, § 14; 75 Del. Laws, c. 232, § 62.)

## § 4978. Securing the voting machine, voting machine certificates and tally sheets [Repealed].

(15 Del. C. 1953, § 4980; 50 Del. Laws, c. 172, § 8; 58 Del. Laws, c. 148, § 97; 61 Del. Laws, c. 480, § 16; 69 Del. Laws, c. 391, § 2; 70 Del. Laws, c. 506, § 15; 77 Del. Laws, c. 227, §§ 64, 65; 79 Del. Laws, c. 275, § 79; repealed by 82 Del. Laws, c. 170, § 28, effective July 30, 2019.)

## § 4979. Delivery of certificates, election records and supplies, voting machines, and absentee ballot boxes [Repealed].

(15 Del. C. 1953, § 4981; 58 Del. Laws, c. 148, § 98; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, §§ 16, 17; 77 Del. Laws, c. 227, §§ 66, 67; 79 Del. Laws, c. 275, § 80; repealed by 82 Del. Laws, c. 170, § 29, effective July 30, 2019.)

## § 4980. Return and custody of voting devices, media containing election results, and ballot container.

(a) Immediately after the election, and within the 2 days immediately following the day of election, all voting materials, including the voting devices, media containing the election results, and secured containers of voted paper ballots, must be stored in a safe and secure place provided by the Department. While the board of canvass is conducting its canvass of the vote, all voting materials must be in the custody of the Prothonotary. While in the Prothonotary's custody, the voting materials may be examined by order of the board of canvass or any other court of competent jurisdiction.

(b) After the board of canvass has completed its canvass of the vote, the prothonotary shall turn custody of the voting materials over to the Department. The Department shall leave the voted paper ballots and all documentation extracted from the media containing the election results undisturbed and locked for 22 months after the day of the election. During this period, the voted paper ballots and all documentation extracted from the media containing the election results may be inspected for the purpose of conducting an audit under Chapter 50 of this title or by any duly authorized member or agent of the General Assembly or the Attorney General.

(15 Del. C. 1953, § 4982; 58 Del. Laws, c. 148, § 99; 60 Del. Laws, c. 403, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, § 18; 75 Del. Laws, c. 232, §§ 63, 64; 82 Del. Laws, c. 170, § 30; 85 Del. Laws, c. 313, § 9.)

## § 4981. Duties of Department and State Election Commissioner following an election.

(a) Immediately following an election, the Department shall upload all updated voter history from the electronic poll books to the State's voter registration system.

(b) [Repealed.]

(15 Del. C. 1953, § 4983; 58 Del. Laws, c. 148, § 100; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 505, § 6; 77 Del. Laws, c. 227, § 2; 82 Del. Laws, c. 170, § 31.)

# Subchapter IV

# Administrative Complaint Procedure

## § 4990. Applicability.

The Administrative Complaint Process shall only apply to alleged violations of Title III of the Help America Vote Act of 2002 [52 U.S.C. § 21081 et seq.] to include an alleged violation that has occurred, is occurring or is about to occur.

(74 Del. Laws, c. 168, § 5.)

## § 4991. Process.

(a) The person making a complaint under this subchapter shall submit the complaint to the State Election Commissioner. The complaint must be in writing, notarized, and signed and sworn to by the person making the complaint.

(b) If a Department office receives a complaint, it shall forward it to the State Election Commissioner on the same business day that it is received.

(c) The State Election Commissioner shall notify the complainant or complainants of receipt of the complaint and provide the complainant or complainants a description of the complaint resolution process.

(d) The State Election Commissioner may consolidate similar complaints.

(e) If requested by the complainant or complainants, there shall be a hearing for the record.

(f) The State Election Commissioner shall appoint a person or persons to examine the complaint, gather information about the circumstances and then determine whether or not there was a violation of Title III of the Help American Vote Act of 2002 [52 U.S.C. § 21081 et seq.].

(g) If the person handling the complaint determines that a violation has occurred, that person shall recommend a suitable remedy to the State Election Commissioner. The Commissioner may accept, reject or modify any proposed remedy.

(h) If the person handling the complaint determines that a violation did not occur, the complaint shall be dismissed.

(i) The State Election Commissioner shall publish the results of the resolution of each complaint as the Commissioner sees fit.

(j) A final determination shall be made on each complaint as quickly as possible, but no later than 90 days following the date that the complaint was filed unless the complainant consents to a longer period for resolving the complaint.

(k) If the complaint is not resolved within 90 days and the complainant has not agreed to a longer period, the State Election Commissioner shall take such steps as necessary to resolve the complaint within the next 60 days. The original complaint and all information developed in the previous attempt or attempts to resolve the issue or issues shall be made available to the person or persons subsequently charged with resolving the complaint.

(*l*) The State Election Commissioner shall develop a system for tracking complaints alleging Title III of the Help America Vote Act of 2002 [52 U.S.C. § 21081 et seq.] violations.

(74 Del. Laws, c. 168, § 5; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 81; 82 Del. Laws, c. 170, § 32.)

# Part IV
# General Elections
## Chapter 50
## Electronic Voting Systems

### § 5001. Electronic voting system use.

An election conducted under this title must use an electronic voting system and must comply with the requirements under this chapter.
(63 Del. Laws, c. 409, § 1; 82 Del. Laws, c. 170, § 34; 85 Del. Laws, c. 313, § 2.)

### § 5002. Requirements.

(a) An electronic voting system adopted, purchased, or used must meet all of the following:

(1) Each voting device that is part of the electronic voting system must comply with all of the following:

a. Have a serial number permanently attached to or stamped on the device.

b. Secure secrecy to the voter during the act of voting, including the requirements under subsection (b) of this section.

c. Allow ballots to contain all of the following:

1. As many ballot questions as may be included in an election conducted in this State.

2. Candidates from as many parties that may be included in an election under this title.

d. Allow the voter to cast votes as follows:

1. For the candidates of any party on the ballot.

2. For candidates on the ballot who are not affiliated with a party.

3. By writing in the name of a declared write-in candidate.

4. By writing in the name of the voter's choice for any office.

5. For or against each ballot question on the ballot.

e. Permit the voter to vote for as many candidates for an office for which the voter is lawfully entitled to vote. The automatic tabulating equipment used in the electronic voting system must prevent the voter from casting votes on a ballot card or voting device if the number of choices for that office exceeds the number for which the voter is entitled to vote.

f. Prevent the voter from voting for the same candidate more than once for the same office.

g. Permit the voter to vote for or against any ballot question the voter may have the right to vote upon, but no other.

h. 1. Prevent the voter from voting for all the candidates of 1 party by the use of a single mark, punch, or other action.

2. Notwithstanding paragraph (a)(1)h.1. of this section, the voting device must provide a method, for each party, that allows for voting for all presidential electors of that party by 1 mark, punch, or other action.

(2) a. Permit each voter in a primary election to vote for only the candidates of the party designated in that individual's voter registration record.

b. Prevent a voter in a primary election from voting for any candidate seeking nomination by any other political party.

(3) Correctly record and accurately count all votes cast as follows:

a. For each candidate on the ballot.

b. For each declared write-in candidate.

c. That are not for a candidate on the ballot or for a declared write-in candidate.

d. For or against each ballot question.

(4) Allow each voting device to be sealed in a manner that prevents the use of the voting device and prevents tampering with ballot labels as follows:

a. Before and after the polls are open.

b. Before the operation of the voting device for an election begins.

c. Immediately after the polls are closed or after the operation of the voting device for an election is completed.

(b) All voting devices used in an election must have features that prevent another individual from seeing the votes cast by the voter, except as necessary to allow an individual to assist a voter under § 4943 of this title.

(c) At the time of purchase and before delivery to and acceptance by this State, a voting system must be 1 or more of the following:

(1) Certified by the United States Election Assistance Commission (EAC), or designated federal authority, as meeting or exceeding the voluntary voting systems guidelines promulgated by the EAC.

(2) Certified by the EAC, or designated federal authority, as meeting or exceeding the EAC's voluntary voting system guidelines version 2.0.

(3) Substantially equivalent to voting devices already in use in this State that were acquired in compliance with paragraphs (c)(1) or (c)(2) of this section.

(d) The Department shall prepare a plan that enables a voter to cast a ballot if every voting device in the polling place fails and consequently a voter is unable to vote on a voting device in the voter's polling place.

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, §§ 1-4; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 170, § 35; 85 Del. Laws, c. 313, § 2.)

## § 5003. Compliance guarantee.

Before an electronic voting system is purchased, rented or otherwise acquired, or used, the person owning or manufacturing that voting system must provide the Commissioner an adequate written guarantee and post a bond accompanied by satisfactory surety guaranteeing and securing all of the following:

(1) That the voting system, including the voting devices, comply fully with all of the requirements under § 5002 of this title.

(2) The voting device against defects in labor and materials for a period equal to either of the following:

a. Five years from the date the Department receives the voting devices.

b. For a rented voting device, for the period of rental.

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, § 5; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 85 Del. Laws, c. 313, § 2.)

## § 5004. Voting devices; software designations.

(a) (1) No later than July 1 of each odd-numbered calendar year, the Commissioner shall designate the software and version of that software (software) that must be used on the Department's voting devices during the next statewide general election.

(2) Voting devices must use the software designated under paragraph (a)(1) of this section for elections held on or after September 1 of that calendar year.

(3) Voting devices may use the software installed under paragraph (a)(2) of this section for elections held before September 1 of the next odd-numbered calendar year.

(b) In addition to operating each voting device in compliance with the requirements under § 5003 of this title, the software designated under paragraph (a)(1) of this section must meet all of the following criteria:

(1) Actively used in at least 2 other jurisdictions in the United States.

(2) Certified by 1 or more of the following:

a. The Election Assistance Commission.

b. A voting system testing laboratory accredited pursuant to the Help America Vote Act of 2002 [52 U.S.C. § 20901 et seq.]

(3) Approved for use by the manufacturer of the voting devices.

(c) If there are multiple versions of software that meet the requirements under subsection (b) of this section, the Commissioner may select the software that the Commissioner determines is best suited to meet the requirements under this title after considering all of the following:

(1) How recently each version was released.

(2) The experiences of other jurisdictions in the United States with the software under this subsection (c).

(3) The recommendations of the voting device manufacturer.

(4) The recommendations of Department employees.

(5) Any other factors that the Commissioner deems relevant.

(d) Notwithstanding subsection (a) of this section, at any time, the Commissioner may change the designated software for the Department's voting devices if necessary to address a material security flaw in the previously designated software.

(85 Del. Laws, c. 313, § 2.)

## § 5005. Use of voting devices; costs in municipal elections [Repealed].

(63 Del. Laws, c. 409, § 1; 79 Del. Laws, c. 275, § 82; repealed by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.)

## § 5006. Number of voting devices per election district.

(a) In general elections, the Department shall supply each polling place with at least 1 voting device for every 650 registered voters assigned to that polling place, or majority fraction thereof.

(b) In primary and special elections, the Department shall supply each polling place with at least 1 voting device for every 800 registered voters assigned to that polling place, or majority fraction thereof.

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, §§ 6, 7; 74 Del. Laws, c. 411, § 23; 82 Del. Laws, c. 170, § 36; 85 Del. Laws, c. 313, § 2.)

## § 5007. Printing of ballots; distribution of ballots [Repealed].

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, §§ 8-11; 74 Del. Laws, c. 168, § 13; 77 Del. Laws, c. 227, § 68; 79 Del. Laws, c. 275, § 83; 82 Del. Laws, c. 170, § 37; repealed by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.)

## § 5008. Number of official ballots to be furnished [Repealed].

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, § 12; 77 Del. Laws, c. 227, § 69; repealed by 82 Del. Laws, c. 170, § 38, effective July 30, 2019.)

## § 5009. Substitute ballots [Repealed].

(63 Del. Laws, c. 409, § 1; repealed by 82 Del. Laws, c. 170, § 39, effective July 30, 2019.)

## § 5010. Preparation of voting devices.

(a) (1) a. The Department shall deliver the number of voting devices required under § 5006 of this title to each polling place before the time that the election officers are required to report for duty.

b. The Department shall program each voting device delivered under paragraph (a)(1)a. of this section to produce at least 2 copies of the paper tape showing the number of votes cast on that voting device for each candidate and ballot question.

(2) Before each election, the Department shall certify that each voting device that will be delivered to a polling place has been properly prepared and inspected by doing all of the following:

a. Confirming that all software installed on the voting device is the software required under § 5004 of this title.

b. Checking the accuracy of the voting device by doing all of the following:

1. Simulating voting by entering sample votes on the voting device.

2. Counting by hand the votes on each paper ballot from the voting device and comparing the paper ballot totals to the totals kept by the voting device electronically.

(b) [Repealed.]

(c) (1) The Department shall designate at least 2 individuals to certify all of the following:

a. The numbers on the voting devices and the election districts for which they are designated are correct.

b. All of the voting devices are in proper working condition.

c. All of the voting devices are properly sealed.

(2) The individuals designated under paragraph (c)(1) of this section cannot have the same party affiliation, as recorded in each individual's voter registration record.

(d) [Repealed.]

(e) (1) No more than 10 days before an election, the Department shall test all voting systems, including the absentee ballot system, to confirm that the voting systems will accurately count the votes cast for all candidates and on all ballot questions.

(2) The Department shall provide notice of the time and place of the tests under paragraph (e)(1) of this section as follows:

a. Posting a public notice under § 10004 of Title 29.

b. Providing a copy of the public notice to the state chairperson of each party with a candidate on the ballot.

(f) The certification required under this section is a public record available for inspection at the Department under the Delaware Freedom of Information Act, Chapter 100 of Title 29.

(g) The Department shall require that a person with custody of a voting device ensures the safety and protection of the voting device at all times, including all of the following:

(1) During delivery.

(2) Storage before the election.

(3) Storage after the election.

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, §§ 13-17; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 506, § 5; 77 Del. Laws, c. 227, § 53; 82 Del. Laws, c. 170, § 40; 85 Del. Laws, c. 313, § 2.)

## § 5011. Instruction model.

Repealed by 70 Del. Laws, c. 154, § 18, effective July 7, 1995.

## § 5012. Inoperative voting devices.

(a) If a voting device becomes inoperative during the conduct of an election, the election officers shall seal the voting device in a manner that prevents further voting on that voting device.

(b) The Department shall maintain and hold in readiness a reasonable number of extra voting devices that can be supplied to election districts where a voting device has become inoperative. The Department shall take reasonable steps to ensure rapid delivery of these voting devices when needed.

(63 Del. Laws, c. 409, § 1; 82 Del. Laws, c. 170, § 41; 85 Del. Laws, c. 313, § 2.)

## § 5013. Voting device curtains; absentee voting [Repealed].

(63 Del. Laws, c. 409, § 1; repealed by 82 Del. Laws, c. 170, § 42, effective July 30, 2019.)

## § 5014. Audits; procedures.

(a) (1) An audit of election results under this chapter (audit) must count by hand the votes on each paper ballot from a voting device and compare the paper ballot totals to the totals kept by the voting device electronically.

(2) An audit completed under § 5015(b) or § 5016(c) of this title must include all ballots cast in a selected election district, including ballots cast during early voting and absentee ballots.

(b), (c) [Repealed.]

(d) The Department shall perform all of the following at a public meeting conducted under § 10004 of Title 29:

(1) A random selection required for an audit under § 5015, § 5016, or § 5017 of this title.

(2) An audit under § 5015, § 5016, or § 5017 of this title.

(e) (1) Within 60 days of an audit under this chapter, the Department shallcomplete a report that contains the results of that audit.

(2) a. The Department shall post the report required under paragraph (e)(1) of this section on the Department's website and submit the report to the Director and the Librarian of the Division of Legislative Services and the Delaware Public Archives.

b. If the election results in the report were for an election held by a school district or municipality, the Department must also submit the report to the chief officer of the jurisdiction in which the election was held.

(f) The Department shall promulgate regulations to govern the procedure to be used if an audit reveals a discrepancy that include all of the following:

(1) The thresholds that trigger the Department or others to take a specific action.

(2) The specific actions to be taken by the Department or others once a threshold is triggered.

(3) The corrective actions that must be taken by the Department or others to avoid the discrepancy in the future.

(82 Del. Laws, c. 170, § 43; 85 Del. Laws, c. 313, § 2.)

## § 5015. Audits; elections for state or county offices.

(a) Within 48 hours of the certification of the results of an election for a state or county office, the Department shall conduct an audit of all of the following:

(1) One randomly selected voting device in each county where the election was held.

(2) If the election included an election district with area in the City of Wilmington, 1 randomly selected voting device in the City of Wilmington.

(b) Within 60 days of the certification of the results of an election for a state or county office, the Department shall conduct an audit of all of the following:

(1) a. The results of all votes cast for all offices in 1 randomly selected election district in each county where the election was held.

b. If the election included an election district with area in the City of Wilmington, the results for all votes cast for offices in 1 randomly selected election district in the City of Wilmington.

(2) After an election for 1 or more statewide offices, the results of all votes cast for 1 statewide office as follows:

a. One randomly selected election district in each county.

b. One randomly selected election district in the City of Wilmington.

c. The election district in New Castle County that is audited under paragraph (b)(2)a. of this section must not include area in the City of Wilmington.

(c) (1) An election district audited under paragraph (b)(1) of this section cannot be an election district from which a voting device was selected under subsection (a) of this section.

(2) An election district audited under paragraph (b)(2) of this section cannot be an election district from which a voting device was selected under subsection (a) or paragraph (b)(1) of this section.

(82 Del. Laws, c. 170, § 43; 85 Del. Laws, c. 313, § 2.)

## § 5016. Audits; elections for City of Wilmington offices.

(a) This section applies to elections conducted for offices in the City of Wilmington under subchapter II of Chapter 75 of this title.

(b) Within 48 hours of the certification of the results of an election, the Department shall audit all of the results of 1 randomly selected voting device used for that election.

(c) (1) Within 60 days of the certification of the results of an election, the Department shall audit the results of all votes cast in 1 randomly selected election district where the election was held.

(2) An election district audited under paragraph (c)(1) of this section cannot be an election district from which the voting device was selected under subsection (b) of this section.

(82 Del. Laws, c. 170, § 43; 85 Del. Laws, c. 313, § 2.)

## § 5017. Audits: school district elections.

(a) This section applies to school district elections conducted under Title 14.

(b) After an election for a school board member, the Department shall conduct audits as follows:

(1) Within 48 hours of the certification of the results of an election, the Department shall audit all of the results of 1 randomly selected voting device used for that election.

(2) Within 60 days of the certification of the results of an election, the Department shall audit the results of all votes cast in 1 randomly selected polling place where the election was held.

(3) A polling place audited under paragraph (b)(2) of this section cannot be the polling place from which the voting device was selected under paragraph (b)(1) of this section.

(c) After a referendum election, the Department shall conduct audits as follows:

(1) Within 48 hours of the certification of the results of an election, the Department shall audit all of the results of 1 randomly selected voting device used for that election.

(2) Within 60 days of the certification of the results of an election, the Department shall audit the results of all votes cast in 1 randomly selected polling place where the election was held.

(3) A polling place audited under paragraph (c)(2) of this section cannot be the polling place from which the voting device was selected under paragraph (c)(1) of this section.

(82 Del. Laws, c. 170, § 43; 85 Del. Laws, c. 313, § 2.)

# Part IV
# General Elections

## Chapter 50A
## Electronic Voting Systems [Transferred]

### § 5000A. Electronic voting system use [Transferred].

Transferred to § 5001 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5001A. Requirements [Transferred].

Transferred to § 5002 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5002A. Compliance guarantee [Transferred].

Transferred to § 5003 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5003A. Use of voting devices; costs in municipal elections [Transferred].

Transferred to § 5005 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5004A. Number of voting devices per election district [Transferred].

Transferred to § 5006 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5005A. Printing of ballots; distribution of ballots [Transferred].

Transferred to § 5007 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5006A. Number of official ballots to be furnished [Repealed].

(63 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 154, § 12; 77 Del. Laws, c. 227, § 69; repealed by 82 Del. Laws, c. 170, § 38, effective July 30, 2019.)

### § 5007A. Substitute ballots [Repealed].

(63 Del. Laws, c. 409, § 1; repealed by 82 Del. Laws, c. 170, § 39, effective July 30, 2019.)

### § 5008A. Preparation of voting devices [Transferred].

Transferred to § 5010 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5009A. Instruction model.

Repealed by 70 Del. Laws, c. 154, § 18, effective July 7, 1995.

### § 5010A. Inoperative voting devices [Transferred].

Transferred to § 5012 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

### § 5011A. Voting device curtains; absentee voting [Repealed].

(63 Del. Laws, c. 409, § 1; repealed by 82 Del. Laws, c. 170, § 42, effective July 30, 2019.)

### § 5012A. Audits; audit discrepancy procedure [Transferred].

Transferred to § 5014 of this title by 85 Del. Laws, c. 313, § 2, effective June 24, 2026.

# Part IV
# General Elections

## Chapter 51
## Criminal Offenses

### Subchapter I
### General Provisions

### § 5101. Jurisdiction of Court.

The Superior Court shall have exclusive, original jurisdiction of offenses under this title and no prosecution for the violation of any section of this title shall be brought in any other court.

(15 Del. C. 1953, § 5101.)

### § 5102. Prosecution by Attorney General; duty to report violations.

(a) The Attorney General shall immediately prosecute to final judgment all complaints which may be made of a violation of this title.

(b) The Department of Elections and all election officers shall notify the Attorney General of all violations of this title.

(19 Del. Laws, c. 39, § 53; Code 1915, § 1810; Code 1935, § 1899; 45 Del. Laws, c. 144, § 9; 45 Del. Laws, c. 148, § 9; 45 Del. Laws, c. 149, § 9; 15 Del. C. 1953, § 5102; 49 Del. Laws, c. 4, § 5; 79 Del. Laws, c. 275, § 84.)

### § 5103. Irregularities or defects in election as a defense.

Irregularities or defects in the mode of noticing, canvassing, polling or conducting any election shall not be a defense to a prosecution for any violation of this title.

(19 Del. Laws, c. 39, § 51; Code 1915, § 1809; Code 1935, § 1898; 15 Del. C. 1953, § 5103.)

### § 5104. Honest belief as a defense.

Upon any prosecution for procuring, offering or casting an illegal vote, the accused may give in evidence any fact tending to show that the accused honestly believed upon good reason that the vote complained of was a lawful one.

(19 Del. Laws, c. 39, § 52; Code 1915, § 1809; Code 1935, § 1898; 15 Del. C. 1953, § 5104; 70 Del. Laws, c. 186, § 1.)

### § 5105. Application to school elections.

The provisions of this chapter shall additionally be applicable to any local school elections held under Title 14.

(67 Del. Laws, c. 243, § 10.)

### Subchapter II
### Particular Offenses

### § 5111. Neglect of duty by department member; corrupt or fraudulent conduct; penalty.

Whoever, being a member of the 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.

(45 Del. Laws, c. 144, § 8; 45 Del. Laws, c. 148, § 8; 45 Del. Laws, c. 149, § 8; 15 Del. C. 1953, § 5111; 79 Del. Laws, c. 275, § 85.)

### § 5112. Refusal of inspector or judge of election to serve; penalty.

Whoever, having been appointed an inspector or judge of election in any election district, refuses to serve shall be fined $50.

(21 Del. Laws, c. 38, § 11; Code 1915, § 1750; Code 1935, § 1839; 15 Del. C. 1953, § 5112.)

### § 5113. Refusal of clerk of election to qualify or serve; penalty.

Whoever, 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.

(Code 1915, § 1677A; 28 Del. Laws, c. 92; 37 Del. Laws, c. 120; Code 1935, § 1765; 42 Del. Laws, c. 115, § 13; 45 Del. Laws, c. 148, § 29; 45 Del. Laws, c. 149, § 29; 15 Del. C. 1953, § 5113; 70 Del. Laws, c. 186, § 1.)

### § 5114. Improper conduct of printer of ballots and ballot envelopes; penalty.

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.

(19 Del. Laws, c. 37, § 10; 27 Del. Laws, c. 65; Code 1915, § 1727; Code 1935, § 1816; 15 Del. C. 1953, § 5115; 58 Del. Laws, c. 148, § 119; 70 Del. Laws, c. 186, § 1.)

## § 5115. Improper use of ballot or envelope; penalty.

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.

(19 Del. Laws, c. 37, § 30; 27 Del. Laws, c. 65, § 27; Code 1915, § 1734; Code 1935, § 1823; 15 Del. C. 1953, § 5116.)

## § 5116. Tampering with voting machines; penalties.

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.

(19 Del. Laws, c. 37, § 13; 27 Del. Laws, c. 65, § 11; Code 1915, § 1730; Code 1935, § 1819; 15 Del. C. 1953, § 5117; 49 Del. Laws, c. 18, § 2; 58 Del. Laws, c. 148, § 120.)

## § 5117. Unauthorized entering of voting room; penalties.

(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.

(21 Del. Laws, c. 38, § 15; Code 1915, § 1754; Code 1935, § 1843; 15 Del. C. 1953, § 5118; 57 Del. Laws, c. 181, § 71.)

## § 5118. Interference with election; penalties.

(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.

(19 Del. Laws, c. 37, §§ 2, 17, 33; 19 Del. Laws, c. 39, § 14; 20 Del. Laws, c. 396, §§ 3, 6; 21 Del. Laws, c. 38, § 16; 26 Del. Laws, c. 49; 27 Del. Laws, c. 65, §§ 2, 15, 30; Code 1915, §§ 1740, 1741, 1755, 1757; Code 1935, §§ 1829, 1830, 1844, 1846; 15 Del. C. 1953, § 5119; 58 Del. Laws, c. 148, § 121.)

## § 5119. Feigning a physical disability to obtain assistance in voting; penalty.

(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.

(20 Del. Laws, c. 396, § 1; 27 Del. Laws, c. 65, § 20; Code 1915, § 1739; Code 1935, § 1828; 15 Del. C. 1953, § 5121; 70 Del. Laws, c. 186, § 1.)

## § 5120. Secreting person in election room; penalty.

Whoever, 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.

(20 Del. Laws, c. 396, § 12; Code 1915, § 1758; Code 1935, § 1847; 15 Del. C. 1953, § 5122; 70 Del. Laws, c. 186, § 1.)

## § 5121. Removal or destruction of election supplies or equipment or voting machines; penalty.

(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) Tampers 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.

(19 Del. Laws, c. 37, § 36; 27 Del. Laws, c. 65, § 33; Code 1915, § 1759; Code 1935, § 1848; 15 Del. C. 1953, § 5123; 49 Del. Laws, c. 18, § 4; 70 Del. Laws, c. 186, § 1.)

## § 5122. Disclosures by election officers; penalty.

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.

(20 Del. Laws, c. 396, § 11; 27 Del. Laws, c. 396, § 11; Code 1915, § 1760; Code 1935, § 1849; 15 Del. C. 1953, § 5124; 70 Del. Laws, c. 186, § 1.)

## § 5123. Intimidation, persuasion or bribery by election officer; penalty.

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.

(19 Del. Laws, c. 37, § 25; 27 Del. Laws, c. 65, § 22; Code 1915, § 1761; Code 1935, § 1850; 15 Del. C. 1953, § 5125; 70 Del. Laws, c. 186, § 1.)

## § 5124. Inducing the making of distinguishing mark on ballot; penalty.

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.

(19 Del. Laws, c. 37, § 34; 27 Del. Laws, c. 65, § 31; Code 1915, § 1762; Code 1935, § 1851; 15 Del. C. 1953, § 5126; 70 Del. Laws, c. 186, § 1.)

## § 5125. Inducing election officers to violate election laws; penalty.

Whoever 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.

(27 Del. Laws, c. 65, § 32; Code 1915, § 1763; Code 1935, § 1852; 15 Del. C. 1953, § 5127.)

## § 5126. Violations by officials; penalty.

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.

(20 Del. Laws, c. 396, § 13; 27 Del. Laws, c. 65, § 28; Code 1915, § 1787; Code 1935, § 1876; 15 Del. C. 1953, § 5128; 57 Del. Laws, c. 181, § 73; 70 Del. Laws, c. 186, § 1.)

## § 5127. Bribery of person expecting to be election or registration officer; penalty.

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.

(19 Del. Laws, c. 575; Code 1915, § 1788; Code 1935, § 1877; 15 Del. C. 1953, § 5129.)

## § 5128. Fraudulent voting; penalty.

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.

(Code 1852, § 312; 19 Del. Laws, c. 39, § 34; Code 1915, § 1794; Code 1935, § 1883; 15 Del. C. 1953, § 5130; 50 Del. Laws, c. 174, § 1; 70 Del. Laws, c. 186, § 1.)

## § 5129. False entries by clerk of election.

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.

(19 Del. Laws, c. 39, § 35; Code 1915, § 1795; Code 1935, § 1884; 15 Del. C. 1953, § 5131; 70 Del. Laws, c. 186, § 1.)

## § 5130. Failure of election officer to perform duties.

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.

(19 Del. Laws, c. 39, § 36; Code 1915, § 1796; Code 1935, § 1885; 15 Del. C. 1953, § 5132; 70 Del. Laws, c. 186, § 1.)

## § 5131. False count or certification by election officer.

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.

(19 Del. Laws, c. 39, § 37; Code 1915, § 1797; Code 1935, § 1886; 15 Del. C. 1953, § 5133; 70 Del. Laws, c. 186, § 1.)

## § 5132. Fraudulent deposit or alteration of ballots or entering voting machine booth or casting vote; penalty.

(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.

(19 Del. Laws, c. 39, § 38; Code 1915, § 1798; Code 1935, § 1887; 15 Del. C. 1953, § 5134; 49 Del. Laws, c. 18, § 3; 50 Del. Laws, c. 174, § 2; 70 Del. Laws, c. 186, § 1.)

## § 5133. Wilful neglect of duty by election officers.

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.

(19 Del. Laws, c. 39, § 39; Code 1915, § 1799; Code 1935, § 1888; 15 Del. C. 1953, § 5135; 70 Del. Laws, c. 186, § 1.)

## § 5134. Stealing, destroying or secreting records; penalty.

(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.

(19 Del. Laws, c. 39, §§ 40, 41; Code 1915, §§ 1800, 1801; Code 1935, §§ 1889, 1890; 15 Del. C. 1953, § 5136; 50 Del. Laws, c. 174, § 3; 70 Del. Laws, c. 186, § 1.)

## § 5135. Perjury; subornation of perjury.

(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.

(19 Del. Laws, c. 39, §§ 42, 43; Code 1915, § 1802; Code 1935, § 1891; 15 Del. C. 1953, § 5137.)

## § 5136. Tampering with ballots or deceiving voters; penalty.

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.

(19 Del. Laws, c. 39, § 44; Code 1915, § 1803; Code 1935, § 1892; 15 Del. C. 1953, § 5138; 70 Del. Laws, c. 186, § 1.)

## § 5137. Disobeying election officers; penalty.

Whoever 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.

(19 Del. Laws, c. 39, § 45; Code 1915, § 1804; Code 1935, § 1893; 15 Del. C. 1953, § 5139; 70 Del. Laws, c. 186, § 1.)

## § 5138. Violence, threat of violence, interference with electors; penalty; class G felony.

(a) It is unlawful, on any day of election or early in-person voting or during the reading and counting of the votes cast to engage in any of the following with the intent to impede or interfere with the election:

(1) The use of violence or threats of violence at or near a polling place, a Department of Elections office, a meeting of the board of canvass, or any other place where votes are cast, stored, read, or counted.

(2) Hindering, controlling, coercing, or intimidating or attempting to hinder, control, coerce, or intimidate any qualified elector of this State from or in the exercise of the elector's right to vote.

(b) A violation of subsection (a) of this section is a class G felony.

(19 Del. Laws, c. 39, § 46; Code 1915, § 1805; Code 1935, § 1894; 15 Del. C. 1953, § 5140; 85 Del. Laws, c. 432, § 1.)

## § 5139. Interference with election officer or challenger; penalty.

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.

(19 Del. Laws, c. 39, § 47; Code 1915, § 1806; Code 1935, § 1895; 15 Del. C. 1953, § 5141; 70 Del. Laws, c. 186, § 1.)

## § 5140. Failure of inspector to preserve order.

Whoever, 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.

(19 Del. Laws, c. 39, § 48; Code 1915, § 1807; Code 1935, § 1896; 15 Del. C. 1953, § 5142; 70 Del. Laws, c. 186, § 1.)

## § 5141. Stealing or destroying ballot box, ballot, poll list; penalty.

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.

(19 Del. Laws, c. 39, § 49; 27 Del. Laws, c. 65; Code 1915, § 1808; Code 1935, § 1897; 15 Del. C. 1953, § 5143.)

## § 5142. Requiring unauthorized oath; penalty.

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.

(12 Del. Laws, c. 326, § 3; Code 1915, § 1827; Code 1935, § 1916; 15 Del. C. 1953, § 5144.)

## § 5143. Candidate for General Assembly not to make written pledge; penalty.

(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.

(Code 1915, § 1876D; 29 Del. Laws, c. 112; 30 Del. Laws, c. 105; Code 1935, § 1944; 15 Del. C. 1953, § 5145; 70 Del. Laws, c. 186, § 1.)

## § 5144. Unauthorized release of absentee vote information; penalty.

(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.

(75 Del. Laws, c. 149, § 3.)

## § 5145. Use of deep fake technology to influence an election; penalty; injunctive relief.

(a) As used in this section:

(1) "Candidate" means as defined in § 8002 of this title.

(2) "Deep fake" means synthetic media that depicts a candidate or political party with the intent to injure the reputation of the candidate or party or otherwise deceive a voter, and where 1 or both of the following applies:

a. The synthetic media appears to a reasonable person to depict a real individual saying or doing something that did not actually occur in reality.

b. The synthetic media provides a reasonable person a fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from an unaltered, original version of the image, audio recording, or video recording.

(3) "Depicted individual" means an individual in a deep fake who appears to be engaging in speech or conduct in which the individual did not engage.

(4) "Synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been created or intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video.

(b) Except as provided in subsections (c) and (d) of this section, it is unlawful for a person to distribute a deep fake or enter into a contract or other agreement to distribute a deep fake if the person knows or reasonably should know that the item being distributed is a deep fake and the following elements are present:

(1) The distribution takes place within 90 days before an election.

(2) The distribution is made without the consent of the depicted individual.

(c) (1) It is not a violation of subsection (b) of this section if the synthetic media includes a disclosure stating: "This (image/video/audio) has been altered or artificially generated."

(2) For visual media, the text of the disclosure must appear in a size easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media is a video, the disclosure must appear for the duration of the video.

(3) For audio-only media, if no visual disclosure is feasible, the disclosure must be read in a clearly-spoken manner and in a pitch that can be easily understood by the average listener, at the beginning of the audio, at the end of the audio, and, if the audio is greater than 2 minutes in length, interspersed within the audio at intervals of not more than 2 minutes each.

(d) The prohibition in subsection (b) of this section does not apply to any of the following:

(1) A radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, mobile application, internet website, or streaming platform that broadcasts a deceptive and fraudulent deepfake prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially-deceptive audio or visual media, or in cases where federal law requires broadcasters to air advertisements from legally-qualified candidates.

(2) [Repealed.]

(3) An internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, and that publishes materially-deceptive audio

or visual media prohibited by this section, if the publication clearly states that the materially-deceptive audio or visual media does not accurately represent the speech or conduct of the depicted individual.

(4) Materially-deceptive audio or visual media that constitutes satire or parody.

(e) (1) This section does not restrict the ability of a person to detect, prevent, respond to, or protect against security incidents, identity theft, fraud, harassment, malicious or deceptive activity, illegal activity or to preserve the integrity or security of systems or investigate, report, or prosecute those responsible for any such action.

(2) This section must be construed to be consistent with the Communications Decency Act of 1996, 47 U.S.C. § 230. Nothing in this section may be construed to impose liability on an "interactive computer service," as defined in the Communications Decency Act of 1996, 47 U.S.C. § 230(f)(2), or an "information service" or "telecommunications service," as defined in 47 U.S.C. § 153, for content provided by another person.)

(f) (1) A violation of subsection (b) of this section is a class B misdemeanor, except as set forth in paragraphs (f)(2) and (3) of this section.

(2) A violation of subsection (b) of this section is a class A misdemeanor if the person commits the violation with the intent to cause violence or bodily harm.

(3) A violation of subsection (b) of this this section is a class A misdemeanor if a person commits the violation within 5 years of 1 or more prior convictions under this section.

(g) A candidate depicted in a deep fake in violation of subsection (b) of this section may bring an expedited action for injunctive relief and damages in the Court of Chancery. The Court may also award a prevailing party reasonable attorneys' fees and costs.

(84 Del. Laws, c. 487, § 1; 84 Del. Laws, c. 487, § 3.)

## Subchapter III

## Offenses Carrying Civil Liability

### § 5161. Intimidation of election officers; penalty.

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.

(45 Del. Laws, c. 144, § 24; 45 Del. Laws, c. 148, § 24; 45 Del. Laws, c. 149, § 24; 15 Del. C. 1953, § 5161; 70 Del. Laws, c. 186, § 1.)

### § 5162. Intimidation of electors; penalty.

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.

(16 Del. Laws, c. 329, §§ 1, 2; Code 1915, § 1789; Code 1935, § 1878; 15 Del. C. 1953, § 5162; 70 Del. Laws, c. 186, § 1.)

### § 5163. Liability of corporation or officers.

In any trial under § 5161 or § 5162 of this title, the acts of any officer of a corporation, insofar as they affect or concern an employee or servant of such corporation, shall be taken and held to be the acts of the corporation, whether general or special authority as to such acts from the corporation is shown or not.

Nothing contained in § 5161 or § 5162 of this title or in this section shall be construed to relieve any officer of a corporation from individual liability under such sections.

(16 Del. Laws, c. 329, §§ 1, 2; Code 1915, § 1789; Code 1935, § 1878; 45 Del. Laws, c. 147, § 24; 45 Del. Laws, c. 148, § 24; 45 Del. Laws, c. 149, § 24; 15 Del. C. 1953, § 5163.)

### § 5164. Liability of stakeholder for paying election bet.

If any stakeholder, or person with whom any money or thing, laid as a wager or bet on the result of any election, or on the election or defeat of any candidate or person voted for thereat, shall be deposited, shall at any time either before or after such bet shall have been decided, pay over or deliver to either or both of the persons betting the same, or to any other person by the order or for the use of them, or either of them, the money or thing so illegally betted, every such stakeholder or depository shall forfeit and pay to any person who will sue for the same, double the amount of such wager or bet or double the value of the thing betted.

Either of the persons betting shall be competent witnesses against the stakeholder.

(Code 1852, §§ 314, 315; Code 1915, § 1813; Code 1935, § 1902; 15 Del. C. 1953, § 5164.)

# Part IV
# General Elections
## Chapter 53
## Military or Other Interference with Elections

### § 5301. Bringing armed soldiers into State to interfere with elections; penalty.

Whoever, being a citizen or inhabitant of this State:

(1) Sends or causes to be sent, brings or causes to be brought into this State, or aids, abets, procures, advises, counsels or in any manner assists in sending or bringing into this State any armed soldier to be present at any voting place in this State or within 5 miles thereof, on the day of any general, special or other election held in this State; or

(2) Aids, abets, procures, advises, counsels or in any manner assists the presence or attendance of any armed soldier at any such voting place, or within 5 miles thereof, on any such election day,

shall be guilty of a felony, and shall be fined not less than $1,000 nor more than $10,000, and imprisoned not less than 1 nor more than 5 years, and shall forever thereafter be incapable of exercising the right of suffrage in this State.

(12 Del. Laws, c. 326, § 1; Code 1915, § 1825; Code 1935, § 1914; 15 Del. C. 1953, § 5302.)

### § 5302. Abetting or counseling military interference with elections; penalty.

Whoever, being a citizen or inhabitant of this State, aids, abets, procures, advises, counsels or in any manner assists or is guilty of military interference in any manner with the freedom of any election in this State shall be guilty of felony, and shall be fined not less than $1,000 nor more than $10,000 and imprisoned not less than 1 nor more than 5 years, and shall forever thereafter be incapable of exercising the right of suffrage in this State.

(12 Del. Laws, c. 326, § 2; Code 1915, § 1826; Code 1935, § 1915; 15 Del. C. 1953, § 5303.)

### § 5303. Civil remedy for interference with voting.

(a) Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in that elector's own effort to vote at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered private damage and injury, and shall have civil remedy therefor, in the courts of this State, by civil action against every person who promoted such interference, whether by active participation, or by advising, counseling, or in anywise encouraging the same.

(b) In any trial under this section or § 5304 of this title, the court or jury, if, in their opinion the circumstances will warrant it, may give exemplary damages.

(12 Del. Laws, c. 487, § 1; Code 1915, § 1828; Code 1935, § 1917; 15 Del. C. 1953, § 5304; 70 Del. Laws, c. 186, § 1.)

### § 5304. Duty to disclose information as to interference with elections.

Every citizen of this State who has knowledge of any design on the part of any other citizen or citizens of this State to promote interference with elections, either by soliciting or advising the presence of a military force at or near the place or places of holding such elections or by the employment of any other organized or unorganized body of individuals, or by intimidation or threats shall forthwith make public disclosure of such knowledge, stating names, by an affidavit to be made before any one of the Superior Court Judges of this State, and shall file the same in the office of the Prothonotary of the county where the Judge resides, and if any such citizen, having such knowledge, fails to make such affidavit and cause the same to be filed, such citizen shall be treated as a promoter of the interference mentioned in § 5303 of this title and be liable as is provided in such § 5303.

(12 Del. Laws, c. 487, § 2; Code 1915, § 1829; Code 1935, § 1918; 15 Del. C. 1953, § 5305; 70 Del. Laws, c. 186, § 1.)

### § 5305. Ten year limitation on civil actions for voting interference.

The limitation of actions commenced under §§ 5303 and 5304 of this title shall be 10 years from the time of the accruing of the cause of action.

(12 Del. Laws, c. 487, § 3; Code 1915, § 1830; Code 1935, § 1919; 15 Del. C. 1953, § 5306.)

### § 5306. Special polling place and voting procedure in case of military interference.

If it happens that by reason of the presence of any military force at or near the place of holding an election in this State, electors duly qualified by the Constitution and laws of this State to vote at such place at the election shall be prevented from or interfered with by military force or by the requirement of oaths unknown to the Constitution and laws in casting their votes, any number of electors not less than 5 may withdraw from the place to any other place within the voting district where such prevention or interference shall take place, and having there, by a majority of the electors present, selected a duly qualified elector of the district, who shall be a freeholder, to act as inspector, deliver to such inspector there their respective ballots. The inspector shall receive the ballots and record the name of

the voter upon a list to be kept by that inspector for that purpose and immediately write upon each ballot the name of the person who delivered the same to that inspector, the inspector having first administered to each person offering to vote an oath or affirmation in the following words: "You do solemnly swear (or affirm) that you are now a duly registered voter of this election district, that you have not voted and will not vote on this day at any other place in this or any other election district, and that you have been hindered or prevented from casting your vote at the regular place of holding the election in this district, by military interference, or by the requirement of oaths unauthorized by the Constitution and laws of this State."

(12 Del. Laws, c. 491, § 1; Code 1915, § 1831; Code 1935, § 1920; 15 Del. C. 1953, § 5307; 70 Del. Laws, c. 186, § 1.)

## § 5307. Duties of inspector at special polling place.

(a) The polls authorized to be held by § 5306 of this title shall be held at the place where they are opened unless it be impracticable to hold them there in which event they shall be adjourned to some other place, or places, if necessary, in the election district where they are opened, and there held, and they shall be kept open until 6:00 in the afternoon, when the inspector shall close them.

(b) As soon as such polls are closed, the inspector holding them, having first ascertained the number of ballots cast, and for whom and for what office the votes were given, and made a certificate thereof, shall seal up the ballots received by that inspector in a box or envelope, and keep them safely, together with the list of the names of the electors who have deposited their ballots with that inspector, until the time of the meeting of the Superior Court of the inspector's county, constituted as provided by § 6, article V, of the Constitution of this State, provided by the election laws, when the inspector shall appear before the Court with the ballots and list of voters and that inspector's certificate, and deliver the certificate to the Court, with an affidavit made by the inspector upon the same, that it contains a true and faithful statement of the number of ballots received by the inspector, the names of the electors who cast them, the number of votes for the different persons voted for and that at the poll held by the inspector, that the inspector did not knowingly receive the ballot of any person not a duly qualified voter within that inspector's election district according to the Constitution and laws of this State and did not refuse to receive the ballot of any person so qualified, who had been prevented from voting at the regular place of voting by military force or the requirement of an oath unauthorized by the Constitution and laws of this State, and that the inspector determined every matter that came before that inspector and performed every act and duty required of the inspector by law touching the election held by the inspector, truly, faithfully and impartially, according to the best of that inspector's skill and judgment.

(12 Del. Laws, c. 491, § 2; Code 1915, § 1832; Code 1935, § 1921; 15 Del. C. 1953, § 5308; 70 Del. Laws, c. 186, § 1.)

## § 5308. Canvass of ballots from special polling place.

The Superior Court, sitting as a board of canvass, shall receive the certificate, and in ascertaining and certifying the state of the election shall take into consideration the number of ballots certified by the inspector to have been received by that inspector and for whom and what office the votes were given, and give the certificate the same force and effect as a certificate of the election officers at any of the regular places of holding the election. The votes so given shall be reckoned among the number of votes given in the election district where they were received by the inspector, in the same manner as if they had been given at the regular place of voting in the district; provided always, however, that the Court shall be required to hear and determine challenges as to the right of any person, who delivered that person's own ballot to the inspector, and reject any ballot if the person who cast the same had not a right to vote under the Constitution and laws of this State, either from want of qualification, or by reason of having voted at any other place in the State where the person was entitled to vote on the same day. Such of the ballots so received by the inspector, as are not rejected by the Court and also the list of voters, and the certificate shall be deposited by the Court in the regular ballot box of the election district where they were cast, and the box shall then be immediately resealed by the Court. The Court may also open the ballot box for the purpose. The Court may also examine on oath the inspector touching any matter connected with the inspector's holding of the election, and may if it appear to it that the election was not fairly held by such inspector, reject the inspector's certificate and throw out the vote returned by that inspector.

(12 Del. Laws, c. 491, § 3; Code 1915, § 1833; Code 1935, § 1922; 15 Del. C. 1953, § 5309; 70 Del. Laws, c. 186, § 1.)

## § 5309. Procedure in case of military interference with board of canvass.

If it is apparent to the Court sitting as board of canvass that any interference with the performance of its duties will be attempted by military force, or if, after it has met, any such interference is attempted, it may meet at any other place within its county to perform its duties. And further, if any member of the Court, or any such inspector created by virtue of this title, or any inspector of election, is prevented, by reason of such interference from attending the meeting of the Court, or if the Court, being met, shall be prevented by such interference from performing the duties incumbent on it, the Court shall adjourn to meet at some other time and other place, if necessary, to perform its duties under the laws of this State, and so adjourn from time to time until such duties can be performed. The duty of attendance upon the Court on the part of such an inspector created by authority of this chapter, and the penalties upon such inspector for not appearing shall be the same as in the case of the inspectors regularly elected or appointed according to law.

(12 Del. Laws, c. 491, § 4; Code 1915, § 1834; Code 1935, § 1923; 15 Del. C. 1953, § 5310; 70 Del. Laws, c. 186, § 1.)

## § 5310. Number of special polling places not limited.

Nothing contained in §§ 5306-5312 of this title shall limit the voting places to 2 in an election district, but, the emergency contemplated in §§ 5306-5309 of this title arising, as many different polls may be held as there are numbers of voters of 5 or more, who under the

circumstances withdraw from the regular place of holding the election for the purpose of casting their ballots without intimidation or interference.

(12 Del. Laws, c. 491, § 5; Code 1915, § 1835; Code 1935, § 1924; 15 Del. C. 1953, § 5311.)

## § 5311. Special clerk; appointment; oath.

Each inspector chosen under § 5306 of this title may appoint a clerk to aid the inspector in the discharge of such duties as are clerical and shall administer to the clerk before the clerk enters upon the discharge of the duties to be assigned to that clerk an oath or affirmation in these words:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of the office of Clerk of the Election for this election in . . . . . Election District in . . . . . Representative District in . . . . . County, according to the best of my ability."

(12 Del. Laws, c. 491, § 6; Code 1915, § 1836; Code 1935, § 1925; 15 Del. C. 1953, § 5312; 70 Del. Laws, c. 186, § 1.)

## § 5312. Compensation of special election officers.

The special inspectors and clerks elected and appointed under this chapter shall receive the same compensation as inspectors and clerks elected and appointed under the provisions of law for a general election.

(12 Del. Laws, c. 491, § 6; Code 1915, § 1836; Code 1935, § 1925; 15 Del. C. 1953, § 5313.)

# Part IV
# General Elections

## Chapter 54
## Early Voting

(82 Del. Laws, c. 79, § 1.)

### § 5401. Applicability.

This chapter applies to the following elections:

(1) A primary election.

(2) A general election.

(3) A special election to fill a vacancy in a statewide office, the General Assembly, or an office covered by Chapter 73 of this title.

(82 Del. Laws, c. 79, § 1.)

### § 5402. Early voting; designated locations.

The State Election Commissioner shall designate locations at which a qualified voter, duly registered, may vote in person during at least 10 days before an election, up to and including the Saturday and Sunday immediately before an election.

(82 Del. Laws, c. 79, § 1; 84 Del. Laws, c. 111, § 1A.)

### § 5403. Designation and publication of early voting locations.

(a) The State Election Commissioner shall designate and publish the early voting locations at least 30 days before an election.

(b) The State Election Commissioner shall only designate a location as an early voting location if it meets the requirements of § 4512 of this title.

(c) In an election for a statewide office, at least 1 early voting location must be designated in each county, with an additional early voting location in the City of Wilmington.

(82 Del. Laws, c. 79, § 1.)

### § 5404. Hours at designated early voting locations.

(a) The State Election Commissioner shall open the designated early voting locations for at least 8 hours on each day of early voting.

(b) The State Election Commissioner shall close the designated early voting locations no earlier than 7 p.m. on each day of early voting and shall open the designated early voting locations by 7 a.m. on at least 5 of the early voting days.

(82 Del. Laws, c. 79, § 1.)

### § 5405. Procedure for conducting early voting.

Except as otherwise provided under this chapter, the procedure for early voting is as established under Chapter 49 of this title.

(82 Del. Laws, c. 79, § 1.)

### § 5406. Method of early voting.

The State Election Commissioner shall determine whether early voting occurs by voting machine or paper ballot.

(82 Del. Laws, c. 79, § 1.)

### § 5407. Tabulation of early voting ballots.

Early voting ballots must be tabulated at the same time as absentee ballots.

(82 Del. Laws, c. 79, § 1.)

### § 5408. Daily updates of polling records.

The Department of Elections shall establish procedures for daily updates of polling records to ensure the integrity of each election.

(82 Del. Laws, c. 79, § 1.)

# Part IV
# General Elections
## Chapter 55
## Absentee Voting

### § 5501. Purpose of chapter; scope.

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.

(44 Del. Laws, c. 118, § 20; 47 Del. Laws, c. 316, § 4; 15 Del. C. 1953, § 5501; 49 Del. Laws, c. 278, § 1; 58 Del. Laws, c. 148, § 122; 63 Del. Laws, c. 455, § 1; 75 Del. Laws, c. 149, § 1.)

### § 5502. Persons eligible to vote by absentee ballot.

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, including the business or occupation of providing care to his or her parent, spouse, or child who is living at home and requires constant care due to illness, disability, or injury; or

(4) Because such person is sick or physically disabled; 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) [52 U.S.C. § 20301 et seq.] to vote by absentee ballot; or

(8) Because such person is otherwise authorized by federal law to vote by absentee ballot.

(44 Del. Laws, c. 118, § 1; 47 Del. Laws, c. 316, § 1; 15 Del. C. 1953, § 5503; 49 Del. Laws, c. 278, § 3; 57 Del. Laws, c. 181, § 75; 58 Del. Laws, c. 148, § 123; 58 Del. Laws, c. 397, § 8; 61 Del. Laws, c. 252, § 1; 63 Del. Laws, c. 67, §§ 1-3; 63 Del. Laws, c. 455, § 2; 65 Del. Laws, c. 455, § 1; 68 Del. Laws, c. 301, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 287, § 3; 77 Del. Laws, c. 227, §§ 70, 71; 78 Del. Laws, c. 297, § 2.)

### § 5503. Request for ballot; statements for absentee ballots; delivery of absentee ballots.

(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 by filing a handwritten or electronically prepared statement with the Department no later than 12:00 noon the day before the election.

(b) A statement may be filed pursuant to this section by mailing it, delivering it, or causing it to be delivered to the Department.

(c) [Repealed.]

(d) Statements 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;

(4) Be dated during the calendar year in which the election is to be held, provided that when a presidential primary election is scheduled and the date of the presidential primary election is less than 90 days before January 1 in the year in which a President of the United States is to be elected, the statement shall not be dated more than 90 days before the day of the presidential primary election, and further provided that, for special elections conducted pursuant to Chapter 71 of this title, the statement 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 Department, 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 statement as used in this chapter.

(e) [Repealed.]

(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 statement for the next scheduled election in which the elector is eligible to vote; provided however, that a statement 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 statement.

(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 county director and deputy county director in the county where such person has requested an absentee ballot shall confer and determine the proper course of action.

(g) Statements 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) Statements 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 statement to make the change on the Department's records.

(i) Statements 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 statement form (or both), containing blanks associated with each item required by this section to be listed on a statement, 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 statement form, which the Department shall forward to the elector upon receipt of a request therefor.

(k) Notwithstanding any other provision of this title, a registered voter eligible to vote by absentee ballot for reasons stated in § 5502 (1), (2), (4), (7) or (8) of this title or because a person's business or occupation is providing care to his or her parent, spouse or child who is living at home and requires constant care due to illness, disability, or injury may apply in writing to the Department for permanent absentee status. The Department shall automatically send an absentee ballot to each person in permanent absentee status for each election in which the person is entitled to vote.

(1) The State Election Commissioner shall promulgate instructions that people shall follow to apply for permanent absentee status.

(2) Overseas citizen and military voters may apply for permanent absentee status by writing that request in the remarks section of the federal post card application or its successor.

(3) The Department shall cancel a person's permanent absentee status upon the return of an absentee ballot or other correspondence sent by first-class mail as undeliverable, the person's death or disqualification, the cancellation of the person's voter registration, the receipt of a written request from the person, or receipt of written notification that the reason that the person has stated for voting by absentee ballot is no longer valid.

(4) Persons in permanent absentee status shall keep the Department informed of changes in address, changes in name or changes in the reason that the person has listed for voting by absentee ballot.

(5) The Department shall post a list of permanent absentee voters on its web site.

(*l*) Upon request, a registered voter eligible to vote by absentee ballot for reasons stated in § 5502(4) of this title may be sent and may return his or her absentee ballot by electronic transmission in accordance with § 5525 of this title.

(44 Del. Laws, c. 118, §§ 1, 2, 11, 19, 19A; 45 Del. Laws, Sp. Sess., c. 5, § 1, 3; 45 Del. Laws, c. 155, §§ 2, 10; 47 Del. Laws, c. 316, § 1; 15 Del. C. 1953, §§ 5504, 5505, 5514, 5521; 49 Del. Laws, c. 278, §§ 4, 5, 10; 50 Del. Laws, c. 173, §§ 1, 5; 52 Del.

Laws, c. 92, § 3; 52 Del. Laws, c. 223; 57 Del. Laws, c. 567, § 49; 58 Del. Laws, c. 148, §§ 124-127; 60 Del. Laws, c. 414, §§ 13, 22; 61 Del. Laws, c. 480, § 17; 65 Del. Laws, c. 455, §§ 2, 3; 68 Del. Laws, c. 301, §§ 3, 9, 10, 15; 69 Del. Laws, c. 36, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 245, § 3; 72 Del. Laws, c. 275, § 8; 74 Del. Laws, c. 168, § 14; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 287, § 4; 77 Del. Laws, c. 227, § 1; 77 Del. Laws, c. 269, § 5; 78 Del. Laws, c. 297, §§ 3-5; 78 Del. Laws, c. 304, § 7; 79 Del. Laws, c. 275, § 86; 81 Del. Laws, c. 106, § 1; 82 Del. Laws, c. 170, § 44.)

## § 5504. Distribution of ballots, envelopes, and instructions; envelope specifications; pre-paid postage.

(a) Upon receipt of a statement from an elector pursuant to § 5503 of this title, the Department shall process the same and confirm that the elector qualifies for an absentee ballot pursuant to § 5502 of this title.

(b) Not more than 60 nor less than 4 days prior to an election, and within 3 days after the absentee ballots, envelopes, and instructions therefore become available, the Department shall mail, to each elector who requests and qualifies for an absentee ballot pursuant to § 5502 of this title, the following:

(1) An absentee ballot for the election district in which the elector resides;

(2) Instructions for completing the absentee ballot and returning it to the Department, marked "INSTRUCTIONS FOR COMPLETING AND RETURNING AN ABSENTEE BALLOT"; and

(3) An envelope marked "BALLOT ENVELOPE," which shall be:

a. Of the type known as a security mailing envelope, designed to securely protect the contents thereof from tampering, removal, or substitution without detection;

b. Large enough to carry the ballot envelope containing the completed absentee ballot; and

c. Addressed for return to the Department.

(c) Postage for all mailings made pursuant to this subsection shall be pre-paid by the Department.

(d) Nothing contained in this section shall prevent the issuance of an absentee ballot to those lawfully entitled thereto when the request is made less than 4 days prior to the election.

(44 Del. Laws, c. 118, §§ 4, 7; 45 Del. Laws, Sp. Sess., c. 5, § 2; 45 Del. Laws, c. 155, §§ 3, 6; 46 Del. Laws, c. 181, § 1; 15 Del. C. 1953, § 5506; 60 Del. Laws, c. 414, § 14; 63 Del. Laws, c. 455, § 3; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 427, §§ 1, 2; 79 Del. Laws, c. 275, § 87; 81 Del. Laws, c. 106, § 2.)

## § 5505. Requirements for ballot envelope; numbering and coding; voter identification label; statement of eligibility.

(a) The Department shall provide to each elector to whom it sends an absentee ballot an envelope which shall be:

(1) A color other than white;

(2) Large enough to hold a completed ballot; and

(3) Designed to protect its contents from tampering, removal or substitution without detection.

(b) Upon each envelope provided pursuant to this section shall appear:

(1) The words "BALLOT ENVELOPE";

(2) An alphanumeric symbol and/or barcode for use in accounting for the absentee ballot;

(3) Identification information for the elector receiving the absentee ballot, including: the name of the county within which the elector is domiciled, the elector's name, the elector's address, the elector's election district, the elector's representative district, and such other information as the Department may require; and

(4) The following oath:

"I do solemnly swear (affirm) that to the best of my knowledge I am eligible to vote in the State of Delaware and that my voting address is as it appears on the label on this envelope. I also do solemnly swear (affirm) under penalty of perjury that I have not received or accepted, or offered to receive or accept, any money or other item of value as compensation, inducement or reward for the giving or withholding of a vote at this election, nor that I am acting under duress or threat of duress or harm."

(5) If the voter is voting under the provisions of the Uniformed and Overseas Citizens Voting Act [52 U.S.C. § 20301 et seq.], the oath shall be as provided by that act as amended.

(6) The voter's signature.

(44 Del. Laws, c. 118, § 5; 45 Del. Laws, c. 155, § 4; 47 Del. Laws, c. 316, § 2; 15 Del. C. 1953, § 5507; 49 Del. Laws, c. 278, § 7; 50 Del. Laws, c. 173, § 10; 58 Del. Laws, c. 148, § 128; 60 Del. Laws, c. 414, § 15; 65 Del. Laws, c. 455, § 4; 68 Del. Laws, c. 301, § 4; 70 Del. Laws, c. 188, § 27; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 427, § 3; 79 Del. Laws, c. 275, § 88; 81 Del. Laws, c. 106, § 3.)

## § 5506. Instructions for completing absentee ballots.

The Attorney General shall prepare a list of instructions to assist an elector voting by absentee ballot in properly marking and returning the elector's ballot pursuant to this chapter. These instructions shall be known and marked as "INSTRUCTIONS FOR COMPLETING AND RETURNING AN ABSENTEE BALLOT." Before each election the Attorney General shall deliver a copy of the instructions to

the Department in sufficient time for the Department to have the instructions printed and delivered to each elector who requested an absentee ballot for the ensuing election.

(44 Del. Laws, c. 118, § 9; 45 Del. Laws, c. 155, § 8; 15 Del. C. 1953, § 5509; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 89.)

## § 5507. Voting procedure; execution of statement; return of ballot.

The procedure for completing an absentee ballot and returning it to the Department is as follows:

(1) An elector who receives an absentee ballot pursuant to this chapter shall complete the ballot by marking it with the elector's selections and shall place the completed ballot in the envelope marked "BALLOT ENVELOPE."

(2) The elector shall confirm that the information about that elector on the ballot envelope is correct and then sign the self-administered oath.

(3) The elector shall then seal the ballot envelope.

(4) The elector shall return the sealed ballot envelope to the Department by:

a. Depositing it in a United States postal mailbox, thereby mailing it to the Department; or

b. Delivering it, or causing it to be delivered, to the Department before the polls close on the day of the election.

(44 Del. Laws, c. 118, § 6; 45 Del. Laws, c. 155, § 5; 15 Del. C. 1953, § 5510; 55 Del. Laws, c. 150; 60 Del. Laws, c. 414, § 18; 65 Del. Laws, c. 455, §§ 5, 6; 68 Del. Laws, c. 301, § 5; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 427, §§ 4-6; 79 Del. Laws, c. 275, § 89; 81 Del. Laws, c. 106, § 4.)

## § 5508. Time limit for return of ballot; late ballots.

(a) The Department shall endorse the date and time of receipt on the ballot envelope of each absentee ballot received thereby.

(b) For an absentee ballot to be counted under this chapter, an elector voting by absentee ballot shall return the elector marked ballot to the Department office of the county in which the voter resides before the polls close on the day of the election.

(c) The Department shall retain unopened any ballot envelope it receives after the polls close on the day of the election until the last day of February next after the election, or longer if directed by proper authority or required to do so by federal law.

(44 Del. Laws, c. 118, § 11; 45 Del. Laws, c. 155, § 10; 15 Del. C. 1953, § 5511; 49 Del. Laws, c. 278, § 8; 50 Del. Laws, c. 173, § 3; 52 Del. Laws, c. 92, §§ 1, 2; 58 Del. Laws, c. 148, § 129; 68 Del. Laws, c. 301, § 6; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 427, § 7; 79 Del. Laws, c. 275, § 89; 82 Del. Laws, c. 170, § 45.)

## § 5509. Procedure on receipt of ballot envelope by Department.

(a) Upon receipt of a ballot envelope the Department shall do all of the following:

(1) Ascertain the name of each voter as it appears on the face of each ballot envelope.

(2) Ascertain from the information on the ballot envelope the election district with whose votes the ballot within it will be tallied.

(3) Place the ballot envelope in a secure location until such time as it is opened and the ballot within it is counted.

(4) If a ballot envelope fails to comply with a requirement under § 5507 of this title, the Department shall indicate on the ballot envelope that the ballot is deficient and the reason.

(b) No member of the Department may do any of the following:

(1) Open or attempt to open the ballot envelope.

(2) Except as required under paragraph (a)(4) of this section, change, alter, or attempt to change or alter the ballot envelope, including any writing or printing on the ballot envelope.

(44 Del. Laws, c. 118, § 10; 45 Del. Laws, c. 155, § 9; 15 Del. C. 1953, § 5512; 57 Del. Laws, c. 567, § 48; 58 Del. Laws, c. 148, §§ 130, 131; 60 Del. Laws, c. 414, §§ 19, 20; 68 Del. Laws, c. 301, § 7; 75 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 427, §§ 8, 9; 77 Del. Laws, c. 227, § 1; 79 Del. Laws, c. 275, § 89; 85 Del. Laws, c. 313, § 4.)

## § 5509A. Curing deficient ballot envelopes; procedure.

(a) The Department shall offer a voter an opportunity to cure a returned ballot if the voter has failed to do any of the following:

(1) Sign the self-administered oath as required under § 5507(2) of this title.

(2) Seal the ballot envelope as required under § 5507(3) of this title.

(b) A voter may cure a ballot as follows:

(1) By signing the self-administered oath.

(2) By sealing the ballot envelope.

(c) The Department shall attempt to notify the voter by phone or email of the deficiency under subsection (a) of this section and of the action that the voter can take to correct the deficiency.

(d) (1) If a returned ballot is cured before the polls close on the day of the election, the ballot must be processed and included in the tabulation.

(2) A ballot that is cured under this section has not been changed, tampered, or altered for purposes of § 5509(b) or § 5514(a)(5) of this title.

(85 Del. Laws, c. 313, § 4.)

## § 5510. Opening and preparing absentee ballots for tabulation.

(a) (1) a. The Department may open ballot envelopes and prepare the ballots for tabulation beginning 30 days before the day of the election at public meetings conducted under § 10004 of Title 29.

b. At the end of every day, and during any pause in the process under this section, all ballots must be placed in secure containers and stored in locked cabinets until opened in a subsequent public meeting for the completion of processing under this section.

(2) The Department shall notify each party with a candidate on the ballot that they may have challengers present at the public meetings under paragraph (a)(1)a. of this section.

(b) The Department shall appoint teams of election judges (election judges) to fulfill the duties under this section. No more than half of the judges on a team may have the same party affiliation, as recorded in each individual's voter registration record.

(c) The election judges shall select ballot envelopes in order of election districts within the county and check them off against the list of absentee voters. For each ballot envelope, the election judges shall ascertain whether a challenge has been made under this title.

(d) Ballots that are not challenged shall then be separated from the ballot envelopes and the ballot envelopes shall be separately stored in a secure location.

(1) If the election judges determines that an original ballot will not be readable by the tabulating equipment, they shall duplicate the ballot as follows:

a. The election judges shall assign the same unique identifier to the original ballot and the duplicate ballot.

b. The election judges shall duplicate the original ballot by marking the duplicate ballot according to the voter's intent as shown on the ballot marked by the voter. If the election judges cannot determine a voter's intent, the election judges shall consult the county director and county deputy director for advice and guidance on how to adjudicate the votes on the ballot under § 4972 of this title.

c. After the election judges have duplicated any ballots necessary for an election district, the election judges shall put the original ballots in a separate, secure container to be securely stored. The duplicate ballot must be placed with all other ballots for the same election district for further processing.

(2) If a ballot contains a write-in vote, the election judges shall record the proper notations for write-in votes in the election records for the election district in which an absentee voter is registered to vote.

(e) When the election judges have completed the steps under subsections (c) through (d) of this section, the election judges shall scan the ballots for tabulation using the ballot scanning devices located in the county elections office.

(f) (1) After the completion of the process under this section, the election judges shall do all of the following:

a. Secure the ballots in a secure container.

b. Seal the secure container.

c. Each election judge must sign their name on the outside of the secure container, affirming that the election judges sealed the container and that the container contains ballots for the election district to which the container is assigned.

(2) A secure container under paragraph (f)(1) of this section must contain absentee ballots for no more than 1 election district and only 1 secure container may be filled at a time. Each signed and sealed container must be placed in a secure location until such time as it is required to be moved or destroyed under § 4980 of this title or other legal process.

(g) The results of the absentee ballots must not be reported before the polls have closed on the day of the election.

(75 Del. Laws, c. 149, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 427, §§ 10, 11; 77 Del. Laws, c. 227, § 1; 78 Del. Laws, c. 304, § 8; 79 Del. Laws, c. 275, § 89; 81 Del. Laws, c. 106, § 5; 84 Del. Laws, c. 106, § 2; 85 Del. Laws, c. 313, § 4.)

## § 5510A. Preparing absentee ballots for tabulation [Transferred].

Transferred to § 5510 of this title by 84 Del. Laws, c. 106, § 2, effective July 21, 2023.

## § 5511. Carrier envelope specifications; carrier envelopes as ballot boxes.

(a) The Department shall purchase envelopes to be used as carrier envelopes, which shall be security mailing envelopes, designed to securely protect the contents thereof from tampering, removal, or substitution without detection and shall be large enough to accommodate multiple absentee ballots cast in the election.

(b) Carrier envelopes shall:

(1) For all purposes of this title be considered the official ballot boxes for absentee votes cast during a given election;

(2) Contain voted absentee ballots from a single election district;

(3) Be labeled to reflect the election district whose absentee ballots are held inside; and

(4) Ensure the security of said ballots in the event they must be moved for the purposes of certifying an election or recounting votes cast in an election.

(c) A sealed carrier envelope may be reopened only when necessary to certify an election or recount votes cast in an election.

(d) In the event the Department must move absentee ballots for the purposes of certifying an election, or recounting votes cast in an election, it shall select the carrier envelopes for the affected election districts and move them, in a secure fashion, to the location where the carrier envelopes will be opened and the votes inside inspected.

(e) Upon completion of any inspection of votes pursuant to this subsection, absentee ballots shall be returned to the carrier envelopes from which they were removed and the carrier envelopes shall be:

(1) Resealed in a secure manner, or shall be placed in another security envelope, for the purposes of securely protecting the contents thereof from tampering, removal, or substitution without detection; and

(2) Placed in a secure location and held there until such time as it is destroyed or moved for further legal process.

(44 Del. Laws, c. 118, § 10; 45 Del. Laws, c. 155, § 9; 15 Del. C. 1953, § 5513; 49 Del. Laws, c. 278, § 9; 50 Del. Laws, c. 173, § 4; 58 Del. Laws, c. 148, § 132; 60 Del. Laws, c. 414, § 21; 68 Del. Laws, c. 301, § 8; 75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 90.)

## § 5512. Envelopes in general; approval by Attorney General.

The Attorney General shall personally approve each kind or type of envelope for use pursuant to this chapter. The Department shall not purchase, use, have printed upon, mail or deliver any envelope for use pursuant to this chapter unless such type or kind of such envelope has first been approved personally by the Attorney General.

(44 Del. Laws, c. 118, §§ 5, 7, 8; 45 Del. Laws, c. 155, §§ 4, 6, 7; 15 Del. C. 1953, § 5508; 60 Del. Laws, c. 414, §§ 16, 17; 75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 91.)

## § 5513. Challenges.

(a) The ballot of any elector choosing to vote by absentee ballot may be challenged for the same causes and in the same manner as provided in this title for other voters.

(b) In addition, the vote of an absentee voter may be challenged:

(1) On the ground that the statement filed by the voter in compliance with § 5503 of this title is false; or

(2) On the ground that the statement in the center of the face of the ballot envelope is not signed.

(c) If a challenge is made pursuant to subsection (a) of this section, an absentee judge shall return the ballot to its ballot envelope, shall mark the ballot envelope as “CHALLENGED,” and shall set the envelope aside in a secure location for consideration at a later time as provided elsewhere in this title. If a challenge is made pursuant to subsection (b) of this section, an absentee judge shall mark the ballot envelope as “CHALLENGED” and shall set it aside in a secure location for consideration at a later time as provided elsewhere in this title.

(d) All challenges to absentee ballots voted in a particular election district must be resolved before the counting of votes in that election district may be considered complete. Any challenge not resolved by the absentee judges within a reasonable time of the challenge having been made shall be referred for resolution to the county director and deputy county director of the Department in the county where such election district is located.

(44 Del. Laws, c. 118, § 14; 15 Del. C. 1953, § 5517; 50 Del. Laws, c. 173, § 2; 58 Del. Laws, c. 148, § 135; 75 Del. Laws, c. 149, § 1; 77 Del. Laws, c. 227, § 1; 79 Del. Laws, c. 275, § 92; 81 Del. Laws, c. 106, § 6.)

## § 5514. Rejected ballots.

(a) No vote shall be accepted or counted if:

(1) The statement of the absentee voter that appears on the front of the ballot envelope is found to have been altered or is not signed; or

(2) The absentee voter is not a duly registered elector in this State; or

(3) The ballot envelope is open; or

(4) It is evident that the ballot envelope has been opened and resealed;

(5) It is evident that the ballot envelope has been tampered with or altered.

(b) If the ballot envelope has not been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, it shall not be opened but shall instead be endorsed thereon as, “REJECTED,” giving reason therefore.

(c) If the ballot envelope has been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, the ballot shall be returned to its ballot envelope and the absentee judge shall endorse on the ballot envelope, “REJECTED,” giving reason therefore.

(d) Whenever it is made to appear by due proof to an absentee judge that any absentee voter, who has marked and forwarded the absentee voter’s ballot, has died, the ballot envelope containing the ballot shall not be opened but shall be marked “REJECTED, DEAD,” and shall be preserved and disposed of as other rejected ballots.

(e) Whenever a ballot has not been counted but has been rejected pursuant to this section, the appropriate notation shall be made on the absentee ballot tally and the number of ballots so rejected shall be noted on the certificates of election.

(f) Ballots rejected pursuant to this section shall be deposited in a carrier envelope for the election district to which they apply.

(15 Del. C. 1953, § 5518; 50 Del. Laws, c. 173, § 8; 58 Del. Laws, c. 215, § 38; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 81 Del. Laws, c. 106, § 7.)

## § 5515. Validity of absentee voter's ballot for wrong district.

If an absentee voter marks and returns an absentee ballot for an election district other than the 1 of which the absentee voter is a resident and a duly registered elector, such ballot, because thereof, shall not be adjudged invalid, but, as indicated by the marking of the ballot by the voter, shall be counted as a vote for every candidate appearing thereon who is a candidate for an office to be duly voted for in the election district.

(44 Del. Laws, c. 118, § 17; 15 Del. C. 1953, § 5519; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1.)

## § 5516. Procedure if requests or ballots sent to wrong official; absentee ballots received by election officers.

(44 Del. Laws, c. 118, § 24; 45 Del. Laws, Sp. Sess., c. 5, § 4; 45 Del. Laws, c. 155, § 16; 15 Del. C. 1953, § 5520; 75 Del. Laws, c. 149, § 1; repealed by 79 Del. Laws, c. 275 § 93, eff. July 1, 2015.)

## § 5517. File of absentee voters.

(a) The Department shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records shall include, but shall not be limited to, the following entries:

(1) The name of elector;

(2) The address at which elector is registered;

(3) The address where ballot is to be mailed;

(4) The date the statement is received by the Department;

(5) The elector's election and representative district;

(6) The ballot envelope identification number;

(7) The date the ballot is mailed or delivered to the elector; and

(8) The date the ballot is returned.

(b) The Department shall compile from its files a list of names and addresses of all applicants for absentee ballots, and shall send current and complete copies thereof without cost to all political parties with candidates on the ballot in the forthcoming election. Such lists shall be provided no later than 2 weeks prior to the date of the election and copies of the lists must be mailed on the same date to the respective chairs of each political party involved in the election. Comparable information from the file shall also be made available to representatives of all political parties at each office of the Department during the remaining 2 weeks before the election, such information to be recorded by such representatives from the daily records of the Department with the cooperation and assistance of the employees thereof.

(44 Del. Laws, c. 118, § 16; 45 Del. Laws, c. 155, § 13; 47 Del. Laws, c. 316, § 3; 15 Del. C. 1953, § 5522; 57 Del. Laws, c. 181, § 76; 58 Del. Laws, c. 148, § 136; 68 Del. Laws, c. 301, § 16; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 93; 81 Del. Laws, c. 106, § 8.)

## § 5518. Members of the armed forces and certain other electors; 1 absentee request to cover all elections; federal post card application (FPCA); electronic transmission of balloting materials.

(a) Any person who qualifies for an absentee ballot pursuant to § 5502(1), (2) or (7) of this title, and who has requested the same, shall qualify for an absentee ballot in all elections conducted under the provisions of this title during the period from receipt of the application following the last general election and through December 31 of the year following the last general election. Additionally, if a person states the duration of his or her absence from the State, their federal post card application (FPCA) shall be valid for that period.

(b) The receipt of a federal post card application from any person eligible to use the FPCA for an absentee ballot who is not registered to vote in Delaware but is eligible to register to vote in Delaware shall serve as an application to register to vote as well as a request and statement for an absentee ballot.

(c) The Department may send and receive absentee ballot applications, FPCAs, absentee ballots and federal write-in absentee ballots by electronic transmission.

(65 Del. Laws, c. 455, § 7; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 188, § 28; 74 Del. Laws, c. 168, § 15; 75 Del. Laws, c. 149, § 1; 77 Del. Laws, c. 134, §§ 1, 2; 77 Del. Laws, c. 269, § 6; 78 Del. Laws, c. 297, § 6; 79 Del. Laws, c. 275, § 93; 81 Del. Laws, c. 106, § 9.)

## § 5519. [Reserved.]

## § 5520. Special write-in absentee ballot; procedures; qualifications.

(a) Notwithstanding any other provisions of this title, an elector who qualifies under any of the reasons set forth in § 5502(1), (2) or (7) of this title may, during the calendar year in which an election is to be held for President, United States Senator or Representative in Congress, request a special write-in absentee ballot.

(b) The request for a special write-in absentee ballot may be made on the federal post card application (FPCA) form, or on a form prescribed by the State Election Commissioner.

(c) In order to qualify for a special write-in absentee ballot, the elector must state under oath and under penalty of perjury that the elector is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated or extremely remote areas of the world.

(d) Upon receipt of an application pursuant to this section, the Department may hold said application until 90 days prior to an election, but shall mail a ballot and the related materials to the elector as soon thereafter as possible. The special write-in absentee ballot shall be in a form prescribed and provided by the State Election Commissioner, and shall permit the elector to vote by writing in a party preference for each office, or the name of the person whom the voter prefers for each office.

(65 Del. Laws, c. 455, § 7; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 149, § 1; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 93.)

## § 5521. Federal write-in absentee ballot; acceptance; combined request for registration and ballot submission.

(a) Notwithstanding any other provisions of this title, an elector who qualifies under any of the reasons set forth in § 5502(7) of this title may:

(1) Use the federal write-in absentee ballot (FWAB) in any election for local, state, or federal offices in this State;

(2) Write on the FWAB the name of a specific candidate for whom the elector wants to vote, the name of the political party of a candidate for a specific office for whom the elector wants to vote, or the name of the political party of all candidates for all offices for whom the elector wants to vote;

(3) Use the FWAB transmission envelope as a registration request simultaneously with the submission of the FWAB if:

a. The voter is otherwise eligible to vote by absentee ballot in this State; and

b. The completed ballot is received no later than the 3rd Monday prior to the date of the election.

(b) [Repealed.]

(c) A person eligible to vote by FWAB may return the ballot, eligibility information and signed oath by electronic transmission. Any person returning the FWAB electronically is deemed to have acknowledged that there may be situations where the secrecy of that person's ballot cannot be guaranteed.

(75 Del. Laws, c. 149, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 134, § 3; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 94.)

## § 5522. Duties of Department of Elections; political balance of absentee judges; security.

(a) The Department shall ensure that each panel of absentee judges selected to officiate the procedures set forth in this chapter represent a politically balanced cross section of the major political parties participating in the election for which absentee ballots are being counted.

(b) The Department shall promulgate regulations to ensure the security and integrity of the procedures set forth in this chapter and that the counting process for absentee ballots is not subject to improper influences.

(75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 95.)

## § 5523. Logic and accuracy testing of absentee ballot tabulating equipment; authority of the State Election Commissioner.

(a) The State Election Commissioner, in consultation with the Department offices, shall promulgate rules and regulations relating to logic and accuracy testing of absentee ballot tabulating machines.

(b) Rules and regulations promulgated pursuant to this section shall ensure that:

(1) All machines are thoroughly tested immediately following maintenance and programming thereof to determine whether:

a. The voting system is properly programmed;

b. The election is correctly defined on the voting system; and

c. All of the voting system input, output, and communication devices are working properly;

(2) Any machine deemed unsatisfactory shall be recoded, repaired, or replaced and shall be retested;

(3) Machines are publicly tested prior to use to ascertain that they will correctly count votes cast for all offices and all measures in the upcoming election;

(4) Public notice of public tests is given at least 7 days prior to the tests being conducted;

(5) The resetting and sealing of each publicly tested machine is witnessed by the election officials, representatives of the political parties, and any candidates or candidate representatives who were in attendance;

(6) Each publicly tested machine is secured following the test in a state of readiness until the day of the election; and

(7) Records are kept of all pre-election testing of each absentee ballot tabulating machine which shall be present and available for inspection and reference during public pre-election testing of that machine by any person in attendance during such testing.

(75 Del. Laws, c. 149, § 1; 79 Del. Laws, c. 275, § 95; 82 Del. Laws, c. 170, § 46.)

## § 5524. Emergency authority for the State Election Commissioner.

(a) In the event that a national or local emergency makes substantial compliance with the provisions of this title and/or the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) impossible or unreasonable for some of all of the citizens covered under § 5502(1) or (2) of this title, the State Election Commissioner may direct the use of special procedures to facilitate absentee voting for those citizens directly affected who are eligible to vote in the State. Such an emergency may be a natural and/or humanitarian disaster; and/or armed conflict involving United States Armed Forces to include mobilized State National Guard and/or Reserve components.

(b) The State Election Commissioner shall consult with the Governor and the Federal Voting Assistance Program or its successor prior to directing the use of the special procedures cited in subsection (a) of this section.

(c) The State Election Commissioner, in collaboration with the Department, shall promulgate special procedures to be followed in the event that such a national or local emergency occurs.

(74 Del. Laws, c. 168, § 16; 75 Del. Laws, c. 149, § 1; 77 Del. Laws, c. 227, § 2; 79 Del. Laws, c. 275, § 95.)

## § 5525. Electronic delivery of absentee ballots.

(a) The provisions of this section apply to persons eligible to vote under the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act, as amended, 52 U.S.C. § 20301, et seq.

(b) Notwithstanding any other provisions of this title, upon receipt of a written request on a federal post card application that includes an applicant's electronic address, the Department shall electronically deliver to an applicant that applicant's own absentee ballot, appropriate instructions and any other information the applicant needs to vote and return that applicant's own ballot.

(c) The Department shall transmit to the applicant an absentee ballot, instructions and other necessary information within 3 business days following receipt of a request from an applicant. If ballots are not available when the Department receives this request, the Department shall transmit a ballot, instructions and other necessary information to the applicant within 5 business days after the ballots become available.

(d) An applicant who is sent a ballot electronically may return such ballot via postal mail, courier or electronic means in accordance with the instructions sent with the ballot. A voter who returns a ballot electronically is deemed to have acknowledged that there may be situations where the secrecy of that voter's ballot cannot be guaranteed.

(e) A person who returns a ballot electronically shall also return a signed oath and identification information with the ballot. The oath may be signed digitally as provided in the instructions sent by the Department to the voter.

(f) The State Election Commissioner, in collaboration with the Department offices, shall establish procedures for electronically delivering an absentee ballot to a voter with instructions for the voter to follow in voting and electronically returning the voter's ballot to the Department office in the county in which the voter resides.

(76 Del. Laws, c. 67, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 134, § 4; 79 Del. Laws, c. 275, § 95; 82 Del. Laws, c. 170, § 47.)

## § 5526. System for voters to determine status of their absentee ballots.

The State Election Commissioner, in collaboration with the Department offices, shall establish a free access system accessible via the Internet through which a person who applied for an absentee ballot can determine whether or not the ballot application was received, when the ballot was transmitted, when the voted ballot was received by the Department, and whether or not the ballot was counted.

(77 Del. Laws, c. 269, § 7; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 95; 82 Del. Laws, c. 170, § 48.)

## § 5527. Authority to implement provisions of the Uniformed and Overseas Citizens Absentee Voters Act.

The State Election Commissioner, in collaboration with the Department offices, shall implement those provisions of the Uniformed and Overseas Citizens Absentee Voters Act (52 U.S.C. § 20301 et seq.) not specifically mandated by this chapter.

(77 Del. Laws, c. 269, § 8; 79 Del. Laws, c. 275, § 95; 82 Del. Laws, c. 170, § 49.)

# Part IV
# General Elections

## Chapter 56
## Voting by Mail

### § 5601. Applicability [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5602. Persons eligible for voting by mail [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5603. Process for voting by Mail [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5604. Distribution of ballots, envelopes, and instructions [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5605. Requirements for ballot envelope; numbering and coding; voter identification label; statement of eligibility [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5606. Instructions for completing mail ballots [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5607. Voting procedure; execution of statement; return of ballot [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5608. Time limit for return of ballot; late ballots [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5609. Procedure on receipt of ballot envelope by Department [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5610. Counting procedure for mail ballot envelopes [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5611. Preparing mail ballots for tabulation [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5612. Carrier envelope specifications; carrier envelopes as ballot boxes [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5613. Envelopes in general; approval by Attorney General [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5614. Challenges [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5615. Rejected ballots [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5616. Validity of mail voter’s ballot for wrong district [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5617. File of mail voters [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5618. Duties of Department of Elections; political balance of mail judges; security [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5619. Logic and accuracy testing of mail ballot tabulating equipment; authority of the State Election Commissioner [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5620. Emergency authority for the State Election Commissioner [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

### § 5621. System for voters to determine status of their mail ballots [Repealed].

(82 Del. Laws, c. 245, § 3; repealed by 82 Del. Laws, c. 245, § 4, effective Jan. 12, 2021.)

# Part IV
# General Elections

## Chapter 56A
## Voting by mail ballot [For application of this chapter, see 83 Del. Laws, c. 353, § 6]

(83 Del. Laws, c. 353, § 1.)

### § 5601A. [Reserved.]

(83 Del. Laws, c. 353, § 1.)

### § 5602A. Applicability [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

This chapter applies to the following elections:

(1) A nonpresidential primary election.

(2) A general election.

(3) A special election to fill a vacancy in a statewide office, the General Assembly, or an office covered under Chapter 73 of this title.

(83 Del. Laws, c. 353, § 1.)

### § 5603A. Voting by mail ballot [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

Votes cast by mail ballot under this chapter shall be counted in the total for the election district in which the elector is registered.

(83 Del. Laws, c. 353, § 1.)

### § 5604A. Process for voting by mail ballot [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department shall create an application which may be completed by any elector wishing to vote by mail under this chapter. The application must require the elector to provide 1 of the following:

(1) The last 4 digits of the elector's Social Security number.

(2) The elector's state-issued driver's license number.

(3) The elector's state-issued nondriver identification card number.

(b) A qualified, duly registered elector wishing to vote by mail must do all of the following:

(1) Complete a handwritten or electronic application to vote by mail.

(2) Sign and date the application.

(3) Mail, deliver, or cause to be mailed or delivered, the completed application to the Department by the deadline provided by the Department.

(83 Del. Laws, c. 353, § 1.)

### § 5605A. Distribution of ballots, envelopes, and instructions [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) Upon receipt of the application for a mail ballot from an elector under § 5604A of this title, the Department shall process the same and confirm that the elector qualifies to vote under this title.

(b) No more than 30 days but not less than 7 days before an election, and within 3 days after the ballots, ballot envelopes, and instructions become available, the Department shall mail all of the following to each elector who requested and qualified for a mail ballot:

(1) A mail ballot for the election district in which the elector resides.

(2) The instructions for completing and returning the mail ballot under § 5607A of this title.

(3) The ballot envelope required under § 5606A of this title.

(c) Postage for all mailings under subsection (b) of this section must be prepaid by the Department.

(d) This section does not prevent the issuance of a mail ballot to a qualified elector when the request is made less than 7 days before the election.

(83 Del. Laws, c. 353, § 1.)

### § 5606A. Requirements for ballot envelope; numbering and coding; voter identification label; statement of eligibility [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) With each mail ballot, the Department shall also provide each elector an envelope that is all of the following:

(1) A color other than white.

(2) Large enough to hold a completed ballot.

(3) Designed to protect its contents from tampering, removal, or substitution without detection.

(4) Addressed for return to the Department.

(b) All of the following must appear on each envelope provided under subsection (a) of this section:

(1) The words "BALLOT ENVELOPE".

(2) An alphanumeric symbol or barcode for use in accounting for the mail ballot.

(3) Identification information for the elector receiving the mail ballot, including all of the following:

a. The name of the county within which the elector is domiciled.

b. The elector's name.

c. The elector's address.

d. The elector's election district.

e. The elector's representative district.

f. Any other information required by the Department.

(4) The following oath:

"I do solemnly swear (affirm) that to the best of my knowledge I am eligible to vote in the State of Delaware and that my voting address is as it appears on the label on this envelope. I also do solemnly swear (affirm) under penalty of perjury that I have not received or accepted, or offered to receive or accept, any money or other item of value as compensation, inducement, or reward for the giving or withholding of a vote at this election, nor that I am acting under duress or threat of duress or harm."

(5) A designated space for the elector's signature.

(6) A designated space for the elector to provide 1 of the following:

a. The last 4 digits of elector's Social Security number.

b. The elector's state-issued driver's license number.

c. The elector's state-issued nondriver identification card number.

(83 Del. Laws, c. 353, § 1.)

## § 5607A. Instructions for completing and returning a mail ballot [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

The Attorney General shall prepare a list of instructions to assist an elector voting by mail ballot in properly marking and returning the elector's ballot under this chapter. These instructions shall be known and marked as "INSTRUCTIONS FOR COMPLETING AND RETURNING A MAIL BALLOT". Before each election, the Attorney General shall deliver a copy of the instructions to the Department in sufficient time for the Department to have the instructions printed and delivered to each elector who requested a mail ballot for the ensuing election.

(83 Del. Laws, c. 353, § 1.)

## § 5608A. Voting procedure; execution of statement; return of ballot [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The procedure for completing a mail ballot and returning it to the Department includes all of the following:

(1) An elector who receives a mail ballot under this chapter shall complete the ballot by marking it with the elector's selections and shall place the completed ballot in the envelope marked "BALLOT ENVELOPE".

(2) The elector shall confirm that the information about that elector on the ballot envelope is correct and then sign the self-administered oath and enter the elector's state-issued driver's license number or state-issued nondriver identification card number, or the last 4 digits of the elector's Social Security number.

(3) The elector shall then seal the ballot envelope.

(4) The elector shall return the sealed ballot envelope to the Department before the polls close on the day of the election by doing any 1 of the following:

a. Depositing it, or causing it to be deposited, in a United States postal mailbox, thereby mailing it to the Department.

b. Delivering it, or causing it to be delivered, to the Department.

c. Placing it, or causing it to be placed, in a secure drop-box located in a publicly accessible portion of each Department of Elections Office.

(b) Mail ballots received by the Department before the day of the election may be processed and scanned but may not tabulated until the day of the election.

(83 Del. Laws, c. 353, § 1; 84 Del. Laws, c. 233, § 32.)

## § 5609A. Time limit for return of ballot; late ballots [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department shall record the date and time of receipt on the ballot envelope of each mail ballot received.

(b) For a mail ballot to be counted under this chapter, the elector shall return the elector's marked ballot to the Department before the polls close on the day of the election.

(c) The Department shall retain unopened any ballot envelope received after the polls close on the day of the election it receives after the polls close on the day of the election until the last day of February next after the election, or longer if directed by proper authority or required to do so by federal law.

(83 Del. Laws, c. 353, § 1.)

## § 5610A. Procedure on receipt of ballot envelope by Department [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) Upon receipt of a ballot envelope, the Department shall do all of the following:

(1) Ascertain the name of each elector as it appears on the face of each ballot envelope.

(2) Ascertain from the information on the ballot envelope the election district with whose votes the ballot within it shall be tallied.

(3) Place the ballot envelope in a secure location until such time as it is opened and the ballot within it is counted.

(b) Except as required under this chapter, no person may open or attempt to open the ballot envelope, or change, alter, or attempt to change or alter the ballot envelope, or any writing, printing, or anything on the ballot envelope.

(83 Del. Laws, c. 353, § 1.)

## § 5611A. Counting procedure for ballot envelopes [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

Beginning 30 days before the day of the election, election judges within each county, selected by the administrators of the Department in that county, shall count ballot envelopes at the Department's offices in the county as follows:

(1) An election judge shall select the ballot envelopes in order of the election districts within the county.

(2) For each ballot envelope, the election judges shall ascertain whether a challenge has been made under § 5615A of this title.

(3) If no challenge has been made, the election judges shall do all of the following:

a. Open the ballot envelopes in such a manner as not to deface or destroy the statement thereon or the mail ballot enclosed.

b. Remove the ballots from the ballot envelopes.

c. Determine whether the ballots have been properly completed or whether the elector's intent can be determined under § 4972 of this title.

d. Tally any mail votes that were written-in, or that must be counted by hand under § 4972 of this title, on mail vote tally sheets for the election district with whose votes the mail votes are to be counted.

e. Record the proper notations of such votes in the election records for the election district to which they apply.

f. A ballot that a team determines cannot be read by the tabulating equipment or which the tabulating equipment rejects, shall be duplicated under § 5612A of this title.

(4) Once mail votes have been recorded, an election judge shall deposit the voted ballots, rejected ballots, and any mail vote tally sheet that may have been used, in a carrier envelope for the election district with whose votes the mail votes are counted as follows:

a. Each carrier envelope must contain mail ballots, rejected ballots, and tally sheets for no more than 1 election district.

b. Only 1 carrier envelope can be filled at a time.

(5) Once a carrier envelope is filled, it must be sealed by an election judge. The election judge shall sign the election judge's name on each sealed carrier envelope, affirming that the election judge sealed the envelope and that the envelope contains ballots for the election district to which the envelope is assigned. Each sealed and signed carrier envelope shall be placed in a secure location and held there until such time as it is destroyed or moved for further legal process.

(6) The results of the mail ballots shall not be extracted or reported before the polls have closed on the day of the election.

(83 Del. Laws, c. 353, § 1.)

## § 5612A. Preparing mail ballots for tabulation [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department may open ballot envelopes in public meetings beginning 30 days before the day of the election in order to prepare them for tabulation. The Department shall notify each party on the ballot that they may have challengers at the meetings during which the Department opens the ballot envelopes. The challengers may challenge ballots as provided elsewhere in this title.

(b) The Department shall appoint teams composed of an equal number of Democrats and Republicans to open and duplicate ballots.

(c) The teams shall open ballots by election district, check them off against the list under § 5618A(b)(1) of this title, duplicate ballots that the team determines that the tabulating equipment cannot read and then secure the opened and duplicated ballots along with the

envelopes in a carrier envelope. The teams shall record the number of the carrier envelope and the election district number on a log sheet that it shall also secure in the same carrier envelope.

(d) Teams shall duplicate ballots by marking them according to the voter's intent as shown on the ballot marked by the voter. If a team cannot determine a voter's intent, they shall consult the county director and county deputy director for advice and guidance.

(e) When duplicating ballots, the teams shall assign the same unique identifier to the ballot that they duplicate and the duplicated ballot. After the team has duplicated ballots for an election district, the team shall put the ballots that the team duplicated in a separate envelope and put it in the carrier envelope for the election district and the team shall put the duplicated ballots with the ballots that the Department shall tabulate on the day of the election.

(f) The Department shall secure the carrier envelopes in locked cabinets until opened in a subsequent public meeting to insert additional ballots or to tabulate the ballots on the day of the election.

(83 Del. Laws, c. 353, § 1.)

## § 5613A. Carrier envelope specifications; carrier envelopes as ballot boxes [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department shall purchase envelopes to be used as carrier envelopes which must be all of the following:

(1) Designed to securely protect the contents from tampering, removal, or substitution without detection.

(2) Large enough to accommodate multiple mail ballots cast in the election.

(b) For all purposes of this title, carrier envelopes are considered the official ballot boxes for mail votes cast during a given election and must meet all of the following requirements:

(1) Contain voted mail ballots from a single election district.

(2) Be labeled to reflect the election district whose mail ballots are held inside.

(3) Ensure the security of the ballots in the event they must be moved for the purposes of certifying an election or recounting votes cast in an election.

(c) A sealed carrier envelope may be reopened only when necessary to certify an election or recount votes cast in an election.

(d) In the event the Department must move mail ballots for the purposes of certifying an election, or recounting votes cast in an election, it shall select the carrier envelopes for the affected election districts and move them, in a secure fashion, to the location where the carrier envelopes will be opened and the votes inside inspected.

(e) Upon completion of any inspection of votes under this section, mail ballots must be returned to the carrier envelopes from which they were removed and all of the following must be done with the carrier envelopes:

(1) Resealed in a secure manner, or be placed in another security envelope, for the purposes of securely protecting the contents thereof from tampering, removal, or substitution without detection.

(2) Placed in a secure location and held there until such time as it is destroyed or moved for further legal process.

(83 Del. Laws, c. 353, § 1.)

## § 5614A. Envelopes in general; approval by Attorney General [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

The Attorney General shall personally approve each kind or type of envelope for use under this chapter. The Department may not purchase, use, have printed upon, mail, or deliver any envelope for use under this chapter unless the type or kind of the envelope has first been approved personally by the Attorney General.

(83 Del. Laws, c. 353, § 1.)

## § 5615A. Challenges [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) A mail ballot may be challenged for any of the following:

(1) The same causes and in the same manner as provided in this title for other voters.

(2) That the statement in the center of the face of the ballot envelope is not signed as required under § 5608A(a)(2) of this title.

(3) The ballot envelope does not contain the elector's state-issued driver's license number or state-issued nondriver identification card number, or the last 4 digits of the elector's Social Security number, as required under § 5608A(a)(2) of this title.

(b) (1) If a challenge is made under paragraph (a)(1) of this section, an election judge shall return the ballot to its ballot envelope, shall mark the ballot envelope as "CHALLENGED" and shall set the ballot envelope aside in a secure location for consideration at a later time as provided elsewhere in this title.

(2) If a challenge is made under paragraph (a)(2) of this section, an election judge shall mark the ballot envelope as "CHALLENGED" and shall set the ballot envelope aside in a secure location for consideration at a later time as provided elsewhere in this title.

(c) All challenges to mail ballots voted in a particular election district must be resolved before the counting of votes in that election district may be considered complete. Any challenge not resolved by the election judges within a reasonable time of the challenge having

been made must be referred for resolution to the county director and county deputy director of the Department in the county where such election district is located.

(83 Del. Laws, c. 353, § 1; 84 Del. Laws, c. 233, § 33.)

## § 5616A. Rejected ballots [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) No vote shall be accepted or counted if any of the following occurs:

(1) The signature of the voter that appears on the front of the ballot envelope is found to have been altered or the ballot envelope is not signed as required under § 5608A(a)(2) of this title.

(2) The voter is not a duly registered elector in this State.

(3) The ballot envelope is open.

(4) It is evident that the ballot envelope has been opened and resealed.

(5) It is evident that the ballot envelope has been tampered with or altered.

(b) If the ballot envelope has not been opened at the time an election judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons under subsection (a) of this section, it must not be opened and the election judge shall endorse on the ballot envelope "REJECTED" and state the reason therefore.

(c) If the ballot envelope has been opened at the time an election judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons under subsection (a) of this section, the ballot must be returned to its ballot envelope and the election judge shall endorse on the ballot envelope "REJECTED" and state the reason therefore.

(d) Whenever it is made to appear by due proof to an election judge that any voter, who has marked and forwarded the voter's ballot, has subsequently died, the ballot envelope containing the ballot must not be opened and the election judge shall record on the ballot envelope "REJECTED, DEAD" and must be preserved and disposed of as other rejected ballots.

(e) Whenever a ballot has not been counted but has been rejected under this section, the appropriate notation must be made on the mail ballot tally and the number of ballots rejected must be noted on the certificates of election.

(f) Ballots rejected under this section must be deposited in a carrier envelope for the election district to which they apply.

(83 Del. Laws, c. 353, § 1.)

## § 5617A. Validity of a voter's mail ballot for wrong district [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

If a voter marks and returns a mail ballot for an election district other than the 1 in which the voter is a resident and a duly registered elector, such ballot must not be adjudged invalid but, as indicated by the marking of the ballot by the voter, shall be counted as a vote for every candidate appearing thereon who is a candidate for an office to be duly voted for in the elector's election district.

(83 Del. Laws, c. 353, § 1.)

## § 5618A. Required records [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records must include all of the following entries:

(1) The name of the elector.

(2) The address at which elector is registered.

(3) The address where the ballot is to be mailed.

(4) The date the application for a mail ballot is received by the Department.

(5) The elector's election district and representative district.

(6) The ballot envelope identification number.

(7) The date the ballot is mailed or delivered to the elector.

(8) The date the ballot is returned.

(b) (1) The Department shall compile from its files a list of names and addresses of all applicants for mail ballots and shall send current and complete copies of this list, without cost, to all political parties with candidates on the ballot in the forthcoming election.

(2) The Department shall provide the lists under paragraph (b)(1) of this section no later than 2 weeks before the date of the election and copies of the lists must be mailed on the same date to the respective chairs of each political party involved in the election.

(3) The Department shall also make available to representatives of all political parties, comparable information from the file for the list under paragraph (b)(1) of this section, at each office of the Department during the remaining 2 weeks before the election. This information may be recorded by representatives from the political parties from the daily records of the Department with the cooperation and assistance of Department employees.

(83 Del. Laws, c. 353, § 1.)

## § 5619A. Duties of Department of Elections; political balance of election judges; security [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The Department shall ensure that each panel of election judges selected to officiate the procedures required under this chapter represent a politically-balanced cross section of the major political parties participating in the election for which the mailed ballots are being counted.

(b) The Department shall promulgate rules to ensure the security and integrity of the procedures required under this chapter and that the counting process for mail ballots is not subject to improper influences.

(83 Del. Laws, c. 353, § 1.)

## § 5620A. Logic and accuracy testing of mail ballot tabulating equipment; authority of the State Election Commissioner [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

(a) The State Election Commissioner, in consultation with the Department offices, shall promulgate rules relating to logic and accuracy testing of mail ballot tabulating machines.

(b) Rules promulgated under this section must ensure all of the following:

(1) All machines are thoroughly tested immediately following maintenance and programming to determine all of the following:

a. The voting system is properly programmed.

b. The election is correctly defined on the voting system.

c. All of the voting system input, output, and communication devices are working properly.

(2) Any machine deemed unsatisfactory is recoded, repaired, or replaced and must be retested.

(3) Machines are publicly tested before use to ascertain that they will correctly count votes cast for all offices and all measures in the upcoming election.

(4) Public notice of public tests is given at least 7 days before the tests being conducted.

(5) The resetting and sealing of each publicly-tested machine is witnessed by the election officials, representatives of the political parties, and any candidates or candidate representatives who is in attendance.

(6) Each publicly-tested machine is secured following the test in a state of readiness until the day of the election.

(7) Records are kept of all pre-election testing of each mail ballot tabulating machine which shall be present and available for inspection and reference during public pre-election testing of that machine by any person in attendance during the testing.

(83 Del. Laws, c. 353, § 1.)

## § 5621A. System for voters to determine status of their mail ballots [For application of this chapter, see 83 Del. Laws, c. 353, § 6].

The State Election Commissioner, in collaboration with the Department offices, shall establish a free access system accessible via the Internet through which a person who applied for a mail ballot can determine whether or not the ballot application was received, when the ballot was transmitted, when the voted ballot was received by the Department, and whether or not the ballot was counted.

(83 Del. Laws, c. 353, § 1.)

# Part IV
# General Elections

## Chapter 57
## Canvass of Vote and Proclamation of Results of Election

### § 5701. Superior Court as board of canvass; convening and composition of Court.

(a) (1) a. The Superior Court (Court) shall convene in each county on the second day after the general election at 10 a.m., for the performance of the Court's duties under § 6 of article V of the Delaware Constitution and under this chapter.

b. The Court may perform the duties under this chapter with the aid of the Court's officers and sworn assistants as appointed.

(2) The Court shall publicly certify the results of the election for the county after tabulating all votes cast in each election district, for each individual, for each office on the ballot, using the material provided by the Department under paragraph (a)(3) of this section.

(3) The Department shall provide the Court with all of the following for each election district in the county for the election:

a. The report of the votes cast on each voting device used at a polling place.

b. The voting device certificates for each polling place.

c. Absentee vote reports.

d. Write-in vote reports.

e. Absentee ballots.

f. Early voting ballots.

g. Provisional ballots.

(4) The Department's representatives shall sit as observers and assistants to the Court during the tabulation of the vote under this section.

(b) For the purposes of this chapter,

(1) The "Superior Court" means as follows:

a. In New Castle County, the President Judge and the Resident Judge.

b. In Kent County, the Resident Judge and a Judge designated by the President Judge.

c. In Sussex County, the Resident Judge and a Judge designated by the President Judge.

(2) a. The "Superior Court" in each county, as defined under this subsection, shall be the "board of canvass" for the respective counties of this State.

b. If a senatorial or representative district for the General Assembly is located in 2 or more counties, the Superior Court shall tabulate the votes cast under § 5715 of this title.

(Code 1852, § 402; 21 Del. Laws, c. 38, § 23; Code 1915, §§ 1777, 1859; Code 1935, §§ 1866, 1978; 15 Del. C. 1953, § 5701; 61 Del. Laws, c. 480, § 18; 72 Del. Laws, c. 434, § 1; 76 Del. Laws, c. 213, § 39; 79 Del. Laws, c. 25, § 1; 79 Del. Laws, c. 275, § 96; 85 Del. Laws, c. 422, § 2.)

### § 5702. Duties of Court.

(a) If any of the material under § 5701(a)(3) of this title for any election district have not been produced when the Court convenes under § 5701(a)(1)a. of this title or if any voting device is not available by 12:00 noon, the Court may issue summary process against the election officers of that election district, or any other persons, to bring the documents or objects forthwith into the Court or to make them available for inspection by the Court.

(b) Whenever the documents produced do not agree or there is a complaint under oath of fraud or mistake in any document, or if fraud, mistake, or omission is apparent on the face of a document, the Court shall do all of the following:

(1) Examine any ballots as necessary.

(2) Recount the votes contained in the voting material examined.

(3) Correct any fraud, mistake, or omission in any document or paper relating to the election.

(c) Any candidate for statewide office in a general election may apply to the Court for a recount of all the ballots cast and recorded for such office if the number of votes separating such candidate and the closest opposing candidate is less than 1,000 votes or less than one half of one percent of all votes cast for the two candidates, whichever amount is less. Such recount shall thereupon be conducted by the Court at state expense. The request for a recount under this subsection must be presented before the adjournment of the board of canvass for the election in question and any recount that takes place shall not extend beyond the petitioner's contest.

(d) (1) The Department shall provide the Court with a report of the number of absentee ballots delivered to each election district.

(2) The Court shall determine and make certain that all of the ballots in the report received under paragraph (d)(1) of this section are recorded on the absentee vote report for each election district receiving absentee ballots, either in the total number of ballots counted or in the number of ballots rejected.

(e) If the number of votes separating a candidate and the closest opposing candidate in an election for State Senator, State Representative, or county office is less than 1,000 votes or 1/2 of 1% of all votes cast for the 2 candidates, whichever is less, the Court shall recount the ballots cast in that election at state expense.

(21 Del. Laws, c. 38, § 23; Code 1915, § 1777; Code 1935, § 1866; 15 Del. C. 1953, § 5702; 58 Del. Laws, c. 215, § 39; 61 Del. Laws, c. 480, § 19; 65 Del. Laws, c. 519, § 1; 72 Del. Laws, c. 434, §§ 2, 3; 75 Del. Laws, c. 232, § 65; 79 Del. Laws, c. 275, § 96; 82 Del. Laws, c. 170, § 50; 85 Del. Laws, c. 422, § 2.)

## § 5703. Vote required for election.

In all elections, unless it is otherwise expressly provided, a plurality or the highest number of votes make a choice, except where this principle is defeated by 2 or more individuals receiving the same and the highest number of votes for the same office.

(Code 1852, § 300; Code 1915, § 1811; Code 1935, § 1900; 15 Del. C. 1953, § 5703; 85 Del. Laws, c. 422, § 2.)

## § 5704. Votes for President and Vice President as votes for their electors.

The Court shall calculate the votes given for the candidates for President and Vice President of a political party as votes cast for each and all the electors of President and Vice President of that party, the names of whom are on file with the State Election Commissioner and as certified to the Court by the State Election Commissioner, and the Court shall make its certificates accordingly, in the form and manner provided under §§ 5706 and 5707 of this title.

(Code 1935, § 1814A; 44 Del. Laws, c. 119, § 4; 15 Del. C. 1953, § 5704; 61 Del. Laws, c. 480, § 20; 85 Del. Laws, c. 422, § 2.)

## § 5705. Certificates of the results of the election; number required [Repealed].

(21 Del. Laws, c. 38, § 25; Code 1915, § 1779; Code 1935, § 1868; 15 Del. C. 1953, § 5705; 55 Del. Laws, c. 85, § 34B; 57 Del. Laws, c. 762, § 33B; 72 Del. Laws, c. 434, § 4; 73 Del. Laws, c. 91, § 10; 80 Del. Laws, c. 209, § 8; repealed by 85 Del. Laws, c. 422, § 2, effective Aug. 17, 2026.)

## § 5706. Form of certificates.

(a) The certificates of the Court of the results of the election in its county must be according to the following form or be substantially similar to the following form:

The State of Delaware, _____ County, ss.

Be it Remembered, that at the general election held on the Tuesday next after the first Monday in November, in the year _____ for _____ County, according to the Constitution and laws of the State of Delaware (here insert, the information required under 15 Del. C. § 5706(b) for each office and the names of the individuals elected), which is manifest by tabulating of all votes cast for each individual voted for in all the election districts of the county.

In testimony, whereof, we _____ and _____ constituting the Superior Court for _____ _____ County, who have met and certified the results of the election throughout this county, as the law requires, have hereunto set our hands and caused the seal of the said Superior Court to be hereunto affixed at the courthouse in this county, on this ____ day of November, ____.

(b) The manner of making the insertion under subsection (a) of this section is as follows:

(1) If the certificate is of electors of President and Vice President, the number of votes cast for each Elector, as follows:

____ votes cast _____ for Elector.

(2) If the certificate is of an election of Governor, Lieutenant Governor, Senator in the Senate of the United States, Representative in Congress, Attorney General, Insurance Commissioner, State Treasurer, or Auditor of Accounts, the number of votes cast for each individual voted, for each office, as follows:

____ votes were given for _____ for (office)

(3) If the certificate is of an election of Senators to the General Assembly, the name of each individual elected to the Senate, as follows:

____ was duly elected Senator for the _____ Senatorial District for _____ County in the General Assembly.

(4) If the certificate is of an election of Representatives to General Assembly, the name of each individual elected to the House of Representatives, as follows:

____ was duly elected Representative for the _____ Representative District for _____ County in the General Assembly.

(5) a. If the certificate is of an election of a clerk of the peace, register of wills, recorder, county executive, county council member, Levy Court Commissioner, or sheriff, the name of individual elected to each office on the ballot for that election.

b. The certificate of an election of a county council member or Levy Court Commissioner must include the district for the individual elected to each office.

(21 Del. Laws, c. 38, § 26; Code 1915, § 1780; Code 1935, § 1869; 15 Del. C. 1953, § 5706; 55 Del. Laws, c. 85, §§ 34C, 34D; 57 Del. Laws, c. 169, § 5; 57 Del. Laws, c. 762, § 33D; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 434, §§ 5, 6; 73 Del. Laws, c. 91, § 11; 80 Del. Laws, c. 209, § 9; 82 Del. Laws, c. 141, § 11; 85 Del. Laws, c. 422, § 2.)

## § 5707. Enclosing certificates in envelopes.

(a) The Court shall enclose and seal up each certificate separately in an envelope, with an endorsement describing the certificate enclosed.

(b) In the endorsement on an envelope enclosing the certificates of the election of Senator or Representative in the General Assembly, the Court shall include the name of the individual elected.

(21 Del. Laws, c. 38, § 25; Code 1915, § 1779; Code 1935, § 1868; 15 Del. C. 1953, § 5707; 85 Del. Laws, c. 422, § 2.)

## § 5708. Tie vote; certificate.

If, by reason of an equal number of votes having been cast for 2 or more individuals for an office, it appears to the Court that a vacancy will occur in that office, the Court shall create a certificate of this fact, under its seal, and deliver this certificate to the Governor under § 5709 of this title.

(21 Del. Laws, c. 38, § 27; Code 1915, § 1781; Code 1935, § 1870; 15 Del. C. 1953, § 5708; 55 Del. Laws, c. 85, § 34E; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 434, § 7; 73 Del. Laws, c. 91, § 12; 80 Del. Laws, c. 209, § 10; 85 Del. Laws, c. 422, § 2.)

## § 5709. Disposition of certificates by the Court.

(a) The Court shall, within 3 days after making the certificates of the result of the election, transmit, deliver, and lodge 1 certificate of the result of the election with the State Election Commissioner and as follows:

(1) For electors of President and Vice President, to the Governor, the Secretary of State, and the Prothonotary of the county.

(2) a. For Governor or Lieutenant Governor, to the President of the Senate, or in case of a vacancy in the office of President of the Senate, or the President of the Senate's absence from this State, to the Secretary of State.

1. The Secretary of State shall keep the certificate until a President of the Senate is chosen or returns to this State.

2. After the President of the Senate's election or return to this State, the Secretary of State shall immediately transmit the certificate to the President of the Senate who shall open and publish the certificate in the presence of the members of both Houses of the General Assembly.

b. The Court shall immediately lodge a copy of the certificate with the Prothonotary of each county when the certificate is delivered under paragraph (a)(2)a. of this section.

(3) For Senator in the Senate of the United States, to the Governor, and the office of the clerk of the peace of the county.

(4) For Representative in the House of Representatives of the United States, to the Governor, and the office of the clerk of the peace of the county.

(5) For Attorney General, Insurance Commissioner, State Treasurer, or Auditor of Accounts, to the Governor and the office of the Prothonotary of the county.

(6) For Senator or Representative in the General Assembly, to the office of the Prothonotary for Kent County.

(7) a. For clerk of the peace, register of wills, recorder, or sheriff, to the Governor.

b. For the register of wills, recorder, or sheriff, to the clerk of the peace and the sheriff of the county.

c. For clerk of the peace, to the Prothonotary and the sheriff for the county.

(8) For a Levy Court Commissioner or County Council member, to the clerk of the peace and the sheriff of the respective county.

(b) (1) The first day of the meeting of the General Assembly after the election, the Prothonotary of Kent County shall deliver the certificates of election received under paragraph (a)(6) of this section as follows:

a. For a Senator, to the Senate.

b. For a Representative, to the House of Representatives.

(2) The sheriff shall deliver each certificate of election received under paragraph (a)(7) or (a)(8) of this section to the individual certified as having been elected.

(c) The State Election Commissioner is the master repository of all certificates under this section.

(21 Del. Laws, c. 38, § 28; Code 1915, § 1782; 34 Del. Laws, c. 110, § 2; Code 1935, § 1871; 46 Del. Laws, c. 153, § 1; 15 Del. C. 1953, § 5709; 57 Del. Laws, c. 567, § 52; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 434, § 8; 73 Del. Laws, c. 91, § 13; 80 Del. Laws, c. 209, § 11; 85 Del. Laws, c. 422, § 2.)

## § 5710. Certification and proclamation by Governor of results of election of state officers.

(a) The Governor, after receiving the certificates of the results of the election in each county, for the office of Attorney General, Insurance Commissioner, State Treasurer, and Auditor of Accounts, shall examine the returns and declare each individual elected.

(b) The Governor shall issue certificates of the election under the Governor's own hand, and file the Governor's certificates of the election with the certificates of the results of the election under subsection (a) of this section in the office of the Secretary of State.

(c) The Governor shall by proclamation make public the results of the election by publishing the certificates issued under subsection (b) of this section in 1 or more of the newspapers published in thecounties of this State, and shall issue commissions to the individuals elected to office.

(21 Del. Laws, c. 38, § 32; Code 1915, § 1786; Code 1935, § 1875; 15 Del. C. 1953, § 5711; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 422, § 2.)

## § 5711. Electors for President and Vice President; announcements and certifications of election [Effective unless Chapter 43A of this title governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

The Governor, after receiving the certificates under the seal of the Superior Court, of the results of the election in each county for electors of President and Vice President of the United States, shall without delay examine the certificates and ascertain the electors chosen, and make known the same by proclamation, and cause notice of the elector's election to be transmitted to each elector. The Governor shall also cause 3 lists of the names of the electors, duly made and certified, to be delivered to the electors, according to the Act of Congress in that behalf on or before the day appointed for their meeting.

(Code 1852, §§ 402, 403; Code 1915, §§ 1859, 1860; Code 1935, §§ 1978, 1979; 15 Del. C. 1953, § 5712; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 7, § 3.)

## § 5711. Electors for President and Vice President; announcements and certifications of election [Effective if Chapter 43A of this title governs a U.S. presidential election; see 82 Del. Laws, c. 7, § 6].

The Governor is the chief election official under § 4305A(3) of this title and shall, without delay, do all of the following to appoint the electors of President and Vice President of the United States:

(1) Examine the certificates under the seal of the Superior Court.

(2) Appoint electors under subchapter I of Chapter 43A of this title.

(3) Make known the appointment of electors by proclamation.

(4) Transmit notice of the elector's election to each elector.

(5) Deliver 3 lists of the names of the electors, duly made and certified, to the electors, according to the Act of Congress in that behalf on or before the day appointed for their meeting.

(Code 1852, §§ 402, 403; Code 1915, §§ 1859, 1860; Code 1935, §§ 1978, 1979; 15 Del. C. 1953, § 5712; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 7, § 3; 82 Del. Laws, c. 7, § 4.)

## § 5712. Representative in the Congress of the United States; announcement and certification of election.

(a) The Governor, after receiving the certificates of the results of the election in each county for Representative in the Congress of the United States, shall without delay examine these certificates and declare the individual elected, and shall issue certificates of the election, 1 of which the Governor shall transmit to the Secretary of State of the United States, and 1 to the individual elected, under the Governor's own hand and the Great Seal of the State.

(b) The Governor shall file the certificates of the result of the election in each county under subsection (a) of this section in the office of the Secretary of State.

(c) The Governor shall by proclamation make public the state of the vote by publishing the certificates of the results in 1 or more of the public newspapers of this State.

(Code 1852, § 414; Code 1915, § 1879; Code 1935, § 1998; 15 Del. C. 1953, § 5713; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 422, § 2.)

## § 5713. United States Senator; announcement and certification of election; form.

(a) The Governor, after receiving the certificates under the seal of the Superior Court, of the results of the election in each county for Senator from this State in the Senate of the United States, shall issue certificates of such election and deliver and file the same and shall, by proclamation, make public the state of the vote, in the same manner and form, by the same persons and officers, and under the same regulations in all respects as is provided in § 5712 of this title for the election of Representative in Congress.

(b) The Governor shall certify the election or appointment of any Senator elected or appointed as provided by law, under the Great Seal of the State, to the President of the Senate of the United States. Such certificate shall be countersigned by the Secretary of State.

(c) The certificate, in case of an election, may be according to the following form:

"To the President of the Senate of the United States: Be it known that at an election, in due manner held according to the form of the Act of the General Assembly of the State of Delaware, and of the Act of Congress in such case made and provided, on the first Tuesday after the first Monday of the month of November, . . . . ., . . . . . was elected to be a Senator from the said State in the Senate of the United States for the constitutional term to commence at noon on the third day of January A. D. . . . . Given under our hands in obedience to the said Act of the General Assembly and of the said Act of Congress this . . . . . day of . . . . . A. D. . . . . ."

(Code 1915, §§ 1889, 1892; Code 1935, §§ 2008, 2010; 15 Del. C. 1953, § 5714.)

## § 5714. Costs.

All necessary costs and expenses incurred in carrying out the duties of this chapter including compensation of all personnel involved shall be paid by the State Treasurer from any moneys in the State Treasury not otherwise appropriated.

(15 Del. C. 1953, § 5717; 57 Del. Laws, c. 567, § 53; 66 Del. Laws, c. 53, § 1.)

## § 5715. State senatorial or representative districts.

(a) The Court shall calculate the total votes given for the candidates for Senator or Representative to the General Assembly where the senatorial or representative district is located in 2 or more counties as follows:

(1) For those senatorial or representative districts in which a majority of the election districts are in New Castle County, the President Judge of the Superior Court shall total together the votes cast in each county for each candidate.

(2) For those senatorial or representative districts in which a majority of the election districts are in Kent County, the Chancellor shall total together the votes cast in each county for each candidate.

(3) For those senatorial or representative districts in which a majority of the election districts are in Sussex County, the Resident Judge of Sussex County shall total together the votes cast in each county for each candidate.

(b) The total vote, as ascertained in subsection (a) of this section above shall then be inserted on the certificates of the Court as provided in § 5706 of this title.

(15 Del. C. 1953, § 5718; 58 Del. Laws, c. 445; 72 Del. Laws, c. 434, § 9; 76 Del. Laws, c. 213, § 40.)

# Part IV
# General Elections
## Chapter 59
## Contested Elections
### Subchapter I
### Members of the General Assembly

### § 5901. Notice of intention to contest; specifications.

Any person intending to contest the election or the eligibility of any one returned by the board of canvass as a member of either branch of the General Assembly from any of the counties of this State shall at least 20 days before the meeting of the General Assembly give written notice of such intention to the person whose seat that person intends to contest, and within 10 days after the notice shall deliver to the person a written specification of the several grounds upon which that person intends to contest the election or the eligibility of such person. If 1 of such grounds shall be that illegal votes were given at such election for the person so returned, then such specification shall particularly set forth the name of each alleged illegal voter, with the several objections to the legality of that voter's vote.

(Code 1852, § 427; Code 1915, § 1893; Code 1935, § 2011; 15 Del. C. 1953, § 5901; 70 Del. Laws, c. 186, § 1.)

### § 5902. Counter specifications.

The person returned by the board of canvass as having been elected shall, within 15 days after receiving the notice specified in § 5901 of this title, deliver to the person contesting the elected person's seat a like specification of objections to the right of the contestant to such seat.

(Code 1852, § 428; Code 1915, § 1894; Code 1935, § 2012; 15 Del. C. 1953, § 5902; 70 Del. Laws, c. 186, § 1.)

### § 5903. Verification of specifications.

Every specification shall be verified by affidavit of the party delivering the same, stating that the party verily believes that the grounds of objection set forth are substantially true, and that the voters specified as illegal voters were not entitled by law to vote at the election in question.

(Code 1852, § 429; Code 1915, § 1895; Code 1935, § 2013; 15 Del. C. 1953, § 5903; 70 Del. Laws, c. 186, § 1.)

### § 5904. Delivery of notice and specification to presiding officer of Senate or House.

Copies of the notice and specifications verified as provided in § 5903 of this title shall be delivered to the Speaker or President, as the case may be, of the house having cognizance of the matter. The contestant shall deliver the contestant's own notice and specifications with the contestant's petition on the first day of the session, and the sitting member shall deliver a copy of the sitting member's specifications to the Speaker or President when the sitting member delivers them to the contestant.

(Code 1852, § 430; Code 1915, § 1896; Code 1935, § 2014; 15 Del. C. 1953, § 5904; 70 Del. Laws, c. 186, § 1.)

### § 5905. Inquiry restricted to grounds specified.

In the trial of the case of a contested election, the parties shall be restricted to the grounds of objection in the specifications set forth and shall not examine into the illegality of any votes other than those specified as illegal nor impeach such votes for any causes other than those specified.

(Code 1852, § 431; Code 1915, § 1897; Code 1935, § 2015; 15 Del. C. 1953, § 5905.)

### § 5906. Costs when sitting member unseated.

If the house having cognizance of the matter determines that the sitting member is not entitled to that sitting member's own seat, it may order that the costs incurred by such contested election be paid by the State.

(Code 1852, § 432; Code 1915, § 1898; Code 1935, § 2016; 15 Del. C. 1953, § 5906; 51 Del. Laws, c. 149, § 7; 70 Del. Laws, c. 186, § 1.)

### § 5907. Costs when sitting member is not unseated.

The house in determining against the claim of the contestant may also decide that the proceeding on the contestant's part is frivolous and vexatious and may order that the contestant shall pay all the costs of the contested election, but without such order the contestant shall not be liable to costs and the same shall be paid by the State.

(Code 1852, § 433; Code 1915, § 1899; Code 1935, § 2017; 15 Del. C. 1953, § 5907; 70 Del. Laws, c. 186, § 1.)

### § 5908. Execution when costs are to be paid by contestant.

Any order for the payment of costs by the contestant shall be enforced by a writ issued by the Speaker or President, as the case may be, of the house in which such election was contested to the Sheriff of Kent County, directing the Sheriff of Kent County to levy and make

the amount thereof of the goods and chattels, lands and tenements of the petitioner, under which writ the Sheriff shall sell the same, or such part thereof as may be necessary to satisfy the writ, upon 15 days' notice posted as required in cases of sale on execution process, and shall pay over the amount by the Sheriff of Kent County received upon the writ to the State Treasurer for the purpose of reimbursing to the Treasury the sums drawn therefrom to pay the costs of the contested election.

(Code 1852, § 434; Code 1915, § 1900; Code 1935, § 2018; 15 Del. C. 1953, § 5908; 70 Del. Laws, c. 186, § 1.)

## Subchapter II

## Electors for President and Vice President

(82 Del. Laws, c. 141, § 12.)

### § 5921. Notice of contest; specification.

Any person intending to contest the election of any one declared by the Governor to have been chosen an elector of President and Vice President of the United States, shall, within 10 days after such declaration by proclamation of the Governor, give written notice of such intention to the person whose election the contesting person intends to contest and also to the Governor, and within 5 days after the delivery of such notice, shall deliver to the person whose election the contesting person contests and to the Governor written specification of the grounds upon which the contesting person intends to contest the election of the person so declared to have been elected. If 1 of the grounds shall be that illegal votes were given at such election for the person declared to have been elected then such specification shall particularly set forth the name of each alleged illegal voter, with the several objections to the legality of that voter's vote, and shall also distinctly set forth and state the election district at which the alleged illegal vote was cast.

(18 Del. Laws, c. 22, § 1; Code 1915, § 1869; Code 1935, § 1988; 15 Del. C. 1953, § 5921; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 141, § 13.)

### § 5922. Specification in answer.

The person declared to have been elected and who has received notice of contest shall, within 10 days after receiving specification of the grounds of contest, deliver to the person so contesting the elected person's election, and to the Governor, a like specification of objections to the right of the contestant to be declared an elector, and in such specification may also state any other ground upon which the elected person rests the validity of the elected person's election.

(18 Del. Laws, c. 22, § 2; Code 1915, § 1870; Code 1935, § 1989; 15 Del. C. 1953, § 5922; 70 Del. Laws, c. 186, § 1.)

### § 5923. Verification of specifications.

Every specification shall be verified by the affidavit of the party delivering the same, stating that the party verily believes that the grounds of objection set forth are substantially true, and that the voters specified as illegal voters were not entitled by law to vote at the election in question.

(18 Del. Laws, c. 22, § 3; Code 1915, § 1871; Code 1935, § 1990; 15 Del. C. 1953, § 5923; 70 Del. Laws, c. 186, § 1.)

### § 5924. Delivery of documents to special board of canvass.

The notice and specification which have been delivered to the Governor shall be delivered by the Governor to the special board of canvass provided for in § 5927 of this title, together with the certificates of the votes given for each person voted for for elector as returned to the Governor by the respective boards of canvass under Chapter 57 of this title on the first day of the assembling of the special board of canvass.

(18 Del. Laws, c. 22, § 4; Code 1915, § 1872; Code 1935, § 1991; 15 Del. C. 1953, § 5924; 70 Del. Laws, c. 186, § 1.)

### § 5925. Inquiry restricted to grounds of objection in specifications.

In the trial of the case of a contested election, the parties shall be restricted to the grounds of objection in the specifications set forth and to the statement of the other grounds upon which the person declared to have been elected rests the validity of that person's election and shall not examine into the illegality of any other vote than those specified as illegal nor impeach such votes for any causes other than those so specified.

(18 Del. Laws, c. 22, § 5; Code 1915, § 1873; Code 1935, § 1992; 15 Del. C. 1953, § 5925; 70 Del. Laws, c. 186, § 1.)

### § 5926. Subpoenas for witnesses.

Where any contestant or person who has been declared elected and whose election is contested is desirous of obtaining testimony respecting a contested election, such person may apply to the Prothonotary of the Superior Court in Kent County, for a subpoena or subpoenas for summoning such witnesses as the contestant or person who has been declared elected may wish to appear before the special board of canvass at such time as shall be in the subpoenas designated. Such subpoena shall be directed to the sheriff of the county in which the witness or witnesses reside, and shall be served in the same manner as subpoenas for witnesses in civil cases are served. The sheriff to whom a subpoena may be directed shall make return of that sheriff's service thereon to the special board of canvass on the first day of its meeting to hear the contest.

(18 Del. Laws, c. 22, § 6; Code 1915, § 1874; Code 1935, § 1993; 15 Del. C. 1953, § 5926; 70 Del. Laws, c. 186, § 1.)

### § 5927. Superior Court for Kent County declared a special board of canvass to hear contest.

The Superior Court for Kent County is continued and declared to be a special board of canvass to hear and determine all contests of elections of electors of President and Vice President with power to regulate and determine the mode of procedure, and all other matters pertaining thereto as may be necessary in carrying out the provision of this subchapter and the Act of Congress fixing the day of the meeting of electors. The Governor whenever a notice of contest is served upon the Governor shall immediately make proclamation convening such Superior Court in special session at the Courthouse in Dover on a day to be by the Governor named, which shall not be later than December 20, next succeeding the day of the election in the year in which the election was held.

(18 Del. Laws, c. 22, § 7; Code 1915, § 1875; Code 1935, § 1994; 15 Del. C. 1953, § 5927; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 141, § 14.)

### § 5928. Certification by Superior Court.

The Superior Court, after hearing any contest of election of an elector or electors, shall make out and certify under the seal of the Court the ascertainment of the vote of the State for electors, and also certify the names of the persons chosen as electors, and cause such ascertainment and certificate, together with all the papers and certificates filed in the case, to be delivered to the Governor on or before January 1 next succeeding the day of the election at which electors were chosen.

(18 Del. Laws, c. 22, § 8; Code 1915, § 1876; Code 1935, § 1995; 15 Del. C. 1953, § 5928.)

## Subchapter III
## Other Offices

### § 5941. Who may contest; causes.

Any person claiming to be elected to an office to be exercised in and for any county, district or hundred may contest the right of any person declared to be duly elected to such office for any of the following causes:

(1) For malconduct on the part of the election officers or clerks holding the election, or any one of them;

(2) When the person whose right to the office is contested was not at the time of the election eligible to such office;

(3) When the person whose right is contested has given to any elector or inspector, judge or clerk of election, any bribe or reward or shall have offered any bribe or reward for the purpose of procuring his or her election;

(4) On account of illegal votes.

(17 Del. Laws, c. 33, § 1; Code 1915, § 1901; Code 1935, § 2019; 15 Del. C. 1953, § 5941; 70 Del. Laws, c. 186, § 1.)

### § 5942. Irregularities not invalidating election.

No inequality or improper conduct in the proceedings of the election officers or clerks or any one of them, shall be construed to amount to such malconduct as to annul or set aside any election unless the inequality or improper conduct shall have been such as to procure the person whose right to the office may be contested to be declared duly elected when he or she has not received the highest number of legal votes cast at the election.

(17 Del. Laws, c. 33, § 2; Code 1915, § 1902; Code 1935, § 2020; 15 Del. C. 1953, § 5942; 70 Del. Laws, c. 186, § 1.)

### § 5943. Requirements to set aside election because of illegal voting.

Nothing in this chapter shall be so construed as to authorize an election to be set aside or annulled on account of illegal votes unless it shall appear that an amount of illegal votes has been given to the person whose right to the office is contested which, if taken from the person, would reduce the number of the person's legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

(17 Del. Laws, c. 33, § 4; Code 1915, § 1903; Code 1935, § 2021; 15 Del. C. 1953, § 5943; 70 Del. Laws, c. 186, § 1.)

### § 5944. Circumstances under which contestant need not claim to have been elected.

When an election is contested because of alleged malconduct of the election officers holding the election or because the person whose right to office is contested was not eligible for such office, a proceeding may be instituted under this chapter against such person by the person who received the next highest number of votes for the office at the election under which such ineligible person was declared elected, notwithstanding the person so contesting the election does not claim to have been elected.

(17 Del. Laws, c. 33, § 5; Code 1915, § 1904; Code 1935, § 2022; 15 Del. C. 1953, § 5944.)

### § 5945. Statement of contestant; contents.

When any person authorized to do so under this chapter desires to contest the right of any person declared duly elected to such office, that contesting person shall, within 20 days after the result of the election shall have been officially ascertained by the board of canvass, or officers legally authorized to ascertain the same, and at least 60 days before the first day of the term of court at which the contest shall be tried or called for trial, file with the Prothonotary in the county in which the contest is made a full, particular and explicit statement setting forth fully and specifically the names of any and all election officers upon the malconduct of whom the contesting persons will rely and

respecting which the contesting person intends to procure evidence, and setting forth the election districts of such election officers and the particular malconduct of each, respectively, the names and residences of the witnesses and the substance of their testimony, by whom the contesting person expects to prove such malconduct. If such contest is based upon ineligibility of a person to hold the office, the statement shall specifically, fully and explicitly state the grounds and causes of the ineligibility of the person whose right to the office is contested. When such contest is based on alleged bribe or reward or the offer of a bribe or reward, the statement shall explicitly, fully and clearly state the name of any elector, election officer or other person to whom any bribe or reward shall have been offered and the time, place and amount of such bribe or reward and the name and residence of the witnesses by whom the contestant expects to prove the offering of any bribe or reward, with a brief statement of their testimony. When the contest shall be on the ground of illegal votes, the statement shall specifically, fully and explicitly set forth the names, residences and respective causes of disqualification of each person alleged to have illegally voted, the polls at which such illegal vote has been received, the names of the election officers favoring the acceptance of such vote, whether such vote was challenged by the duly accredited challenger of the party of which the contestant was the candidate, and whether all the judges or inspectors present at such polls concurred in accepting and receiving such vote. If it appears that all of such judges or inspectors concurred in accepting or receiving such vote or that the right of the voters, respectively, to deposit such votes was not at the time challenged by the duly accredited challenger of the party of which the contestant was a candidate, the legality or illegality of such vote shall not be brought into question in any such contest. The statement shall further set forth the names and residences of the witnesses who shall be produced on behalf of the contestant to prove such illegal votes and the substance of the testimony to be given by each.

(17 Del. Laws, c. 33, § 6; 19 Del. Laws, c. 572, § 1; Code 1915, § 1905; Code 1935, § 2023; 15 Del. C. 1953, § 5945; 70 Del. Laws, c. 186, § 1.)

## § 5946. Verification of contestant's statement.

The statement shall be verified by the oath of the contestant that the matters therein set forth are, so far as they relate to the contestant's own act and deed, true and that what relates to the act and deed of any other person the contestant believes to be true.

(17 Del. Laws, c. 33, § 6; 19 Del. Laws, c. 572, § 1; Code 1915, § 1905; Code 1935, § 2023; 15 Del. C. 1953, § 5946; 70 Del. Laws, c. 186, § 1.)

## § 5947. Security for costs.

Any person contesting any election under this subchapter shall be required to give security for costs in such amount and manner as the court shall order. Such security, however, shall in no case be enforced unless judgment for costs be rendered against the contestant.

(17 Del. Laws, c. 33, § 17; Code 1915, § 1914; Code 1935, § 2032; 15 Del. C. 1953, § 5947.)

## § 5948. Citation; service and return.

Before the statement is filed, the prothonotary shall docket the case in the appearance docket and immediately issue a citation for the person whose right to the office is contested to appear on the first day of the second term of the Superior Court to make such defense as that person may have, which citation shall be delivered to the sheriff or, if the sheriff be a party to the contest, to a local law-enforcement officer, and be served by the sheriff or law-enforcement officer upon the party defendant in person or, if the party defendant cannot be found, by leaving a copy thereof at the house where the party defendant last resided at least 5 days before the day to which such citation is returnable. The original citation shall be returned to the prothonotary on or before the first day of the next term of Court after it is issued, and the manner of service shall be endorsed thereon and signed by the officer serving the same.

(17 Del. Laws, c. 33, § 9; 19 Del. Laws, c. 572, § 2; Code 1915, § 1906; Code 1935, § 2024; 15 Del. C. 1953, § 5948; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 117, § 13.)

## § 5949. Dismissal of proceedings.

The Court may dismiss the proceedings if the statement of the cause or causes of contest do not conform to the requirements set forth in this subchapter or for want of prosecution.

(17 Del. Laws, c. 33, § 10; 19 Del. Laws, c. 572, § 3; Code 1915, § 1907; Code 1935, § 2025; 15 Del. C. 1953, § 5949.)

## § 5950. Trial.

If proceedings are not dismissed, the case shall proceed upon its merits and be tried and determined by the Court by the rules of law and evidence governing the determination of questions of law and facts in the Superior Court, so far as the same are applicable.

(17 Del. Laws, c. 33, § 10; 19 Del. Laws, c. 572, § 3; Code 1915, § 1907; Code 1935, § 2025; 15 Del. C. 1953, § 5950.)

## § 5951. Trial by Court; by jury.

All cases of contest under this subchapter shall be fully heard and determined by the Court, without the aid or intervention of a jury, unless 1 or both of the parties to the contest shall claim a trial by jury, and the Court shall, in its judgment, determine that it is a case which, under the Constitution and laws of this State, the party or parties are entitled to a trial by jury. In such case a jury shall be empanelled and the cause proceed according to the rules and practice of the Court in jury trials.

(17 Del. Laws, c. 33, § 12; Code 1915, § 1909; Code 1935, § 2027; 15 Del. C. 1953, § 5951.)

## § 5952. Proof and evidence limited by statement.

At the trial of any contest under this subchapter the contestant shall be limited in that contestant's proof and in the admission of evidence to the witnesses named in the statement, and the witnesses shall be limited in their testimony to the facts set forth in the statement with respect to which it shall be stated that they will be expected to testify.

(17 Del. Laws, c. 33, § 6; 19 Del. Laws, c. 572, § 1; Code 1915, § 1905; Code 1935, § 2023; 15 Del. C. 1953, § 5952; 70 Del. Laws, c. 186, § 1.)

## § 5953. Examination of ballots by Court.

In the trial of any contested election under this subchapter, the Court may make an examination of the ballots given in such election, except that wherever the ballot boxes, ballots, poll lists, tally sheets or other books or records pertaining to any election, excepting the certificate of election of the officer against whom the contest may be made, duly signed by the Court constituting the board of canvass and under the seal of court, and delivered according to law, shall have come in any way, legally or illegally, into the possession, care or custody of any person, officially or otherwise, who shall have been a candidate and voted for upon the same official ballot as a candidate of the same political party as the contestant, no such ballot boxes, poll lists, tally sheets or other books or records pertaining to the said election, excepting the certificate of election, shall be offered in evidence in any contest begun or prosecuted under the provisions hereof, and the Court may make and enforce by attachment all necessary orders to obtain possession of the same.

(17 Del. Laws, c. 33, § 13; 19 Del. Laws, c. 572, § 4; Code 1915, § 1910; Code 1935, § 2028; 15 Del. C. 1953, § 5953.)

## § 5954. Judgment.

(a) After hearing the allegations and proofs in the cause the Court shall render judgment (in accordance with the verdict of the jury, if a jury shall have tried the cause) either confirming or annulling such election altogether.

(b) If it appear by the judgment of the Court or the verdict of the jury (if there be a jury) that any other person than the one whose election is contested received the highest number of legal votes, judgment shall be rendered declaring such person duly elected.

(c) When the person whose election is contested is proved to be ineligible to the office, judgment shall be rendered declaring the election void and the office vacant, and such proceedings shall then be had as in vacancies happening from any other cause. When it shall appear that 2 persons have received an equal number of legal votes for the same office, the provisions of law for the settlement of such cases shall prevail, if there be any such provision; if there be none, then the office shall be adjudged and declared vacant, and such proceedings shall then be had as in vacancies happening from any other cause.

(17 Del. Laws, c. 33, §§ 13-15; 19 Del. Laws, c. 572, § 4; Code 1915, §§ 1910-1912; Code 1935, §§ 2028-2030; 15 Del. C. 1953, § 5954.)

## § 5955. Costs.

(a) Costs in all cases under this subchapter shall be awarded against the unsuccessful party to the contest.

(b) Charges for costs shall be as near as possible to the charges for similar services in other cases tried in the Superior Court.

(c) Execution may issue to collect costs.

(17 Del. Laws, c. 33, §§ 11, 16; Code 1915, §§ 1908, 1913; Code 1935, §§ 2026, 2031; 15 Del. C. 1953, § 5955.)

# Part IV
# General Elections
## Chapter 61
## Registration of Former Felons

### § 6101. Statement of purpose.

The Constitution of the State provides that certain persons who previously lost voting rights because of a felony conviction shall be permitted to vote. It is the purpose of this chapter to provide a procedure whereby such persons may register to vote.

(72 Del. Laws, c. 314, § 1.)

### § 6102. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

(1) "Disqualifying felony" shall mean that type of felony set forth in § 2, article V of the Constitution of this State which permanently disqualifies any person convicted of such felony from voting.

(2) [Repealed.]

(3) "Full discharge" or "fully discharged" shall mean that a person convicted of a felony which is not disqualifying has served the required sentence of imprisonment, parole, work release, early release, supervised custody, and probation and community supervision.

(4) "State Election Commissioner" shall mean the State Election Commissioner or the Commissioner's designee.

(b) For the purposes of § 2 of article V of the Constitution of this State and for the purposes of this chapter, no sentence shall be deemed to be expired until a person convicted of a felony which is not disqualifying has served the required sentence of imprisonment, parole, work release, early release, supervised custody, and probation and community supervision.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2; 80 Del. Laws, c. 311, § 1.)

### § 6103. Application for registration: felony conviction reviews.

(a) The county office of the Department of Elections shall not register any applicant as a qualified voter until it has been determined that such applicant is lawfully eligible to vote. The county office shall, for each registration application, perform an electronic inquiry against the Criminal Justice Information System (CJIS) and other data to determine if the applicant has been convicted of a felony. If the applicant has not been convicted of a felony and is otherwise eligible to register to vote pursuant to the Delaware Constitution and this title, the applicant shall be registered.

(b) If a review by the county office of the Department of Elections shows that the applicant has been convicted of a disqualifying felony, the registration application shall be denied and the applicant shall not be permitted to register.

(c) If the applicant has been convicted of a felony which is not disqualifying but the applicant has not served the required sentence of imprisonment, parole, work release, early release, supervised custody, and probation and community supervision, then the registration application shall be denied.

(d) If the results of the CJIS inquiry cannot determine the eligibility of the applicant, the respective county office of the Department of Elections shall forward the application to the State Election Commissioner.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2; 80 Del. Laws, c. 311, § 2.)

### § 6104. Commissioner's review of application.

(a) If the applicant has been convicted of a felony which is not disqualifying, the State Election Commissioner shall request that the Department of Correction review its records to determine if all sentences of imprisonment and community supervision imposed upon the applicant have been fully discharged.

(b) [Repealed.]

(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 State Election Commissioner determines from information received from the Department of Correction that the applicant has not fully discharged all sentences 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.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2; 80 Del. Laws, c. 311, § 3.)

### § 6105. Cooperation between agencies; waiver of fees.

Notwithstanding any statute or other provision to the contrary, in any request for information or any act by the State Election Commissioner under this chapter, fees which would otherwise be assessed for criminal background or other computer searches shall be

waived. Each state agency and public subdivision of this State shall cooperate with and assist the State Election Commissioner in the performance of the Commissioner's duties in implementing the provisions of this chapter, including but not limited to fingerprinting, background investigations and record reviews.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2.)

## § 6106. Rules and regulations.

The State Election Commissioner shall promulgate rules and regulations when information regarding an applicant is incomplete or uncertain. These guidelines and standards shall be used to determine whether or not the applicant shall be permitted to register to vote.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2.)

## § 6107. Appeals.

Any decision by the State Election Commissioner may be appealed to the Superior Court. No person whose registration application has been denied by the State Election Commissioner shall be permitted to register or to vote until the State Election Commissioner or the Court, in writing, approves such person's registration application.

(72 Del. Laws, c. 314, § 1; 77 Del. Laws, c. 227, § 2.)

# Part V
# Special, Municipal and Other Elections

## Chapter 71
## Special Election for General Assembly

### § 7101. Vacancies in General Assembly; writs of election.

Whenever there is a vacancy in either house of the General Assembly, by reason of failure to elect, ineligibility, death, resignation or otherwise, within 10 days of the creation of the vacancy a writ of election shall be issued by the presiding officer of the house in which the vacancy exists, directed to the Department or, in case of necessity, in such other manner as shall be provided by law. Whenever there is such vacancy in either house and the General Assembly is not in session, the Governor may issue a writ of election to fill such vacancy, which writ shall be executed as a writ issued by the presiding officer of either house in case of vacancy.

(Code 1852, § 379; Code 1915, § 1816; Code 1935, § 1905; 15 Del. C. 1953, § 7101; 57 Del. Laws, c. 181, § 77; 77 Del. Laws, c. 389, § 1; 79 Del. Laws, c. 275, § 97.)

### § 7102. Day for holding special election.

(a) Except as provided under subsection (b) of this section, the officer issuing the writ shall set the day for holding the special election for the vacancy in the General Assembly, but such day shall not be less than 30 nor more than 35 days next after the day of issuing the writ.

(b) If a vacancy occurs that would require a special election to be held after June 30 but before the date of the general election pursuant to subsection (a) of this section in the year of a general election, the officer issuing the writ shall set the time for the election to fill the vacancy at the time of the general election unless the vacancy occurs after September 1 but before the general election and the office for which there is to be a special election is not on the ballot for the aforesaid general election, in which event, the officer issuing the writ shall set the time for the special election no earlier than December 12 nor later than December 20 in the year of the general election.

(c) Notwithstanding subsection (b) of this section, if a vacancy occurs that would require a special election to be held after June 30 but before the date of the general election pursuant to subsection (a) of this section in the year of a general election, the presiding officer of the house in which the vacancy occurs may determine that a special election shall be held sooner than the date of the general election, in which event the requirements of § 7101 of this title and subsection (a) of this section shall be followed.

(Code 1852, § 382; Code 1915, § 1819; Code 1935, § 1908; 45 Del. Laws, c. 154, § 18; 15 Del. C. 1953, § 7104; 51 Del. Laws, c. 99, §§ 1, 2; 71 Del. Laws, c. 491, § 1; 77 Del. Laws, c. 389, § 1.)

### § 7103. Candidates.

(a) The county committee for each political party eligible to place candidates on the general election ballot for the most recent past general election may nominate a candidate for the special election by submitting a nomination to the Department office conducting the special election no later than 25 days before the date of the special election. If the legislative district up for election includes the area of more than 1 county, the county committees for each county shall agree on 1 candidate and the committee for the county where the candidate resides shall submit the nomination to the Department office conducting the special election.

(b) A person wishing to run as an unaffiliated candidate who is eligible to hold the office up for election must file a petition in support of that person's own candidacy containing the signatures of at least 1% of all voters who are registered in the legislative district as of the first day of the month preceding the month during which the vacancy was created. The person must file the petition with the Department office conducting the special election no later than 25 days before the day of the special election.

(c) If a party eligible to place candidates on the ballot does not have a county committee in the county in which the special election is to be held, the party's state committee may make the nomination.

(d) Any candidate for a vacancy in either house of the General Assembly must request a criminal history background check no earlier than 90 days before the candidate filing deadline and no less than 25 days before the special election from the State Bureau of Identification and provide proof of the request before they can be nominated as a candidate or file a petition as a candidate under subsection (a) and (b) of this section.

(1) A candidate who is nominated under subsection (a) of this section or files a petition under subsection (b) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (d)(5) of this section.

(2) The State Bureau of Identification must provide, within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification Central Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined in Chapter 100 of Title 29.

(4) The criminal history background check must be paid for by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine a minimum of 15 days before the special election that a candidate is qualified under § 21 of Article II of the Delaware Constitution before a candidate's name may be listed on a special election ballot.

(e) Nominating certificates shall be in writing and, in each case, shall contain the name of each person nominated, the person's residence and the office for which the person is nominated. The chairperson for the party making such certificates shall add thereto the chairperson's own signature and place of residence and shall acknowledge such certificate before an officer duly authorized to administer oaths, and a certificate of such acknowledgment shall be fixed to the instrument.

(f) Notwithstanding any other subsection of this section, nominations or petitions for a special election to be held on the date of the general election under the provisions of § 7102(b) of this title shall be filed no later than September 1 or 5 days following the vacancy, whichever is later, if the office is on the general election ballot, or on the date set by the Department if the election is to be held in December following the general election.

(77 Del. Laws, c. 389, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 97; 82 Del. Laws, c. 170, § 51; 84 Del. Laws, c. 185, § 7.)

## § 7104. Notices.

The Department shall provide notice of the special election as follows:

(1) On the next day after receiving a writ of election, unless the same shall be a Sunday or state holiday, and then on the next business day following, the Department shall post a proclamation reciting the writ and appointing a day for holding a special election and the officer or officers to be chosen on the outside of the courthouse door of its county, the State's and the department's web site, and the state calendar; and

(2) On the fifth, third and last day prior to the special election, the Department shall publish notice of the special election in a newspaper of general circulation that covers the legislative district up for election.

(Code 1852, §§ 382-384; Code 1915, §§ 1819, 1821; Code 1935, §§ 1908, 1910; 45 Del. Laws, c. 154, §§ 18, 20; 15 Del. C. 1953, §§ 7105, 7106; 49 Del. Laws, c. 4, § 5; 58 Del. Laws, c. 148, § 141; 61 Del. Laws, c. 480, § 21; 77 Del. Laws, c. 389, § 1; 79 Del. Laws, c. 275, § 97.)

## § 7105. Election officers and polling places.

The Department, upon receiving a writ of election, shall appoint sufficient election officers to conduct the election and contract with the usual polling places for the legislative district for which the Department is conducting the special election. If a polling place is not available, the Department shall combine the election district or districts in that polling place with the election district or districts in a nearby polling place or contract with another location. The Department shall notify voters if their polling place is moved to another building.

(Code 1852, §§ 385, 386; Code 1915, § 1822; Code 1935, § 1911; 15 Del. C. 1953, § 7107; 77 Del. Laws, c. 389, § 1; 79 Del. Laws, c. 275, § 97.)

## § 7106. General election laws applicable.

(a) Every special election in a representative or senatorial district shall be provided for, opened, held, conducted and closed and the result thereof ascertained and certified in the same manner, at the same places and subject to the same laws, so far as the same may be applicable, as prescribed for the general election; unless otherwise provided for in this chapter or elsewhere in this title.

(b) The Department may consolidate election districts within the same building.

(Code 1852, § 387; Code 1915, § 1823; Code 1935, § 1912; 45 Del. Laws, c. 154, § 21; 15 Del. C. 1953, § 7109; 77 Del. Laws, c. 389, § 1; 79 Del. Laws, c. 275, § 97.)

## § 7107. Board of canvass.

The Superior Court of each county in which a special election is held, as constituted under article V, § 6 of the State Constitution, shall, at 10 a.m. on the second day after such special election, convene and perform its duties, prescribed by such section, with reference to such special election, at the same place, with the same powers and in the same manner as for a general election.

(Code 1852, § 388; Code 1915, § 1824; Code 1935, § 1913; 15 Del. C. 1953, § 7110; 77 Del. Laws, c. 389, § 1.)

## § 7108. Term of office of one elected to fill vacancy.

The person elected to fill a vacancy in the General Assembly shall hold office for the residue of the term.

(Code 1852, § 379; Code 1915, § 1816; Code 1935, § 1905; 15 Del. C. 1953, § 7111; 77 Del. Laws, c. 389, § 1.)

## § 7109. Costs of special election.

All necessary costs and expenses incurred in carrying into effect a special election, unless otherwise provided by the laws of this State, including the compensation of election officers, shall be paid by funds transferred to the Department by the Office of Management and Budget.

(27 Del. Laws, c. 65, § 24; Code 1915, § 1815; 38 Del. Laws, c. 88, § 1; Code 1935, § 1904; 15 Del. C. 1953, § 7112; 77 Del. Laws, c. 389, § 1; 79 Del. Laws, c. 275, § 97.)

**§§ 7110-7112. [Reserved].**

# Part V
# Special, Municipal and Other Elections

## Chapter 73
## Vacancy in Office of Representative in Congress, United States Senator or Presidential Elector

### Subchapter I
### Representative in Congress

### § 7301. Special election to fill vacancy.

Whenever a vacancy shall happen by death, resignation or otherwise in the representation from this State in the House of Representatives of the United States, an election shall be held to fill such vacancy on such day as the Governor shall appoint, in the several counties at the same places which at the time shall be prescribed by law for holding the general election.

(78 Del. Laws, c. 158, § 1.)

### § 7302. Time of election; general election.

It shall be in the discretion of the Governor whether to appoint a day for holding elections under this chapter, before the day of holding the general election next after the happening of a vacancy, and, if the day of holding the general election shall be appointed, then the election shall be held and conducted and all the proceedings touching the same had as part of the general election.

(Code 1852, § 421; Code 1915, § 1887; Code 1935, § 2006; 15 Del. C. 1953, § 7302; 78 Del. Laws, c. 158, § 1.)

### § 7303. Writs of election.

The Governor shall issue writs of election to the Department reciting the vacancy and commanding the Department to cause an election to be held in its county on the day mentioned in the writ, at the place by law prescribed for holding the general election in its county, for choosing a Representative in place of the Representative whose seat shall so have become vacant, which writ shall be delivered to the Department at least 60 days before the day therein appointed for holding the election.

(Code 1852, § 416; Code 1915, § 1881; Code 1935, § 2000; 45 Del. Laws, c. 153, § 1; 15 Del. C. 1953, § 7303; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 158, § 1; 79 Del. Laws, c. 275, § 98.)

### § 7304. Notice to the public.

The State Election Commissioner shall within 10 days after issuance of the writ advertise by suitable news media or by publishing the same each day for at least 3 days in 1 or more daily newspapers printed in each county or, if no daily newspaper is published in a county, in an edition of each of 2 weekly newspapers. Such notice shall state the day and place of the election and the officer to be chosen.

(Code 1852, §§ 417, 418; Code 1915, §§ 1882, 1884; Code 1935, §§ 2001, 2003; 45 Del. Laws, c. 153, §§ 2, 3; 15 Del. C. 1953, § 7304; 58 Del. Laws, c. 215, § 40; 78 Del. Laws, c. 158, § 1.)

### § 7305. Nomination of candidates.

(a) Political parties with at least $^{1}/_{10}$ of 1 percent of registered voters in the State as of the last day of the month before the day the Governor issued the writ may nominate a candidate for the election.

(b) Parties nominating a candidate shall submit a certificate of nomination on the form and in the manner specified by the State Election Commissioner to the State Election Commissioner not later than 7 days following issuance of the writ.

(Code 1852, §§ 417, 418; Code 1915, § 1884; Code 1935, § 2003; 45 Del. Laws, c. 153, § 3; 15 Del. C. 1953, § 7305; 49 Del. Laws, c. 4, § 5; 58 Del. Laws, c. 148, § 142; 61 Del. Laws, c. 480, § 22; 78 Del. Laws, c. 158, § 1.)

### § 7306. Conduct of special election.

Notwithstanding the provisions of this subchapter, a special election for Representative in Congress shall be conducted in the same manner and form and under the same regulations in all respects as a special election to supply a vacancy in either house of the General Assembly, and the votes given in each county shall be calculated, ascertained and certified at the same time and place and in like manner and by the same method and regulation as in case of such special election.

(Code 1852, §§ 419, 420; Code 1915, §§ 1885, 1886; Code 1935, §§ 2004, 2005; 15 Del. C. 1953, § 7306; 78 Del. Laws, c. 158, § 1.)

### § 7307. Polling places; voting machines; election officers.

The Department:

(1) May combine all election districts voting at a location into a single voting district;

(2) May combine other election districts as necessary for the efficient conduct of the election;

(3) Shall assign a minimum of 2 voting machines and a maximum of 5 voting machines to a voting district; and

(4) Shall assign a sufficient number of election officers to each voting district.

(Code 1852, § 327; 17 Del. Laws, c. 29, § 7; 19 Del. Laws, c. 39, § 3; 21 Del. Laws, c. 41, § 1; Code 1915, § 1883; Code 1935, § 2002; 15 Del. C. 1953, § 7307; 78 Del. Laws, c. 158, § 1; 79 Del. Laws, c. 275, § 98.)

### § 7308. Costs of the special election.

The Office of Management and Budget shall transfer sufficient funds to cover the cost of the special election to the State Election Commissioner, the Department and Superior Court not later than 5 business days following issuance of the writ.

(78 Del. Laws, c. 158, § 1; 79 Del. Laws, c. 275, § 98.)

## Subchapter II

## United States Senator

### § 7321. Vacancy; temporary appointment; term.

Whenever a vacancy shall happen by death, resignation or otherwise in the office of Senator from this State in the Senate of the United States, the Governor may make a temporary or ad interim appointment from among the qualified electors of this State of some person to fill such vacancy until the same shall be filled at the next ensuing general election in the manner prescribed by law. The office of such temporary appointee shall terminate upon the election, under this title, of a Senator from this State in the Senate of the United States to fill the vacancy.

(Code 1915, § 1890; 28 Del. Laws, c. 101; Code 1935, § 2009; 15 Del. C. 1953, § 7321.)

### § 7322. Certification of appointment; form.

(a) If a vacancy in the office of United States Senator is filled by temporary appointment by the Governor, the Governor shall certify the appointment of a Senator from this State in the Senate of the United States, under the Great Seal of the State, to the President of the Senate of the United States. Such certificates shall be countersigned by the Secretary of State of Delaware.

(b) The certificate, in the case of a temporary appointment by the Governor, may be in the following form, viz.:

"To the President of the Senate of the United States: Be it known that I, ....., Governor of the State of Delaware, according to the form of the Act of the General Assembly of said State, have appointed ..... to be a Senator from the said State in the Senate of the United States, to serve as such Senator until the electors of the said State shall fill the vacancy caused by the death (resignation or otherwise) of ....., lately Senator from said State, in the Senate of the United States. Given under our hands, in obedience to the said Act of the General Assembly and of the said Act of Congress, the ..... day of ..... A. D. .....".

(Code 1915, § 1892; 28 Del. Laws, c. 101; Code 1935, § 2010; 15 Del. C. 1953, § 7322.)

## Subchapter III

## Electors of President and Vice President

(82 Del. Laws, c. 141, § 15.)

### § 7331. Procedure in case of failure to elect electors.

If upon examining the certificates of the boards of canvass it shall appear to the Governor that there has been a failure to choose 1 or more of the electors of a President and Vice President of the United States to be appointed in this State or, if from any cause such electors shall fail to be chosen, the Governor shall immediately issue writs for convening the General Assembly, at Dover, on the fourth Monday of the same November, and the elector or electors to be appointed in this State for the election of a President and Vice President of the United States and not chosen at the general election shall be appointed by ballot by the General Assembly so convened in joint meeting of the Senate and House of Representatives.

(Code 1852, § 404; Code 1915, § 1861; Code 1935, § 1980; 15 Del. C. 1953, § 7331; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 141, § 16.)

### § 7332. Mode of choosing by General Assembly.

In the joint meeting provided for by § 7331 of this title there shall be a distinct balloting for each elector, and a majority of all the votes given shall be necessary to an appointment; but if upon any ballotings 2 persons only shall be voted for and each shall receive an equal number of votes, the President of the Senate shall give an additional casting vote; if upon twice balloting in succession more than 2 persons be voted for and 1 of such persons on each balloting receive one half the number of all the votes given, the President of the

Senate may, on the second balloting, give an additional casting vote to the person having $^{1}/_{2}$ of the number of all the votes given, or, if that person decline, the Speaker of the House of Representatives may, if the Speaker think proper, give an additional casting vote to the person having one half of such vote.

(Code 1852, § 405; Code 1915, § 1862; Code 1935, § 1981; 15 Del. C. 1953, § 7332; 70 Del. Laws, c. 186, § 1.)

## § 7333. Member of General Assembly ineligible.

No member of the General Assembly for the time being shall be appointed an elector of President and Vice-President under § 7332 of this title.

(Code 1852, § 406; Code 1915, § 1863; Code 1935, § 1982; 15 Del. C. 1953, § 7333.)

## § 7334. Certificates of appointment by General Assembly.

Certificates of appointment of electors by the General Assembly shall be duly made and signed by the President of the Senate and the Speaker of the House of Representatives and attested by the clerks of the houses respectively, and shall be transmitted by the President of the Senate as follows: one to the Governor, in order that lists may be made, certified and delivered, according to the Act of Congress in that behalf and 1 to each of the electors appointed.

(Code 1852, § 407; Code 1915, § 1864; Code 1935, § 1983; 15 Del. C. 1953, § 7334.)

# Part V
# Special, Municipal and Other Elections
## Chapter 75
## Municipal Elections
### Subchapter I
### General Provisions

### § 7501. Applicability.

Subchapters II and III of this chapter shall apply to the City of Wilmington and subchapter IV of this chapter shall apply to all other municipalities meeting the definition of "municipal corporation" in § 801(3) of Title 22 except those whose powers are vested in a Town Meeting or Town Assembly consisting of all eligible voters, residents, and/or leaseholders in the municipality, including Arden, Ardentown, and Ardencroft, and excepting the Board of Public Works of the City of Lewes, the New Castle Municipal Service Commission.

(75 Del. Laws, c. 342, § 1.)

### § 7502. Local election when there is only 1 candidate.

Repealed by 75 Del. Laws, c. 342, § 1, effective June 30, 2006.

### Subchapter II
### City of Wilmington

### § 7521. Elections.

Registration and elections in the City of Wilmington for the Mayor, Council and other officers of the City of Wilmington shall in all respects be conducted in conformity with the provisions governing general elections as provided under this title, except that the canvass of the vote shall be conducted by the Department, which shall certify those candidates elected to office.

(45 Del. Laws, c. 144, § 34; 15 Del. C. 1953, § 7521; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 2; 61 Del. Laws, c. 428, § 1; 79 Del. Laws, c. 275, § 99.)

### § 7522. Definition of political party.

A political party existing only within the City of Wilmington shall be qualified to nominate candidates for the municipal election if it is a bona fide organization of registered voters of the City of Wilmington who:

(1) Elect a city committee and officers of the city committee;

(2) Nominate candidates for the municipal election by a secret ballot of those enrolled for purposes of the municipal election as members of the party taken at a convention or by some other method of polling the party membership;

(3) Not later than August 15 of the year of the municipal election, file with the Department petitions certifying that the party exists and desires to have its candidates placed on the ballot for the forthcoming election. These petitions shall be signed by a number of registered voters of the City of Wilmington not less than 5 percent of the total number of registered voters within the City as of December 31 of the year immediately preceding the municipal election. These petitions shall be prepared between January 1 and August 15 of the year of the election. They shall include the signature, printed name, address at which registered and social security number of each qualified voter signing the petition.

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By dating and affixing my signature to this petition, I hereby swear (or affirm) that: (1) My full name, address at which registered and social security number are as stated herein; (2) I am a duly registered voter of the State of Delaware, New Castle County and the City of Wilmington; (3) For the purposes of the municipal election only, I am a member of the ..... and I
name of party
support its efforts to have its name, party device and candidates listed on the next municipal election ballot; (4) The date entered opposite my signature is the date on which I signed this petition; and (5) I have read and understand this petition, and I understand that by intentionally entering false information hereon I shall be subject to prosecution for perjury.

The petition shall also include a sworn statement, signed by the person gathering the signatures and sworn to before a notary public, that such person witnessed the placing of each signature on the petition and, to the best of that person's knowledge or belief, all those who signed the petition were duly registered voters of the City of Wilmington. This statement shall be followed by a warning that any person who knowingly signs a statement which contains falsehoods shall be subject to prosecution for perjury.

(15 Del. C. 1953, § 7522; 50 Del. Laws, c. 390, § 3; 61 Del. Laws, c. 428, § 2; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 99.)

### § 7523. Certificates of nomination.

The nominations made under this subchapter for the various offices of the City of Wilmington, together with the name of the party and its device, shall be certified to the Department by the presiding officer and secretary of each political party on the date and in the manner prescribed for other nominations for the general election made under this title.

(15 Del. C. 1953, § 7523; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 4; 61 Del. Laws, c. 428, § 3; 79 Del. Laws, c. 275, § 99.)

### § 7524. Title and device of party.

No party shall use the name of another party appearing anywhere on the ballot either in whole or in part, or any variation thereof, in its own title. The words "Independent" or "Decline," being terms employed in this title, or any variation thereof, shall not be used as the title, or part of the title, of any party. Each party shall select an appropriate figure or device to designate that party, but the coat of arms, seal or flag of the United States, this State or the City of Wilmington, or any part or variation thereof, shall not be used as such figure or device.

In case of a division in any party qualified under this subchapter and a claim by 2 or more factions to the same party name or title, figure or device, the State Board of Elections shall determine to which faction the name and device properly belong. If, within 5 days thereafter, the other faction fails to present and certify some other party title and/or device, the Board shall select some suitable title and/or device to represent that party upon the ballot.

(15 Del. C. 1953, § 7524; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 5; 61 Del. Laws, c. 428, § 4; 79 Del. Laws, c. 275, § 99.)

### § 7525. Ballots.

The names of the candidates for the Mayor, Council, and other officers of the City of Wilmington must be printed on the single ballot as prescribed by § 4501 of this title and to meet the requirements of §§ 5001 through 5003, 5005, 5006, 5010, 5012, and 5014 of this title.

(15 Del. C. 1953, § 7525; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 6; 82 Del. Laws, c. 170, § 52; 85 Del. Laws, c. 313, § 2.)

### § 7526. Supplemental certificates of nomination.

Supplemental certificates of nomination for offices of the City of Wilmington shall be issued as prescribed in § 3306 of this title.

(15 Del. C. 1953, § 7526; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 7; 58 Del. Laws, c. 148, § 143; 61 Del. Laws, c. 428, § 5.)

### § 7527. Contest of election.

If any candidate for any of the offices before mentioned shall choose to contest the right of any person claiming to have been elected to said office, the causes for such contests and all of the other provisions now set out in §§ 5941-5955 of this title shall be applicable, and all such contests shall be determined pursuant to all of said sections.

(15 Del. C. 1953, § 7527; 50 Del. Laws, c. 390, § 8.)

### § 7528. General provisions.

All of the provisions of this title pertaining to elections, including registration of voters, Chapters 11, 13, 17, 19, 20, 21, and 23, primary elections and nomination of candidates, Chapters 31 and 33, general elections, Chapters 41, 45, 47, 49, 51, 53, 55, and 57, as well as Chapter 50A of this title, are applicable to the holding of elections in accordance with this subchapter.

(15 Del. C. 1953, § 7528; 49 Del. Laws, c. 4, § 5; 50 Del. Laws, c. 390, § 9; 82 Del. Laws, c. 170, § 53.)

## Subchapter III

## Special Elections for Annexations for City of Wilmington under Title 22, § 101A

### § 7540. Date for election.

(a) Upon the enactment of a county ordinance pursuant to § 101A(a)(2)c. of Title 22, for a proposed annexation of territory by the City of Wilmington, and its approval by the County Executive pursuant to § 101A(a)(2)d. of Title 22, the County Council, by resolution, shall fix a date for the special election required by § 101A(a)(2)e. of Title 22, at which all voters qualified under § 7543 of this title may vote, on the question whether the proposed annexation should be approved.

(b) The special election shall be held not less than 30 days nor more than 60 days after the date of approval of the county ordinance enacted pursuant to § 101A(a)(2)c. of Title 22.

(66 Del. Laws, c. 135, § 2.)

### § 7541. Contents of notice of special election.

The special election shall be held on the date fixed by County Council pursuant to § 7540 of this title and shall be previously advertised by publishing a notice in a newspaper published within the County and having a general circulation therein, once in each of 2 weeks preceding the week in which the special election is held, and by posting a notice in a prominent place in the building at which County Council meets for the conduct of legislative business. The notices shall state the time and place of the special election and further state that the purpose of the special election is to determine whether a majority of the qualified voters in each parcel of the territory are in favor

of the annexation by the City of Wilmington. The posted notice shall also provide a detailed description of the territory, including, but not limited to, a map showing the territory in relation to the City of Wilmington and the area surrounding the territory.

(66 Del. Laws, c. 135, § 2.)

## § 7542. Place, time and manner of voting; duties of Clerk of the Peace.

(a) The special election shall be held in the building in which is situated the offices of the Clerk of the Peace. The polls shall be open from 9:00 a.m. to 6:00 p.m. on the day of the special election and voting shall be by printed ballot, which shall give the qualified voters an opportunity clearly to indicate their consent or objection to the annexation of the territory by the City of Wilmington.

(b) The Clerk of the Peace shall:

(1) Act as judge of the special election;

(2) Prepare, publish and post the notices required under § 7541 of this title;

(3) Prepare the ballots required for the special election; and

(4) Perform such other duties as provided in this subchapter for the Clerk of the Peace.

(66 Del. Laws, c. 135, § 2.)

## § 7543. Qualified voters; voting list.

(a) The following shall be considered qualified voters for a special election held with respect to an annexation initiated pursuant to § 101A of Title 22 for the City of Wilmington and shall be entitled to vote in such election as provided herein:

(1) Every person 18 years of age or older who at least 30 days prior to the date of the special election is a duly registered voter in the election district or districts of the County in which the territory is located, and who resides in said territory, shall be entitled to 1 vote each.

(2) Unless already qualified to vote under paragraph (a)(1) of this section and subject to subsection (b) of this section each owner of a parcel of real estate located in the territory, as evidenced by the assessment records of the County, shall be entitled to 1 vote each. Corporations, limited partnerships or other entities which own real estate in the territory shall be entitled to 1 vote each under this subsection, which right to vote shall be permitted by the judge of the election at the special election upon receipt of a sealed, certified copy of a corporate resolution passed by the governing body of the corporation, or the equivalent of such resolution of the entity involved, authorizing an officer, agent or other person to vote on behalf of the entity at the special election.

(3) Unless already qualified to vote under paragraph (a)(1) or (2) of this section, each holder of a then-current leasehold interest in a parcel in the territory, as evidenced by a certified copy of the lease reflecting that interest submitted to the judge of the election at the time of the special election, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (a)(1) or (2) of this section, as the case may be.

(4) Unless already qualified to vote under paragraph (a)(1), (2) or (3) of this section, each person, corporation, limited partnership or other entity, who in the determination of the judge of the election is qualified to vote under the provisions of subsection (b) of this section, shall be entitled to 1 vote each, which shall be permitted in the same fashion as if carried out under the provisions of paragraph (a)(1) or (2) of this section, as the case may be.

(5) In no event shall any person, corporation, limited partnership or other entity, or any holder of a leasehold interest, who or which is qualified to vote under this section, be entitled to more than 1 vote in such special election.

(b) Not less than 14 days prior to the special election, the Clerk of the Peace shall prepare from the books and records of the county Board of Assessment a list of the real estate owners of each parcel of the territory for which the special election is to be held. In addition, not less than 21 days prior to the special election the Department of Elections shall provide the Clerk of the Peace with a current list of registered voters in the election district or districts in which the territory is located, who reside in the territory. From the 2 lists prepared pursuant to this subsection the Clerk of the Peace shall compile the voting list of the qualified voters for the special election. The voting list shall be evidence of the right of qualified voters to vote in the special election, except as hereinafter provided:

(1) Real estate owners who sold their property or properties in the territory prior to the date of the special election shall not be permitted to vote but the then owners of the property or properties shall be entitled to vote in their place and stead upon furnishing the judge of the election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded; provided, however, that if the new owner is a corporation, limited partnership or other entity, the new owner must also comply with the provisions of paragraph (a)(2) of this section;

(2) Any person claiming the right to vote at the election as an heir of any real estate owner in the territory who has died since the preparation of the voting list, or as trustee or guardian under the terms of the last will and testament of such real estate owner (who has died since the preparation of the voting list) shall furnish the judge of election with the original or a certified copy of the will or other document evidencing that person’s ownership of, or interest in, the property of such real estate owner, and shall thereupon be permitted to vote as if qualified under paragraph (a)(2) of this section; or

(3) Each person, corporation, limited partnership or other entity qualified to vote in the special election pursuant to paragraph (a)(3) of this section shall be permitted to vote despite their absence from the voting list prepared by the Clerk of the Peace.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 100.)

## § 7544. Certification of result of special election; retention of ballots.

No later than 3 days after the holding of the special election, the judge of the election shall tabulate the ballots and certify the result to the County Council and to the Wilmington City Council under that judge of election's hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1.)

## § 7545. Alternative approval procedure when only 1 qualified voter exists.

If only 1 qualified voter in the territory exists for the purpose of determining whether an annexation initiated pursuant to § 101A of Title 22 for the City of Wilmington shall be approved, notwithstanding any other provisions in this subchapter or in Title 22 the annexation shall be deemed approved if, within 7 days of the County Executive's approval of the county ordinance pursuant to § 101A(a)(2)f. of Title 22, the qualified voter files with the Clerk of the Peace a sworn affidavit approving of the annexation. If the qualified voter is a corporation, limited partnership or other entity, such affidavit must be accompanied by a suitable sealed, certified copy of a corporate resolution or its equivalent authorizing an officer, agent or other person to execute the affidavit approving the annexation on behalf of the entity. On receipt of said affidavit, together with the authorization, if any, the Clerk of the Peace shall certify the approval to the County Council and to the Wilmington City Council under that Clerk of the Peace's hand and seal. Said certification shall, for all intents and purposes, be construed as the required certificate under § 7544 of this title and § 101A(a)(2)f. of Title 22.

(66 Del. Laws, c. 135, § 2; 70 Del. Laws, c. 186, § 1.)

## § 7546. Definitions.

For the purposes of this subchapter, the following terms shall have the meanings described herein:

(1) "Clerk of the Peace" shall mean the Clerk of the Peace for New Castle County.

(2) "County" shall mean New Castle County.

(3) "County Council" shall mean the New Castle County Council.

(4) "County Executive" shall mean the New Castle County Executive.

(5) "Parcel" shall have the meaning set forth in § 101A(c)(4) of Title 22.

(6) "Territory" shall have the meaning set forth in § 101A(c)(6) of Title 22.

(66 Del. Laws, c. 135, § 2.)

# Subchapter IV

# Municipal Elections Except for the City of Wilmington

## § 7550. General.

(a) Subchapters IV and V of this chapter shall not apply to elections for the City of Wilmington, referenda, or annexation elections.

(b) Provisions of municipal charters or ordinances inconsistent with the provisions of subchapters IV and V of this chapter shall be considered repealed.

(c) Municipalities shall conduct all elections for local office using voting machines that the Department of Elections shall provide.

(d) Where a deadline in subchapters IV and V of this chapter is a Saturday, Sunday or a holiday in the municipality, the deadline shall be the next day that is not a Saturday, Sunday or holiday in the municipality.

(e) Deadlines shall be no earlier than 4:30 p.m., local time.

(f) Municipalities shall not adopt any ordinance that is contrary to any of the provisions of subchapters IV and V of this chapter.

(g) Section 4972 of this title applies to subchapters IV and V of this chapter.

(h) The date and time of municipal elections, the offices up for election, and the terms of those offices shall be as provided in the municipality's charter and/or ordinance, provided that, upon the request or concurrence of the municipality's board of elections, the State Election Commissioner may, unless otherwise provided in the municipality's charter and/or ordinance, cancel any municipal election the conduct of which is rendered impracticable due to severe inclement weather, acts of God or similar emergencies outside of the municipality's control. Upon such cancellation, the municipality shall reschedule the election in accordance with § 7553 of this title and the term of any existing officeholder shall continue until the results of the rescheduled election are certified pursuant to § 7558 of this title.

(i) Municipalities shall enact ordinances to implement optional provisions of subchapters IV and V of this chapter at least 60 days prior to the date of the first election to which those provisions shall apply.

(j) The State Election Commissioner, in collaboration with the Departments of Elections county offices, shall promulgate the documents, forms, and envelopes required by subchapters IV and V of this chapter.

(k) A municipality shall contract with the Department office in the county where the municipality is located to conduct an election to elect members of the municipality's government at least 60 days prior to the date of the election.

(*l*) A voter may ask a person or persons of that voter's choice, who is not that voter's employer or an agent of that voter's employer or union, to assist that voter in voting.

(m) The term "Department of Elections" as used in subchapters IV and V of this chapter refers to the State Department of Elections.

(n) The State Election Commissioner, in collaboration with the Department offices, shall establish reasonable fees to cover the costs of services provided to municipalities. The initial schedule of fees must be established and published no later than December 31, 2010. The schedule must be reviewed, modified as necessary, and published anew no later than December 31 in every odd-numbered year.

(o) Except as expressly stated otherwise, the term "Board of Elections" as used in subchapters IV and V of this chapter refers to the applicable municipal board of elections.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, §§ 1, 2; 78 Del. Laws, c. 248, § 1; 79 Del. Laws, c. 275, § 101; 82 Del. Laws, c. 170, § 54.)

## § 7551. Boards of Election; appointment, authority.

(a) A Board of Elections shall be appointed as provided in the municipality's charter or code and shall oversee the election of the municipality's government.

(b) Members of municipal Boards of Elections shall be qualified electors in the municipality for which they are appointed and shall not be an elected official or candidate or an immediate family member of an elected official or candidate (mother, father, son, daughter, brother, sister, including half-brothers and sisters, stepfamily members and in-laws).

(c) Members of municipal Boards of Elections shall serve terms as provided in the municipality's charter or code.

(d) Upon confirmation of a member to a municipality's Board of Elections, the municipality shall issue a Certificate of Appointment to the member and the member shall swear or affirm the following oath orally and in writing:

I, , do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware, and that I will faithfully discharge the duties as a member of the Board of Elections for the city (or town) of by ensuring that elections within the city (or town) are conducted fairly, impartially and in accordance with the Delaware Code and city (or town) charter and ordinances to the best of my ability.

(e) A municipal Board of Elections member shall not participate in electioneering. 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; and the deliberate projection of sound referring to issues, candidates or partisan topics from loudspeakers or otherwise. A Board of Elections member who violates this section shall be fined not more than $500 and shall forfeit that Board of Election member's position on the Board.

(f) Municipal Boards of Elections shall consist of an odd number of members as stated in the municipality's charter or code, but in no case shall there be fewer than 3 members on the Board.

(g) Unless otherwise provided in the municipality's charter or code, the municipality's Board of Elections shall oversee the absentee ballot process for elections conducted in accordance with subchapters IV and V of this chapter.

(h) The Department of Elections shall make training available for the members of the municipality's Board of Elections on their roles and responsibilities.

(i) A municipal Board of Elections may request, in writing, advice and guidance from the Department of Elections. The Department to which a Board of Elections makes a request shall provide a written response as soon as practical but no later than 7 business days following receipt of the request.

(j) Municipalities shall post the names and contact information for its Board of Elections in the city/town hall or in the building where the municipal government meets, and on the municipality's website if it has one.

(k) A municipality shall notify the State Election Commissioner of the members of its Board of Elections when such members are installed.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 3; 82 Del. Laws, c. 170, § 55.)

## § 7552. Complaint procedure; pre-election activity.

(a) A citizen of the municipality may submit a written complaint, regarding any aspect of pre-election activity that is contrary to the provisions of subchapters IV and V of this chapter, to the municipality's Board of Elections. The complainant shall state with specificity the action or activity that is contrary to the provisions of subchapters IV and V of this chapter. The municipal Board of Elections shall meet in a special public meeting held as soon as practicable in compliance with the Delaware Freedom of Information Act (Chapter 100 of Title 29), but in no event later than 10 days following receipt of the complaint to determine if the complaint has any merit. Within 24 hours of the special public meeting, the municipal Board of Elections shall issue a written decision on whether the pre-election action or activity was legally incorrect and ordering lawful action necessary to correct such legal error in the pre-election action or activity. The Board of Elections shall immediately make its decision available to the public. If the municipality's Board of Elections fails to meet and issue a written decision within the time frames set forth herein, the citizen may file the complaint directly with the State Election Commissioner. Such complaints shall be heard in accordance with paragraph (b) of this section hereunder.

(b) Decisions and orders of a municipal Board of Elections may be appealed to the State Election Commissioner in writing within 2 business days of the Board's decision and order. The State Election Commissioner shall take testimony at a special public hearing that the

Commissioner conducts within 4 business days following receipt of the appeal. The Commissioner shall hold the hearing in accordance with the Administrative Procedures Act (Chapter 101 of Title 29) except as provided in this section. The Commissioner shall give 48 hours prior notice to all parties to such special public hearing in lieu of the notice provisions of § 10122 of Title 29. Notice of the hearing shall be posted as well as published on the Commissioner's website in lieu of the notice provisions of § 10124 of Title 29. No later than 2 business days following the hearing, the Commissioner shall issue a written decision on whether the pre-election action or activity was legally incorrect and ordering lawful action necessary to correct such legal error in the pre-election action or activity. Decisions of the Commissioner may be appealed in writing to Superior Court no less than 48 hours before the date of the election.

(c) Notwithstanding the foregoing, at the option of the complainant, that complainant may elect to appeal the decision of the municipal Board of Elections in writing to the Superior Court no less than 48 hours before the date of the election.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 4; 78 Del. Laws, c. 248, § 2.)

## § 7553. Notices; posting; publishing; deadlines, election calendar.

(a) For each election of members of the municipal government, a municipality shall post a Notice of Election conspicuously within the municipality no later than 20 days prior to the date of the election. Such notice shall include the date, time and location of the election, the candidates for each office on the ballot and the qualifications to vote in the election. In municipalities that allow nonresident voting, those municipalities may notify the electorate by any appropriate means, such means to be stated in the municipality's charter or code.

(b) For each election of members of the municipal government, a municipality shall post a Notice of Solicitation of Candidates conspicuously within the municipality 20 days prior to the filing deadline for the offices up for election. Such notice shall include the term or terms of each office up for election, the deadline and procedure for declaring candidacy for an office up for election and the qualifications for holding each office.

(c) For any municipal election where subchapters IV or V of this chapter or the municipality permits absentee ballots, all notices required by this section shall include information about how to obtain an absentee ballot.

(d) A municipality shall post the notices required by this section, at minimum, in compliance with the Delaware Freedom of Information Act, Chapter 100 of Title 29.

(e) A municipality shall post all election notices on its website if the municipality has a website.

(f) Within 3 business days of posting election notices pursuant to subsections (a) and (b) of this section, a municipality shall provide a copy of each election notice to the Department of Elections. The Department of Elections may reject any election notice that is filed late or that is materially incorrect. If such rejection results in the violation of subsection (a) or (b) of this section, the municipality shall reschedule the election in accordance with this section.

(75 Del. Laws, c. 342, § 2; 77 Del. Laws, c. 409, § 5; 78 Del. Laws, c. 248, § 3.)

## § 7554. Voter eligibility.

(a) Voter eligibility shall be as specified within the town charter; provided however, that in no event shall a municipality impose a durational residency requirement in excess of 30 days.

(b) A municipality that uses the State's Voter Registration System as the source of its list of registered voters must enter into a written agreement with the Department of Elections that specifies the responsibilities of each party registering voters, maintaining voter records and providing Election Day support. The deadline for voter registration shall be no more than 30 days prior to any scheduled municipal election, and timeliness shall be determined in accordance with § 2036(1) and (2) of this title.

(c) A municipality that maintains its own voter registration system shall publish and post a schedule of when eligible citizens may register to vote. The deadline for voter registration shall be no more than 30 days prior to any scheduled municipal election, and timeliness shall be determined in accordance with § 2036(1) and (2) of this title. The municipality shall provide eligible citizens a reasonable opportunity to register to vote.

(d) Persons appearing to vote shall present proof of identity and address. The identification shall be 1 or more of the following items that individually or together show the identity and address of the person:

(1) A current State of Delaware driver's license or ID card;

(2) A uniformed service ID card;

(3) Another current photo ID issued by the State of Delaware; U.S. Government; the voter's employer, high school or higher education institution;

(4) A current utility bill, bank statement, credit card statement, a paycheck or pay advice, or another type of bill or statement;

(5) A lease or sales agreement; and/or

(6) Any other documentation that a person can reasonably and commonly accept as proof of identity and address.

(e) Personal recognition by a majority of the Election Officers in the polling place can attest to a voter's identity and address.

(75 Del. Laws, c. 342, § 2; 80 Del. Laws, c. 388, § 1.)

## § 7555. Candidates; eligibility; declaration of candidacy.

(a) Candidate eligibility shall be established in the town charter.

(b) The procedure for declaration of candidacy shall be established in the town charter or by ordinance.

(c) Unless otherwise specified in the town charter:

(1) A candidate for municipal government shall not have been convicted of a felony;

(2) A candidate for the chief executive of a municipality shall have been a qualified elector of the municipality for at least 1 year prior to the date of the election and shall be at least 21 years of age on or before the date of the election; and

(3) A candidate for a municipality's legislative body and all other elective offices shall have been a qualified elector of the municipality for at least 1 year prior to the date of the election, and shall be at least 21 years of age on or before the date of the election.

(d) A candidate for municipal office shall file a Certificate of Intention or a Statement of Organization establishing a campaign committee with the State Election Commissioner no later than 7 days after declaring the candidate's candidacy.

(1) The candidate shall file a Certificate of Intention if 1 of the following apply:

a. The yearly salary for the office for which the candidate has filed a Declaration of Candidacy is less than $1,000.

b. The candidate does not intend to receive more than $5,000 in contributions or expend more than $5,000 for campaign expenses during the campaign under § 8004 of this title.

(2) If paragraph (d)(1) of this section does not apply, the candidate shall notify the Commissioner and file a Statement of Organization no later than 7 days after making expenditures or receiving contributions on behalf of the candidate or committee.

(e) The State Election Commissioner shall notify a municipality's Board of Elections when a candidate has failed to comply with the provisions of subsection (d) of this section above.

(f) Excepting candidacies otherwise provided for in the town charter and which have complied with the provisions of subsection (d) of this section within 5 days after the election, the Board of Elections of a municipality shall declare a candidate who has failed to comply with the provisions of subsection (d) of this section ineligible to be a candidate and shall order that candidate's name removed from the ballot subject to the appeal provisions of § 7552 of this title. Administrative errors or oversights by municipal or state officials shall not be grounds for declaring a person ineligible to be a candidate.

(g) Officials receiving any document required in this section shall provide the person filing the document with a receipt showing the date and time that the document was filed and the name of the person who received the document.

(h) Officials receiving any document required in this section shall immediately notify the person submitting the document of any deficiency in the submission. The person submitting the document shall have 2 business days to correct the deficiency even if the extension extends beyond the applicable deadline. If the person does not correct the deficiency by the end of the second business day, the municipality shall reject it.

(i) All documents filed in accordance with this section are public records and a municipality shall make them available for inspection by the public in accordance with the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(j) Where the number of qualified candidates for an office is equal to or less than the number of seats up for election, the Board of Elections shall declare the candidate or candidates elected.

(k) The State Election Commissioner shall prepare a package of Municipal Candidate Forms required by this section and instructions for completing and filing the forms. The Commissioner shall provide each municipality copies of the Municipal Candidate Forms package and publish the package on the State Election Commissioner's website. Municipalities and the Department offices shall publish the Municipal Candidate Forms package on their websites, should such websites exist. Municipalities shall maintain a sufficient supply of Municipal Candidate Forms packages to meet demand.

(*l*) A municipality shall submit the names of candidates for each office up for election to the Department office conducting the municipality's election no later than 1 business day following the filing deadlines for the elected position.

(m) A person may withdraw as a candidate by filing the form promulgated by the State Election Commissioner for that purpose with the municipality.

(1) If there are 2 or more candidates remaining on the ballot for the office and there are 14 or more days prior to the date of the election, the municipality shall mail new absentee ballots to all persons to whom it had issued absentee ballots. If an absentee voter does not return the replacement absentee ballot before 12 noon the day before the election, the municipality shall count the original ballot.

(2) Any votes cast for a person who has withdrawn that person's own candidacy are invalid and the municipality shall not tally, canvass nor report such votes.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 227, § 2; 82 Del. Laws, c. 170, § 56; 83 Del. Laws, c. 210, § 1.)

## § 7556. Election Officers; appointment; responsibilities; training.

Unless otherwise provided by town charter or code:

(1) The municipality shall have sufficient Election Officers to conduct the elections.

(2) The Inspector shall be the chief Election Officer in the polling place.

(3) The Inspector shall determine all challenges and all other issues involving the conduct of the election at the polling place. The Board of Elections may provide advice and guidance to the Election Officers.

(4) Election Officers individually and collectively shall conduct elections in a fair and equal manner.

(5) Election Officers who violate the provisions of subchapters IV or V of this chapter shall be removed forthwith by the Board of Elections.

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 409, § 6.)

## § 7557. Conduct of the election.

(a) The Department of Elections shall make available training for Election Officers prior to each election on the operation of the voting machine and Election Day procedures, and provide each Election Officer and Board of Elections member a copy of the manuals and/or checklists for the election.

(b) Election Officers shall admit the following persons to the voting room:

(1) Board of Elections members;

(2) Election Officers;

(3) Persons voting and waiting to vote;

(4) A child or children 17 years of age or less accompanying the voter;

(5) Department of Elections administrators or employees identified by badge or other authorization;

(6) The State Election Commissioner or an employee of the State Election Commissioner's office identified by badge or other authorizations;

(7) Any person accompanying a Board of Elections member, a Department of Elections administrator, or the State Election Commissioner except for an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot;

(8) Any other person deemed necessary to the conduct of the election by the Inspector except for an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot; or

(9) A person or persons required by a voter to assist the voter in voting who is not the voter's employer, agent of that voter's employer or union, or an elected official of the municipality, a candidate on the ballot, or a person associated in any way with the campaign of a candidate on the ballot.

(c) *Electioneering.* — Section 4942 of this title applies to municipal elections.

(d) *Challenges and challengers.* — (1) For elections for municipal government, each candidate on the ballot may appoint and accredit 1 or more suitable persons as challengers. One challenger at a time for each candidate on the ballot at each voting location in a building may be present to observe the conduct of the election and all election records. The challengers may be changed and their places filled in like manner during the day. Each challenger shall present the Inspector a challenger authorization for that election.

(2) The Inspector shall issue each challenger a challenger badge that the challenger shall wear while in the polling place. If the person leaves the polling place, the challenger shall surrender the badge to the Inspector, and for elections for municipal government, retrieve the challenger authorization from the Inspector.

(3) Challengers may act as peace officers with the same powers of preserving the peace as Election Officers. The Election Officers shall protect them in the discharge of their duty; as long as the challengers do not create any disturbance or obstruction and do not unreasonably prolong any challenge. The Inspector shall caution challengers concerning the foregoing. If a challenger persists in objectionable behavior, the Inspector may eject the challenger. Nothing in this subsection of this section shall prevent the substitution of another challenger for 1 whom the Inspector ejected.

(4) If an Inspector wilfully ejects a challenger without cause, that Inspector shall be deemed to have knowingly and wilfully violated that Inspector's own official duty.

(5) Any person legally in the polling place may challenge any voter for identity, address or bribery. The Inspector shall hear each challenge before the person being challenged enters a voting machine. Once the Inspector decides the challenge, the matter is decided and the challenged person will be either permitted to vote or not permitted to vote depending on the decision. A person denied permission to vote shall leave the polling place immediately. A person challenged for bribery may take and subscribe to the oath as provided in § 4940 of this title. Once the person has taken and subscribed to the oath, the person shall be permitted to vote.

(e) *Voting machines; election supplies; certification.* — (1) The Department of Elections shall prepare the voting machines for the election of members of a municipal government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

(2) The Department of Elections shall:

a. Supervise the preparation of the voting machines so that the voter choices are accurately reflected on the ballot;

b. Provide the materials needed to prepare the voting machines for the election;

c. Deliver the voting machines, documents, forms, envelopes, and signs prior to the election and pick up the voting machines following the election.

d. Keep the voting machines used in an election sealed for at least 30 days following the election or until any election contest is settled, whichever is longer. If, however, these voting machines are needed for a primary or general election prior to the resolution of an election contest, the Department may print audit records, results, and ballot images from each voting machine. The Department shall seal these records in an appropriate container and retain them until the contest is resolved.

(3) Two members of the Board of Elections for a municipality conducting an election shall certify the voting machines to be used in the election prior to the voting machines being delivered to the polling place or places.

(4) Municipalities shall be responsible for providing pens, rubber bands, tape and other supplies needed at the polling place.

(f) *Oath of Office.* — Before opening the election, the Inspector and any other appointed Election Officer shall subscribe to the following oath:

I do solemnly swear (or affirm) that in the election to be held on the day of A.D., I will not knowingly or willfully receive or consent to the receiving of the vote of any person who is not a citizen, and also that I will not receive or consent to the receiving of the vote of any person whom I shall believe not entitled to vote, unless my associates shall adjudge such person to be entitled to vote. That I will not receive or reject, nor concur in receiving or rejecting any vote through partiality or under bias, and that I will determine every matter that shall come before me and perform every act and duty by law required of me, touching the election, truly, faithfully and impartially, according to the best of my skill and judgment; that I have not received, nor will I receive directly or indirectly from or through any candidate to be voted for at such election, or any other person, any money, pay or other valuable thing or reward; that I have not been promised, or in any manner been led to believe that I will at any time directly or indirectly receive any money, pay or other valuable thing or reward from such candidate or other person other than that provided by law and if I shall discover any partiality, unfairness or corruption in the conduct of the election, I shall disclose the same to the Board of Elections that is conducting the election and to the Attorney General to the end that the subject may be investigated, so help me God (or so I solemnly affirm).

(g) *Bribery.* — (1) No person who is accused of receiving or accepting or offering to receive or accept, or pays, transfers or delivers, or offers or promises to pay, transfer or deliver, or contributes or offers or promises to contribute to another to be paid or used any money or other valuable thing as a compensation, inducement or reward for giving or withholding or in any manner influencing the giving or withholding a vote at any municipal election, shall vote at such election unless such person being challenged for any of said causes takes and subscribes to the oath or affirmation as provided for in § 4940 of this title.

(2) Such oath or affirmation shall be conclusive evidence to the Election Officers of the truth of such oath or affirmation, but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereon shall bar any prosecution under § 8 of article V of the Constitution of this State. Such oath or affirmation, when signed and attested as provided in this section shall be competent evidence in any proceeding against the party making the same.

(h) *Polling Places.* — Polling places shall be convenient and readily accessible to the voters.

(i) *Preparing the polling place prior to the election.* — (1) The Election Officers for each polling place shall arrive at least 1 hour prior to the time set for opening of the polls and shall proceed to arrange the furniture, documents, forms, envelopes, signs, posters and voting machines for the conduct of the election. They shall inspect the ballot cover and curtain of the machine or machines to make certain that machine or machines has not been damaged or tampered with in any manner. The Election Officers shall also take reasonable steps to ensure that no mirror or camera is in a position that would permit anyone to view the ballot.

(2) The Election Officers shall post or place the following posters and signs as follows:

a. In the voting room:

1. A voter information poster that includes information on voter eligibility, the date of the election and the hours that the polling places or places are open, general information on the right to vote, instructions on how to contact the appropriate officials if these rights are alleged to have been violated, and general information on the prohibition of acts or frauds and misrepresentation;

2. A sample ballot; and

3. Instructions on how to use the voting machine.

b. At each voting machine:

1. A sample ballot; and

2. Instructions on how to use the voting machine.

c. At the entrance to the voting area:

1. A poster that indicates that the room or area is a polling place;

2. A voter information poster as described above; and

3. A sample ballot.

d. Signs marking the route between the entrance and the accessible entrance and the voting room.

e. A poster or other visible object at the entrance to the building used by voters and at the accessible entrance, if different, that marks the building as a polling place.

f. Outside of the building where the polling place is located:

1. Signs that mark that the building is a polling place;

2. Signs that mark the accessible route from parking to the accessible entrance; and

3. Signs that mark or point to the accessible entrance.

(3) The Department of Elections shall provide a Voting Machine Certificate that lists the serial number, ballot number, machine case seal number, printer door number and the protective counter number for each voting machine assigned to the district (where voting by district is permitted) or polling place. Each Election Officer shall witness and verify that the numbers listed on the Voting Machine Certificate are the same as the voting machine serial number, case seal number, printer door seal number, ballot number and protective counter number on the voting machine. If a number is different, the Inspector shall strike through the number, enter the appropriate correction and initial the entry on each of the certificates.

(4) The Election Officers shall then observe the opening of the polls procedure for each voting machine assigned to the district or polling place. If the light in the polls ready to open box on the officer's control panel is in any other but the top position prior to the Inspector pressing the open polls button, stop the procedure and contact the Board of Elections. The machine cannot be used. If, during the opening of the polls procedure, the paper tape shows "error all counters not zero," stop the procedure and contact the Board of Elections. The machine cannot be used. At the conclusion of the open polls procedure for each voting machine assigned to the district or polling place as appropriate, each Election Officer signs the paper tape. After the last Election Officer signs the paper tape, the Inspector shall close the write-in window. Each Election Officer shall then sign § 1 of the Voting Machine Certificate after any discrepancies that were observed were noted on the certificate.

(5) At the time the polls are scheduled to open, the Inspector shall admit voters and authorized challengers to the voting room.

(j) *Voting procedure.* — (1) For municipalities using the State's voter registration information as the basis of permitting a person to vote: a person shall show proof of identity and address, the Election Officer shall circle the person's name on the Poll List, have that person sign the Voter Log, give the person an authorization to vote and direct that person to the voting machine.

(2) For municipalities that do not use the State's voter registration information: a person shall show proof of identity and address, the Election Officer shall then check the person's name and address against the municipality's registration list or if the municipality does not have a registration system, permit the person to vote if that person is otherwise eligible to vote, have the person sign the Voter Log, give the person an authorization to vote and direct that person to the voting machine.

(3) If the Election Officer determines that the person is not eligible to vote in the election, the Election Officer shall refer the person to the Inspector. The Inspector, after hearing and considering evidence, shall determine whether to permit the person to vote. Upon making the decision, the Inspector shall appropriately annotate the Poll List and/or Voter Log.

(4) If a person's eligibility to vote is challenged by anyone for any reason, the Inspector shall immediately hear and consider the evidence and then decide whether the person is eligible to vote. Once the Inspector has made that Inspector's decision, there is no appeal at the polling place.

(k) *At the close of the polls; unofficial results.* — (1) Thirty minutes prior to the closing of the polls, the Inspector shall announce or have another Election Officer announce that the polls shall close in 30 minutes both in the voting room and outside of the entrance of the building used by voters.

(2) At the time that the polls close the Inspector shall announce or have another Election Officer announce that the polls have closed both in the voting room and outside of the entrance to the building used by voters. The Election Offices shall permit any person to vote who was in line at the time the polls closed.

(3) The Election Officers shall remove the cartridges and tapes from each voting machine, record the protective counter and seal numbers on the Voting Machine Certificate, close the voting machines, complete the Vote Tabulation for the election, and post a copy of the results tape from each voting machine on the door of the polling place.

(4) The Election Officers, as soon as possible after the polls have closed and the unofficial results announced, shall deliver all election documents, envelopes and absentee ballots to the municipality's Board of Elections.

(5) The municipality's Board of Elections shall secure the documents, envelopes and absentee ballots until such time that they need to canvass the election.

(*l*) A municipality shall reimburse the Department of Elections that provides the voting machines for its election such reasonable costs for services provided as established by the State Election Commissioner.

(75 Del. Laws, c. 342, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 227, § 2; 77 Del. Laws, c. 409, § 7.)

## § 7557A. Complaint procedure; unlawful election activity altering result of election.

(a) A citizen of a municipality may submit a written complaint to the State Election Commissioner regarding any aspect of that municipality's election activity that is contrary to state or federal law which altered or is reasonably likely to have altered the result of the election. Such complaint shall be filed no later than 20 days after the result of the municipal election shall have been certified by the municipality's Board of Elections. The complaint shall state with particularity:

(1) The action or activity that is contrary to state or federal law; and

(2) The specific basis for the complainant's belief that such activity altered or is reasonably likely to have altered the result of the election.

(b) The State Election Commissioner shall review the complaint and such other materials as he or she deems necessary or appropriate. If, following such review, the Commissioner determines there is reasonable probability that conduct in violation of state or federal law altered or is reasonably likely to have altered the result of the election, then the Commissioner shall file suit in Superior Court on behalf of the complainant to invalidate the result of the election or such other relief as shall be appropriate.

(78 Del. Laws, c. 248, § 4; 70 Del. Laws, c. 186, § 1.)

### § 7558. Election results; recounts; contests.

(a) A person certified as being elected shall not take office before the seventh day following certification of the election.

(b) The municipal Board of Elections shall announce the results of an election as soon as possible following the close of the polls.

(c) The municipal Board of Elections shall recount the ballots if the difference between the top 2 candidates is $^1/_2$ of 1% or less than the total votes cast for the office. Where electors vote for more than 1 candidate for an office, the municipal Board of Elections shall recount the ballots if the difference between the last candidate elected and the next closest candidate is $^1/_2$ of 1% or less than the total votes cast for the office.

(d) No later than 48 hours following the closing of the polls, the municipal Board of Elections shall convene within to determine the result of the election and certify the name of the winning candidates.

(e) If, following certification of the election and the resolution of any contest, there is a tie vote for a municipal office, then the State Election Commissioner shall order a new election in which only the candidates or positions tied will be on the ballot, unless the laws of the municipality otherwise provide. The municipality shall conduct the special election in accordance with this subchapter; provided, however, that the Department of Elections shall defray the cost of such election up to a cap of $2,500.

(f) The municipal Board of Elections, following certification of the election and the resolution of any contest, shall audit the election records in order to reconcile the number of voters who cast ballots as compared to the number of voters who returned absentee ballots and voted on voting machines. The results of this audit shall be reported to the municipality's chief executive and be made available for public review.

(g) Sections 5941 through 5955 of this title apply to election contests within municipalities. For purposes of this subsection, the words "county, district or hundred" as used in § 5941 of this title shall mean "municipality" and the words "board of canvass" as used throughout §§ 5941 through 5955 of this title shall mean "municipal Board of Elections."

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 78 Del. Laws, c. 248, § 5; 82 Del. Laws, c. 170, § 57.)

### § 7559. Transition.

(a) This subchapter shall apply to elections held after June 30, 2007.

(b) The State Election Commissioner shall promulgate all forms required by 75 Del. Laws, c. 342 by April 30, 2007.

(75 Del. Laws, c. 342, § 2; 76 Del. Laws, c. 52, § 1; 77 Del. Laws, c. 227, § 2.)

### § 7560. Transition [Transferred].

Transferred to § 7559 of this title by 76 Del. Laws, c. 52, § 1, effective June 26, 2007.

## Subchapter V

## Absentee Voting in Municipal Elections Except for the City of Wilmington

### § 7570. Purpose of subchapter; scope.

It is the purpose and intent of the General Assembly in enacting this subchapter to provide those qualified electors of municipalities governed under subchapter IV of this chapter who are unable to appear at a municipal election to cast their ballots with the ability to cast a ballot to be counted in the total for the municipal election.

(76 Del. Laws, c. 52, § 2.)

### § 7571. Persons eligible to vote by absentee ballot.

Any person qualified under the provisions of a municipal charter to vote by absentee ballot in any municipal election held in that municipality ("elector") may vote by absentee ballot for any reason authorized by that municipality's charter or ordinances and for any of 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 Marines 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, including the business or occupation of 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

(4) Because such person is sick or physically disabled; or

(5) Because such person is absent from the municipality 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.

(76 Del. Laws, c. 52, § 2.)

## § 7572. Request for ballot; statement for absentee ballots; delivery of absentee ballots.

(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 municipality where the elector is qualified to vote by filing a written statement with the municipality no later than 12:00 noon the day before the election.

(b) A statement may be filed pursuant to this section by mailing it, delivering it, or causing it to be delivered to the municipality where the elector is qualified to vote.

(c) Statements 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 within the municipality at which the elector establishes eligibility to vote;

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 expected location on election day;

f. The reason that the elector cannot appear at the regular polling place on the day of the election which reason shall be any of the reasons listed in § 7571 of this title.

g. A telephone number, if available, to assist in resolving any challenge;

h. An e-mail address, if available, to assist in resolving any challenge; and

i. The elector's signature;

(3) Be subscribed and sworn to by the elector.

(d) [Repealed.]

(e) The State Election Commissioner shall create an absentee statement template that municipalities shall use in creating their own absentee statement by adding additional reasons that a person may vote by absentee ballot. The State Election Commissioner shall also designate envelopes and create a set of instructions for voters casting their votes by absentee ballot that municipalities may use to comply with the provisions of this subchapter.

(f) The municipality may adopt a printed or electronic statement form (or both), containing blanks associated with each item required by this section to be listed on a statement, 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 municipality for the municipality prepared statement form, which the municipality shall forward to the elector upon receipt of a request therefore.

(76 Del. Laws, c. 52, § 2; 77 Del. Laws, c. 227, § 2; 81 Del. Laws, c. 419, § 1.)

## § 7573. Distribution of ballots, envelopes, and instructions; envelope specifications; prepaid postage.

(a) Upon receipt of a statement from an elector pursuant to § 7572 of this title, the municipality shall process the same and confirm that the elector qualifies for an absentee ballot pursuant to § 7571 of this title.

(b) Not more than 60 nor less than 4 days prior to an election, and within 3 days after the absentee ballots, envelopes, and instructions therefore become available, the municipality shall mail, to each elector who requests and qualifies for an absentee ballot pursuant to § 7571 of this title, the following:

(1) An absentee ballot for the municipal election in which the elector is qualified to vote;

(2) Instructions for completing the absentee ballot and returning it to the municipality, marked "INSTRUCTIONS FOR COMPLETING AND RETURNING AN ABSENTEE BALLOT"; and

(3) An envelope marked "BALLOT ENVELOPE", which shall be:

a. Of the type known as a security mailing envelope, designed to securely protect the contents thereof from tampering, removal, or substitution without detection;

b. Large enough to carry the ballot; and

c. Addressed for return to the municipality where the elector is qualified to vote.

(c) Postage for all mailings made pursuant to this subsection shall be prepaid by the municipality.

(d) Nothing contained in this section shall prevent the issuance of an absentee ballot to those lawfully entitled thereto when the request is made less than 4 days prior to the election.

(76 Del. Laws, c. 52, § 2; 81 Del. Laws, c. 419, § 2.)

## § 7574. Requirements for ballot envelope; numbering and coding; voter identification label; affidavit of eligibility.

(a) The municipality shall provide to each elector to whom it sends an absentee ballot an envelope which shall be:

(1) A color other than white;

(2) Large enough to hold a completed ballot; and

(3) Designed to protect its contents from tampering, removal or substitution without detection.

(b) Upon each envelope provided pursuant to this section shall appear:

(1) The words “BALLOT ENVELOPE”;

(2) An alpha-numeric symbol and/or barcode for use in accounting for the absentee ballot;

(3) Identification information for the elector receiving the absentee ballot, including: the name of the municipality where the elector is qualified to vote; the elector’s name; the elector’s mailing address; the address within the municipality that establishes the elector’s eligibility to vote if different from the elector’s mailing address; and such other information as the municipality may require; and

(4) The following oath:

“I do solemnly swear (affirm) that to the best of my knowledge I am eligible to vote in this municipal election and that the address that appears on the label on this envelope is the address at which I am qualified to vote in this municipal election. I also do solemnly swear (affirm) under penalty of perjury that I have not received or accepted, or offered to receive or accept, any money or other item of value as compensation, inducement or reward for the giving or withholding of a vote at this municipal election, nor that I am acting under duress or threat of duress or harm.”

(5) The voter’s signature.

(76 Del. Laws, c. 52, § 2.)

## § 7575. Voting procedure; execution of affidavit; return of ballot.

The procedure for completing an absentee ballot and returning it to the municipality is as follows:

(1) An elector who receives an absentee ballot pursuant to this chapter shall complete the ballot by marking it with the elector’s selections and shall place the completed ballot in the envelope marked “BALLOT ENVELOPE.”

(2) The elector shall confirm that the information about that elector on the ballot envelope is correct and then sign the self-administered oath.

(3) The elector shall then seal the ballot envelope.

(4) The elector shall return the sealed ballot envelope to the municipality by:

a. Depositing it in a United States postal mailbox, thereby mailing it to the municipality issuing the ballot; or

b. Delivering it, or causing it to be delivered, to the municipality before the polls close on the day of the election.

(76 Del. Laws, c. 52, § 2.)

## § 7576. Time limit for return of ballot; late ballots.

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

(b) Notwithstanding any other provision of this chapter, 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 municipality where the elector is qualified to vote before the polls close on the day of the election.

(c) Each municipality shall retain unopened any ballot envelope it receives after the polls close on the day of the election for 60 days after the election, or longer if directed by proper authority or required to do so by federal law.

(76 Del. Laws, c. 52, § 2; 77 Del. Laws, c. 152, § 1.)

## § 7577. Procedure on receipt of ballot envelope by municipality.

(a) Upon receipt of a ballot envelope the municipality, or a person authorized by the municipality, shall:

(1) Ascertain the names of each elector as they appear on the face of each ballot envelope;

(2) Ascertain from the information on the ballot envelope the municipal election district with whose votes the ballot within it shall be tallied; and

(3) Place the ballot envelope in a secure location until such time as it is opened and the ballot within it is counted.

(b) No agent or employee of the municipality shall open or attempt to open the ballot envelope, or change or alter or attempt to change or alter the ballot envelope, or any writing, printing or anything whatsoever thereon.

(76 Del. Laws, c. 52, § 2.)

## § 7578. Counting procedure for absentee ballots.

At any time between the opening and the closing of the polls on an election day, absentee election judges selected by a municipality's board of elections, shall count absentee ballots at a properly noticed public meeting in the municipality's offices or at the place of the election, at the municipality's discretion, in accordance with the procedures set out below. Anything herein to the contrary notwithstanding, at the discretion of the municipality, the board of elections may itself act as the absentee election judges.

(1) The municipality's board of elections shall appoint a sufficient number of teams of absentee election judges, each consisting of an odd number of electors, to open and tally the absentee ballots before the close of the polls. The board of elections shall be responsible for deciding all challenges and overseeing the process.

(2) The municipality shall provide a list of persons who have returned absentee ballots for review by the public and challengers at the meeting. Challenges must be made prior to the opening of the ballot envelope for the voter being challenged.

(3) If a person has challenged an absentee voter as provided in § 7557(d)(5) of this title, an absentee election judge shall give that person's ballot envelope to the board of elections who shall then hear the evidence and decide the challenge. If the board of elections upholds the challenge, the chairperson shall write the word "CHALLENGED" on the ballot envelope, the reason for the challenge and then sign the chairperson's own name. When the challenge is denied, the ballot envelope shall be returned to the team to be opened and counted. The board of elections, after the close of the polls, shall seal the ballot envelopes for all voters who were successfully challenged in a carrier envelope along with a log sheet showing the serial number of the carrier envelope.

(4) Where absentee ballots have been prepared for counting in advance of the opening of the polls in accordance with § 7579 of this title and are in a carrier envelope, the absentee election judges, upon opening a carrier envelope, shall verify that the serial number on the log sheet is the same as the serial number on the carrier envelope. If the numbers are not the same, the judges shall report the discrepancy to the board of elections and then follow the instructions of the board regarding that carrier envelope. If there are no discrepancies or the discrepancy has been resolved, the team shall remove the ballots from the carrier envelope.

(5) Where the ballots are in the ballot envelopes, a team of absentee election judges shall:

a. Check the ballot envelopes against the list of absentee voters. The teams shall not process any ballot envelopes that the municipality has not listed as returned on the list of absentee voters until the discrepancy has been resolved to the board of election's satisfaction.

b. Reject ballot envelopes that the voter did not sign or seal, or for a voter who is known to be dead. An absentee election judge shall print the word "REJECTED" and the reason for the rejection on the front of the ballot envelope and then at least 2 of the absentee elections judges shall initial beside the entry.

c. Open each ballot envelope in such a manner as not to deface or destroy the self-administered statement thereon or the absentee ballot enclosed and then remove the ballot in such manner as to avoid seeing the markings thereon from the ballot envelope. If there is no ballot in the ballot envelope or if there is more than 1 ballot in a ballot envelope, an absentee election judge shall write the word "REJECTED" and the reason for the rejection on the front of the ballot envelope and then at least 2 absentee elections judges shall initial beside the entries. In the case where there was more than 1 ballot in a ballot envelope, the team shall put the ballots back into the ballot envelope.

d. Once an absentee ballot judge has removed a ballot from a ballot envelope, the judge shall put it face down on the table without examining it. The team shall open ballot envelopes until they have a sufficient number of ballots and ballot envelopes to fill a carrier envelope, create a predetermined batch, or they have opened all of the ballot envelopes for a municipal election district or the election, whichever occurs first. The team shall then shuffle the ballots and then proceed to tally the votes for that group of ballots.

(6) The team of absentee election judges shall then tally the votes for a group of ballots on absentee vote tally sheets with one 1 person reading the votes and 2 others tallying the votes on separate absentee vote tally sheets. Once the team has tallied a group of ballots, they shall verify that the results on both absentee vote tally sheet are the same. If the results are not the same, the team shall re-tally the votes until the result is the same. During the tally process, the team shall:

a. Attempt to determine the voter's intent pursuant to § 4972 of this title in the event that a voter did not mark the ballot as instructed; and

b. Tally votes for write-in candidates on the absentee vote tally sheets if the municipality's charter or code permits write-in votes.

(7) Once a team has tallied the absentee votes for a group of ballots, the members shall sign both copies of the absentee vote tally sheet and then put the voted ballots, rejected ballots, ballot envelopes, and 1 copy of the absentee vote tally sheet into a carrier envelope. The team shall then complete the log sheet showing the serial number of the carrier envelope, put the log sheet into the carrier envelope

and then seal the carrier envelope. The team shall then give the carrier envelope and the second copy of the absentee vote tally sheet to the board of elections.

(8) Upon receipt of a carrier envelope and the second copy of the absentee vote tally sheet for that carrier envelope, the board of elections shall:

a. Put the carrier envelope in a secure location until such time it is needed for a recount, legal action, or is to be destroyed as provided in this chapter; and

b. Record the results from the absentee vote tally sheet onto a master absentee vote tally sheet for the election. After the board of elections has received all of the absentee vote tally sheets and has entered the results for each candidate on the master absentee vote tally sheet, the board shall total the votes for each candidate and then, after the polls have closed, enter the results on the vote tabulation for the election. The board of elections shall then seal the absentee vote tally sheet or sheets in a carrier envelope along with a log sheet showing the serial number of the carrier envelope.

(9) Ballot envelopes received after the ballots have been counted or the ballots for a specific municipal election district have been counted shall be opened and tallied in accordance with the above procedure except that they all shall be sealed in 1 or more carrier envelopes, as necessary, after the polls have closed.

(10) The teams shall repeat the above process as many times as necessary in order to count the absentee ballots.

(11) A municipality that permits absentee voting shall establish a procedure to insure that persons who voted by absentee ballot shall not be permitted to vote at a polling place on the day of the election.

(12) Anything herein to the contrary notwithstanding, when the number of absentee ballots returned to the municipality is less than 5, the municipality may develop a counting procedure protective of the secrecy of the ballot.

(76 Del. Laws, c. 52, § 2; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 419, § 3.)

## § 7579. Preparing absentee ballots to be counted.

Notwithstanding any other provision of this chapter, the board of election of any municipality may open absentee ballot envelopes in a public meeting in order to prepare them to be counted. Such meeting shall take place, upon proper notice, at any time between 8:00 a.m. of the day prior to the election and up to 1 hour before the polls are scheduled to open. The municipality shall notify each candidate on the ballot that they may have challengers at the meeting during which the board of election opens the absentee ballots. At such meeting, the board of elections shall act in accordance with the same procedures as set out in § 7578(1), (2), (3), and (5)(a) through (d) of this title inclusive, with the exception that the absentee ballot judges shall not proceed to tally the votes for any group of ballots but shall then secure such ballots, ballot envelopes, and any rejected ballot envelopes in a carrier envelope along with the log sheet showing the serial number of the log sheet. The absentee ballot judges shall then seal the carrier envelope or envelopes and deliver it/them to the board of elections. The board of elections shall then secure the carrier envelope or envelopes in locked cabinets until opened at a subsequent public meeting to tally the ballots on the day of the election in accordance with § 7578(4) and (6) through (10) of this title.

(76 Del. Laws, c. 52, § 2.)

## § 7580. Carrier envelope specifications; carrier envelopes as ballot boxes.

(a) The municipality shall purchase envelopes to be used as carrier envelopes, which shall be security mailing envelopes, designed to securely protect the contents thereof from tampering, removal, or substitution without detection and shall be large enough to accommodate multiple absentee ballots cast in the election.

(b) Carrier envelopes shall:

(1) For all purposes of this title be considered the official ballot boxes for absentee votes cast during a given election;

(2) Contain voted absentee ballots from a municipality;

(3) Be labeled to reflect the municipality whose absentee ballots are held inside; and

(4) Ensure the security of said ballots in the event they must be moved for the purposes of certifying an election or recounting votes cast in an election.

(c) A sealed carrier envelope may be reopened only when necessary to certify an election or recount votes cast in an election.

(d) In the event the municipality must move absentee ballots for the purposes of certifying an election, or recounting votes cast in an election, it shall select the carrier envelopes for the affected municipal election districts and move them, in a secure fashion, to the location where the carrier envelopes will be opened and the votes inside inspected.

(e) Upon completion of any inspection of votes pursuant to this subsection, absentee ballots shall be returned to the carrier envelopes from which they were removed and the carrier envelopes shall be:

(1) Resealed in a secure manner, or shall be placed in another security envelope, for the purposes of securely protecting the contents thereof from tampering, removal, or substitution without detection; and

(2) Put the carrier envelope in a secure location until such time it is needed for a recount, legal action, or is to be destroyed as provided in this chapter.

(76 Del. Laws, c. 52, § 2.)

## § 7581. Challenges.

(a) The ballot of any elector choosing to vote by absentee ballot may be challenged for the same causes and in the same manner as provided in this title for other voters.

(b) In addition, the vote of an absentee voter may be challenged:

(1) On the ground that the statement filed by the voter in compliance with § 7572 of this title is false; or

(2) On the ground that the self-administered statement on the ballot envelope is not signed.

(c) If a challenge is made pursuant to subsection (a) of this section, an absentee judge shall return the ballot to its ballot envelope, shall mark the ballot envelope as "CHALLENGED", and shall set the envelope aside in a secure location for consideration at a later time as provided elsewhere in this title. If a challenge is made pursuant to subsection (b) of this section, an absentee judge shall mark the ballot envelope as "CHALLENGED" and shall set it aside in a secure location for consideration at a later time as provided elsewhere in this title.

(d) All challenges to absentee ballots must be resolved before the counting of votes may be considered complete. Any challenge not resolved by the absentee judges within a reasonable time of the challenge having been made shall be referred to the board of elections for the municipality for resolution.

(76 Del. Laws, c. 52, § 2; 81 Del. Laws, c. 419, § 4.)

## § 7582. Rejected ballots.

(a) No vote shall be accepted or counted if:

(1) The statement of the absentee voter that appears on the front of the ballot envelope is found to have been altered or is not signed; or

(2) The absentee voter is not a duly qualified elector entitled to vote in the municipality;

(3) The ballot envelope is open; or

(4) It is evident that the ballot envelope has been opened and resealed;

(5) It is evident that the ballot envelope has been tampered with or altered.

(b) If the ballot envelope has not been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, it shall not be opened but shall instead be endorsed thereon as, "REJECTED", giving reason therefore.

(c) If the ballot envelope has been opened at the time an absentee judge decides that the offered ballot contained therein should not be accepted or voted for any of the reasons set forth in subsection (a) of this section, the ballot shall be returned to its ballot envelope and the absentee judge shall endorse on the ballot envelope, "REJECTED", giving reason therefore.

(d) Whenever it is made to appear by due proof to an absentee judge that any absentee voter, who has marked and forwarded the absentee voter's ballot, has died, the ballot envelope containing the ballot shall not be opened but shall be marked "REJECTED, DEAD", and shall be preserved and disposed of as other rejected ballots.

(e) Whenever a ballot has not been counted but has been rejected pursuant to this section, the appropriate notation shall be made on the absentee ballot tally and the number of ballots so rejected shall be noted on the certificates of election.

(f) Ballots rejected pursuant to this section shall be deposited in a carrier envelope for the municipal election district to which they apply.

(76 Del. Laws, c. 52, § 2; 81 Del. Laws, c. 419, § 5.)

## § 7583. Validity of absentee voter's ballot for wrong municipal election district.

If an absentee voter marks and returns an absentee ballot for a municipal election district other than the 1 of which the absentee voter is a duly registered elector, such ballot, because thereof, shall not be adjudged invalid, but, as indicated by the marking of the ballot by the voter, shall be counted as a vote for every candidate appearing thereon who is a candidate for an office to be duly voted for in the municipal election district.

(76 Del. Laws, c. 52, § 2.)

## § 7584. Procedure if requests or ballots sent to wrong official; absentee ballots received by election officers.

If any request for an absentee ballot and accompanying envelopes, or any marked ballot of any such elector are addressed to and returned to any official other than the proper official of the municipality where the elector is qualified to vote, then the official shall immediately transfer such request or returned marked ballot to the proper officer of the municipality where the elector is qualified to vote, to be acted upon by the municipality as provided by this subchapter.

(76 Del. Laws, c. 52, § 2.)

## § 7585. File of absentee voters.

(a) The municipality shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records shall include, but shall not be limited to, the following entries:

(1) The name of elector;

(2) The address at which the elector establishes eligibility to vote;

(3) The address where ballot is to be mailed;

(4) The date the statement is received by the municipality;

(5) The elector's municipal election district, if applicable;

(6) The ballot envelope identification number;

(7) The date the ballot is mailed or delivered to the elector; and

(8) The date the ballot is returned.

(b) The municipality shall compile from its files a list of names and addresses of all applicants for absentee ballots, and shall, upon request, send current and complete copies thereof without cost to candidates on the ballot in the forthcoming election. Such lists shall be provided no later than 2 weeks prior to the date of the election.

(76 Del. Laws, c. 52, § 2; 81 Del. Laws, c. 419, § 6.)

# Part V
# Special, Municipal and Other Elections
## Chapter 77
## Convention to Act Upon Amendments to Federal Constitution

### § 7701. Date of election of delegates; proclamation.

Whenever the Congress of the United States proposes an amendment to the Constitution of the United States and proposes that the same shall be valid when ratified by conventions in three fourths of the several States, the Governor of this State shall fix by proclamation the date of an election for the purpose of electing delegates to such convention of this State. Such election may be either at a special election or may be held at the same time as a general election or special, but shall be held at least as soon as the next general election occurring more than 3 months after the amendment has been proposed by the Congress.

(38 Del. Laws, c. 5, § 1; Code 1935, § 6206; 15 Del. C. 1953, § 7701.)

### § 7702. Qualification of voters.

(a) If the election of delegates is held at the same time as a general election, all persons qualified to vote at such general elections for representatives to the General Assembly of this State shall be entitled to vote.

(b) If such election is held at a time other than at the same time as a general election, all persons qualified to vote for representatives to the General Assembly of this State at the last general election next preceding such special election shall be entitled to vote.

(38 Del. Laws, c. 5, § 2; Code 1935, § 6207; 15 Del. C. 1953, § 7702.)

### § 7703. Registration.

(a) If the election of delegates is to be held at a date other than the date of a general election, there shall be 1 or more registration days prior to such election. The Governor shall fix the date or dates of such registration and shall include an announcement of the registration dates in the Governor's proclamation, fixing the date of the election. No registration shall be held within 10 days next prior to such special election.

(b) On the registration day or days persons whose names are not on the list of registered voters established by law for the last general election may apply for registration, and on such registration day or days applications may be made to strike from the registration list names of persons on such list who are not eligible to vote at such election.

(38 Del. Laws, c. 5, § 2; Code 1935, § 6207; 15 Del. C. 1953, § 7703; 70 Del. Laws, c. 186, § 1.)

### § 7704. Election, how conducted; results, how ascertained.

(a) Except as otherwise provided in this chapter, the election of delegates must be conducted and the results thereof ascertained and certified in the same manner as in the case of the election of electors of President and Vice President in this State during elections in which subchapter I of Chapter 43A of this title does not govern.

(b) The Governor shall, without delay, examine the certificates and ascertain the delegates to such convention chosen and make known the same by proclamation and cause notice to be given to each delegate so elected of the delegate's election as a delegate. All provisions of the laws of this State relative to elections, except as far as inconsistent with this chapter, shall be applicable to such election.

(38 Del. Laws, c. 5, § 3; Code 1935, § 6208; 15 Del. C. 1953, § 7704; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 7, § 5.)

### § 7705. Number and residence of delegates.

The number of delegates to be chosen to such convention shall be 17, to be elected from the State at large. Seven of such delegates shall be residents of New Castle County, 5 of such delegates shall be residents of Kent County, and 5 of such delegates shall be residents of Sussex County.

(38 Del. Laws, c. 5, § 4; Code 1935, § 6209; 15 Del. C. 1953, § 7705.)

### § 7706. Qualifications of delegates; nomination by petition.

Candidates for the office of delegate to the convention shall be citizens and qualified voters of this State. Nominations shall be by petition and not otherwise. A single petition may nominate any number of candidates not exceeding the total number of delegates to be elected from each county, and all candidates on any such petition shall be residents of the same county and shall reside in the county which said candidates propose to represent at such convention and every such petition shall be signed by not less than 100 persons who are qualified voters of the county wherein such candidates reside. Nominating petitions shall be filed with the Department. Nominations shall be without party or political designation, but the nominating petitions shall contain a statement as to each nominee to the effect that the nominee favors ratification or that the nominee opposes ratification or that the nominee remains uncommitted to either ratification or rejection of the proposed amendment to the Constitution of the United States, and no nominating petition shall contain the name of any nominee whose position as stated therein is inconsistent with that of the position of any other nominee as stated therein.

(38 Del. Laws, c. 5, § 5; Code 1935, § 6210; 15 Del. C. 1953, § 7706; 61 Del. Laws, c. 480, § 23; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 102.)

## § 7707. Determination of nominations.

The sixteenth day before the day fixed for the holding of the election of delegates shall be the last day for the filing of nominating petitions with the Department or, if such sixteenth day falls upon a Sunday or a legal holiday, the day following shall be the last day for the filing of such nominating petitions, and thereafter nominations for the office of delegate to such convention shall be closed. After the closing of such nominations, the Department shall forthwith count and determine the number of signatures which each candidate for nomination as delegate to such convention has obtained upon the candidate's or the Department's nominating petition or petitions. In making such count and determination, the Department shall only count the signatures of those persons who are qualified voters of the county which the candidates propose to represent at such convention. A signature to such nominating petition shall be prima facie evidence that the person purporting to sign the same did actually sign the same and that such person is a qualified voter of the same county as the county of residence of the candidate or candidates whose names appear in such nominating petition, and all signatures to such nominating petitions shall be counted by the Department, unless, within 5 days after the closing of nominations, evidence satisfactory to the Department shall have been produced before him or her that a person whose name purports to have been signed to a nominating petition is either a fictitious person or not a qualified voter of the county of residence of the candidate or candidates whose nominating petition the person purports to have signed. After the closing of nominations all nominating petitions shall be open to the inspection of any qualified voter of the county in which such petitions have been filed.

(38 Del. Laws, c. 5, § 6; Code 1935, § 6211; 15 Del. C. 1953, § 7707; 61 Del. Laws, c. 480, § 23; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 102.)

## § 7708. What nominations shall be effective.

No nominations shall be effective except those of the 7 candidates from New Castle County in favor of ratification, the 7 candidates from New Castle County against ratification and the 7 candidates from New Castle County not committed to either ratification or rejection of the proposed amendment, the 5 candidates from Kent County in favor of ratification, the 5 candidates from Kent County against ratification and the 5 candidates from Kent County not committed to either ratification or rejection of the proposed amendment, the 5 candidates from Sussex County in favor of ratification, the 5 candidates from Sussex County against ratification and the 5 candidates from Sussex County not committed to either ratification or rejection of the proposed amendment, whose nomination petitions have respectively been signed by the largest number of qualified persons, ties to be decided by lot drawn by the Department.

(38 Del. Laws, c. 5, § 7; Code 1935, § 6212; 15 Del. C. 1953, § 7708; 61 Del. Laws, c. 480, § 23; 79 Del. Laws, c. 275, § 102.)

## § 7709. What nominations shall be effective

(38 Del. Laws, c. 5, § 8; Code 1935, § 6213; 15 Del. C. 1953, § 7709; 61 Del. Laws, c. 480, § 23; repealed by 79 Del. Laws, c. 275, § 102, eff. July 1, 2015.)

## § 7710. Alternates.

Candidates for nomination not nominated as provided in §§ 7706-7708 of this title shall be deemed to be alternates to the nominees in their respective groups in the order of the number of signatures which they have respectively received upon their nominating petitions and in the event of the death, resignation or removal of any nominee, the first alternate shall take his or her place as nominee, and so on, ties to be decided by lot drawn by the Department. In the event of the death, resignation or removal of any nominee after the printing of the ballots for such election, the Department shall provide the election officers of each election district with a number of pasters containing only the name of such nominee, at least equal to the number of ballots provided for each election district and the clerks of election shall put 1 of such pasters in a careful and proper manner in the proper place on each ballot before they shall deliver the same to voters.

(38 Del. Laws, c. 5, § 9; Code 1935, § 6214; 15 Del. C. 1953, § 7710; 61 Del. Laws, c. 480, § 23; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 102.)

## § 7711. Printing of ballots; to whom delivered; additional ballots.

The Department shall cause to be printed and distributed the ballots for the election of delegates in the quantity and in the manner provided by law for general elections; provided that such ballots as are required under the election laws to be delivered to the chairs of the various political parties shall, in lieu thereof, be distributed to the various nominees as equally as possible, and provided further that the Department, in addition to the ballots mentioned in this section, shall cause to be printed such further number of ballots as shall be directed by any nominee in any county; provided, however, that the Department shall not have printed any ballots upon the order or request of any nominee, unless the request shall have been made to him or her in writing at least 10 days prior to the holding of the election at which the ballots are to be used, nor unless a deposit sufficient to cover the cost of the ballots be made at the time they are ordered. The ballots so ordered by the nominees shall be delivered to the nominees or to their agents upon their request or order at least 5 days before the election at which the ballots are to be used.

(38 Del. Laws, c. 5, § 10; Code 1935, § 6215; 15 Del. C. 1953, § 7711; 61 Del. Laws, c. 480, § 23; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 275, § 102.)

## § 7712. Use of separate ballot; form.

The election shall be by ballot, separate from any ballot to be used at the same election. Such ballot, if used at a general election, shall be enclosed in the same envelope as the ballot for use at such general election, otherwise each ballot cast shall be enclosed in a

separate envelope. The ballot shall first state the substance of the proposed amendment. This shall be followed by appropriate instructions to the voter. It shall then contain perpendicular columns of equal width headed respectively in plain type “For Ratification,” “Against Ratification” and “Uncommitted.” In the column headed “For Ratification” shall be placed the names of the nominees nominated from the entire State as in favor of ratification, in alphabetical order. In the column headed “Against Ratification” shall be placed the names of the nominees nominated from the entire State as against ratification, in alphabetical order. In the column headed “Uncommitted” shall be placed the names of the nominees nominated from the entire State as uncommitted to either ratification or rejection, in alphabetical order. The voter shall indicate that voter’s own choice by making 1 or more cross marks in the appropriate spaces provided on the ballot. No ballot shall be held void because any such cross mark is irregular in character. The ballot shall be so arranged that the voter may by making a single cross mark, vote for the entire group of nominees whose names are comprised in any column. The ballot shall be as like as possible to the form of the official ballot now used in this State and substantially in the following form:

CONVENTION TO RATIFY FEDERAL

Delegates to the Convention to Ratify the Proposed Amendment.

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the amendment shall be ratified by Conventions in the States.

INSTRUCTIONS TO VOTERS

Do not vote for more than 17 candidates.

To vote for all candidates in favor of Ratification of the proposed amendment, or for all candidates against Ratification of the proposed amendment, or for all candidates who intend to remain uncommitted to either Ratification or Rejection of the proposed amendment, make a cross mark in the Block at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a cross mark in the Block at the left of the name.

| RATIFICATION<br>For Delegates to the Convention | AGAINST RATIFICATION<br>For Delegates to the Convention | UNCOMMITTED<br>For Delegates to the Convention |
|---|---|---|
| JOHN DOE | JOHN DOE | JOHN DOE |
| JOHN DOE | JOHN DOE | JOHN DOE |
| JOHN DOE | JOHN DOE | JOHN DOE |
| JOHN DOE | JOHN DOE | JOHN DOE |

All ballots used at elections for ratifying conventions shall be printed as outlined in this section. However, the Governor may, if the Governor deems it expedient, in the Governor’s own proclamation calling for election of delegates to a ratifying convention, direct that there be printed on the ballots additional information that will be more informative to the electorate on the subject which is being voted upon.

(38 Del. Laws, c. 5, § 11; Code 1935, § 6216; 15 Del. C. 1953, § 7712; 70 Del. Laws, c. 186, § 1.)

## § 7713. Election of nominees; vacancies.

The 17 nominees who receive the highest number of votes shall be the delegates to the convention. If there is a vacancy in the convention caused by the death or disability of any delegate or any other cause, the same shall be filled by appointment by the majority vote of the delegates comprising the group from which such delegate was elected and, if the convention contains no other delegate of that group, shall be filled by the Governor.

(38 Del. Laws, c. 5, § 12; Code 1935, § 6217; 15 Del. C. 1953, § 7713.)

## § 7714. Meeting of delegates.

The delegates to the convention shall meet in the Senate Chamber at the State House in Dover on the twenty-eighth day after their election at 12:00 noon, and shall thereupon constitute a convention to pass upon the question of whether or not the proposed amendment shall be ratified.

(38 Del. Laws, c. 5, § 13; Code 1935, § 6218; 15 Del. C. 1953, § 7714.)

## § 7715. Election of officers and adoption of rules.

The convention may elect its president, secretary and other officers and adopt its own rules.

(38 Del. Laws, c. 5, § 14; Code 1935, § 6219; 15 Del. C. 1953, § 7715.)

## § 7716. Journal of convention.

The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment.

(38 Del. Laws, c. 5, § 15; Code 1935, § 6220; 15 Del. C. 1953, § 7716.)

## § 7717. Certification of results.

(a) After the sense of the majority of the total number of delegates composing the convention is taken upon the question of the ratification of the proposed amendment to the Constitution of the United States, the convention shall certify a resolution of its vote over the hand of the president, attested by the secretary and signed by all of the members of the convention. Such resolution shall be so certified in duplicate originals. The duplicate originals shall then be delivered by the convention to the Secretary of State together with the journal and any other records of the convention.

(b) If it appears from the resolutions so certified to the Secretary of State that the proposed amendment to the Constitution of the United States has been ratified by the convention, the Secretary of State of Delaware shall send to the Secretary of State of the United States 1 of the duplicate originals certified under the Delaware Secretary of State's hand and the seal of the State. The remaining duplicate original shall be proclaimed by publication and shall be deposited together with the journal and any other records of the convention in the Delaware Public Archives. If it appears from the resolutions so certified to the Secretary of State that the proposed amendment to the Constitution of the United States has not been ratified, the resolution shall be proclaimed by publication and the duplicate originals of the resolution together with the journal and any other record of the convention shall be deposited in the Delaware Public Archives.

(38 Del. Laws, c. 5, § 16; Code 1935, § 6221; 15 Del. C. 1953, § 7717; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 91, § 9.)

## § 7718. Compensation of delegates, officers and employees; expenses.

Every delegate to the convention shall receive $10 for every day that delegate is in attendance at such convention, not exceeding 3, and in addition thereto, 10 cents for each mile necessarily travelled by the delegate in making 1 round trip from the place of that delegate's residence to Dover. The president, secretary and other officers shall receive such compensation as may be fixed by the convention not in excess of $25 for any such officer, in addition to their compensation as such delegates. Disbursements for the purposes mentioned in this and for other necessary expenses of the convention, when approved by the convention and signed by the president, shall be paid by the State Treasurer out of any moneys not otherwise appropriated. The expenses of holding a special election shall be borne as provided by law for the holding of a general election.

(38 Del. Laws, c. 5, § 17; Code 1935, § 6222; 15 Del. C. 1953, § 7718; 70 Del. Laws, c. 186, § 1.)

## § 7719. Applicability of act of Congress.

If at or about the time of submitting any such amendment, Congress shall, either in the resolution submitting the same or by a statute, prescribe the manner in which the conventions shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, the provisions of this chapter shall be inoperative, the convention shall be constituted and shall operate as the resolution or act of Congress shall direct, and all officers of this State who may by the resolution or statute be authorized or directed to take any action to constitute such a convention for this State shall act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this State.

(38 Del. Laws, c. 5, § 18; Code 1935, § 6223; 15 Del. C. 1953, § 7719.)

# Part VI
# Election Campaigns
## Chapter 80
## Campaign Contributions and Expenditures
### Subchapter I
### General Provisions

### § 8001. Purpose.

The purpose of this chapter is to protect the public interest by requiring full disclosure of the source of all funds used in political campaigns, providing reasonable limits on the amounts of contributions and providing a manner to enforce this law.

(67 Del. Laws, c. 449, § 1.)

### § 8002. Definitions.

As used in this chapter:

(1) "Candidate" means a person who seeks nomination for or election to public office, or who has taken action necessary under the law to qualify for nomination or election under the laws of the State, or has authorized the solicitation of any contribution or the making of any expenditure in that person's behalf.

(2) "Candidate committee" means each political committee formed on behalf of a candidate for public office.

(3) "Cash" includes currency, money orders, travelers checks and other negotiable instruments that do not disclose on their face the true name of the contributor.

(4) "Chapter" includes, in addition to the provisions of this chapter, the rules and regulations made by the Commissioner.

(5) "Clearly identified candidate" means that the name, a photograph or a drawing of the candidate appears or the identity of the candidate is otherwise apparent by unambiguous reference.

(6) "Commissioner" means the State Election Commissioner, or the designee of the Commissioner.

(7) "Communications media" means television, radio, newspaper or other periodical, sign, Internet, mail or telephone.

(8) "Contribution" means any advance, deposit, gift, expenditure or transfer, of money or any other thing of value, to or for the benefit of any candidate or political committee involved in an election, including without limitation any:

a. Gift, subscription, advance, deposit, expenditure or transfer of any thing of value;

b. Discount or rebate not available to the general public (except a party's abatement or refund of a filing fee otherwise required under § 3103 of this title);

c. Loan (except a loan of money by a national or state bank, building and loan association or licensed lender made in the ordinary course of business);

d. Purchase of tickets, goods or services sold to raise funds for a campaign, whether or not the tickets, goods or services are used by the buyer;

e. Forgiveness of indebtedness or payment of indebtedness by another person;

f. Service or use of property without full payment therefor (except the contribution of services by an individual, the use of an individual's residence, the contribution of such items as invitations, food and beverages by an individual volunteering personal services or the individual's residence, or the use of the telephone equipment of any person); or

g. Any other thing of value (except an independent expenditure).

(9) "Election" means the action by qualified voters of the State either to nominate by vote a candidate for public office or to select a candidate to fill a public office, whether in a primary, general or special election.

(10) a. "Electioneering communication" means a communication by any individual or other person (other than a candidate committee or a political party) that:

1. Refers to a clearly identified candidate; and

2. Is publicly distributed within 30 days before a primary election or special election, or 60 days before a general election to an audience that includes members of the electorate for the office sought by such candidate. For purposes of this section, the term "general election" shall include any annual election for 1 or more members of a school board pursuant to § 1072(c) of Title 14.

b. "Electioneering communication" does not include:

1. A communication distributed by a means other than by any communications media;

2. Any membership communication;

3. A communication appearing in a news article, editorial, opinion, or commentary, provided that such communication is not distributed via any communications media owned or controlled by any candidate, political committee or the person purchasing such communication;

4. A communication made in any candidate debate or forum, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum.

(11) “Election period” means:

a. For a candidate committee:

1. For a candidate for reelection to an office to which the candidate was elected in the most recent election held therefor, the period beginning on January 1 immediately after the most recent such election, and ending on the December 31 immediately after the general election at which the candidate seeks reelection to the office.

2. For a candidate for reelection to an office which the candidate attained since the last election held therefor (whether the candidate attained the office by succession, appointment or otherwise), the period beginning on the day the candidate succeeded to or was appointed to the office, and ending on the December 31 immediately after the general election at which the candidate seeks reelection to the office.

3. For a candidate for election to an office which the candidate does not hold, the period beginning on the day on which the candidate first receives any contribution from any person (other than from the candidate or from the candidate’s spouse) in support of that candidate’s candidacy for the office, and ending on the December 31 immediately after the general election at which the candidate seeks election to the office.

4. Notwithstanding the foregoing, for purposes of the limitations under § 8010 of this title on contributions for a candidate in a general election who was nominated for such office in a primary election, the election period shall end on the day of the primary and the next election period shall begin on the day after the primary.

b. For a political party and for a political action committee, the period beginning on the January 1 immediately after a general election, and ending on the December 31 immediately after the next general election.

c. For a candidate committee for a person who does not hold public office and who has not taken action necessary under the law to qualify for nomination or election under the laws of the State, the period beginning on the date the first contribution is received or expenditure is made by the committee and ending on the fourth December 31 following such date; provided, however, that if such person takes action necessary under the law to qualify for nomination or election under the laws of the State, the period shall be determined under paragraph (11)a. of this section.

d. For a person who makes an expenditure for a third-party advertisement, the election period shall begin and end at the same time as that of the candidate identified in such advertisement, without regard to paragraph (11)a.4. of this section.

(12) “Expenditure” means any payment made or debt incurred, by or on behalf of a candidate or political committee, or to assist in the election of any candidate or in connection with any election campaign.

(13) “Independent expenditure” means any expenditure made by any individual or other person (other than a candidate committee or a political party) expressly advocating the election or defeat of a clearly identified candidate, which is made without cooperation or consultation with any candidate, or any committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or any committee or agent of such candidate. An expenditure shall constitute an expenditure in coordination, consultation or concert with a candidate and shall not constitute an independent expenditure where:

a. There is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate’s agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

b. The person making the expenditure (including any officer, director, employee or agent of such person) has advised or counseled the candidate or the candidate’s agents on the candidate’s plans, projects or needs relating to the candidate’s pursuit of nomination or election, in the same election period, including any advice relating to the candidate’s decision to seek office; or

c. The expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate’s agents about the candidate’s plans, projects or needs; provided, that the candidate or the candidate’s agent is aware that the other person has made or is planning to make expenditures advocating the candidate’s election.

(14) “Mailing address” means a physical mailing address, and shall not include a post office box.

(15) “Membership communication” means a newsletter or periodical, telephone call, or any other communication distributed solely to the members, shareholders, or employees of an organization or institution.

(16) “Officer” means:

a. If used with respect to a corporation, a natural person appointed or designated as an officer of such corporation by or pursuant to applicable law or the certificate of incorporation or bylaws of such corporation, or a person who performs with respect to such corporation functions usually performed by an officer of a corporation. Without limitation of the foregoing, the term “officer” shall include the president, vice president, treasurer, secretary, chief executive officer, chief operating officer or chief financial officer of such corporation, or their respective equivalents; and

b. If used with respect to an entity other than a natural person or a corporation, a natural person who performs functions usually performed by an officer of a corporation with respect to such entity.

(17) “Person” includes any individual, corporation, company, incorporated or unincorporated association, general or limited partnership, society, joint stock company, and any other organization or institution of any nature.

(18) “Political action committee” means a political committee which is neither a political party nor a candidate committee.

(19) “Political committee” means:

a. Any organization or association, whether permanent or created for the purposes of a specific political campaign, which accepts contributions from or makes expenditures to any candidate, candidate committee or political party in an aggregate amount in excess of $500 during an election period, not including independent expenditures; and

b. All political parties and candidate committees.

(20) “Political party” means an organization eligible to be listed on any general election ballot under § 3001 of this title, or any other organization which desires to be listed on any ballot on any election, and any constituent part of such party which receives contributions and makes expenditures. For purposes of the contribution limits of subchapter II of this chapter, a “political party” includes all constituent parts of such party, including the statewide, county, regional, municipal and district committees, all finance committees and all other committees, subdivisions and organizations related to the political party.

(21) “Publicly distributed” means aired, broadcast, delivered or otherwise disseminated to members of the public.

(22) “Public office” means an office of this State or any political subdivision thereof which is required by law to be determined by an election.

(23) “Responsible party” means any natural person who shares or exercises discretion or control over the activities of any entity required to file reports in accordance with this chapter, and shall include any officer, director, partner, proprietor or other natural person who exercises discretion or control over the activities of such entity.

(24) “School board” means the board of education of a reorganized school district consisting of members duly elected or appointed in accordance with Title 14.

(25) “Sign” means any outdoor billboard, panel or similar display having an area of at least 3 square feet.

(26) “Special election” means:

a. For a school board, any election for 1 or more school board members other than the annual election of members pursuant to § 1072(c) of Title 14.

b. For any other public office, an election other than a primary or general election to fill a vacancy for public office, created by reason of failure to elect, ineligibility, death, resignation or otherwise, for which there is more than 1 candidate.

(27) “Third-party advertisement” means an independent expenditure or an electioneering communication.

(28) “Treasurer” means the individual appointed by a candidate to assist the candidate with the duties imposed by this chapter.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 400, § 1; 81 Del. Laws, c. 115, § 1.)

## § 8003. Duties of a candidate [Effective until July 1, 2027].

(a) A candidate shall establish a candidate committee. There shall only be 1 candidate committee for any candidate, although such candidate committee may have subcommittees. The candidate committee may continue in existence for more than 1 election period, and with respect to more than 1 elective office. Each candidate committee or subcommittee shall notify the Commissioner as required under § 8005 of this title, and shall comply with all the other requirements of this chapter. A candidate shall be responsible for the lawful operation of the candidate’s own candidate committee and all subcommittees thereof.

(b) Except for independent expenditures that meet the requirements of this chapter, all contributions to or on behalf of a candidate shall be placed into the candidate committee, and all expenditures to or on behalf of a candidate shall be made from the candidate committee.

(c) A candidate shall cause the candidate’s own candidate committee to keep complete records of all contributions received and all expenditures made by or on behalf of the candidate’s candidacy, and shall retain such records for 3 full years following the election in which that candidate was a candidate; provided, however, that the candidate need not keep records of the names and mailing addresses of persons making contributions of $100 or less in an election period.

(d) A candidate shall file or cause to be filed with the Commissioner the reports required of that candidate’s campaign committee under § 8030 of this title.

(e) A candidate shall designate an individual as treasurer of that candidate’s candidate committee, in order to assist with the duties under this chapter, but nothing shall relieve the candidate from the responsibility for keeping the records and filing the reports required by this chapter.

(f) A candidate for state office shall file the financial disclosure reports required by subchapter II, Chapter 58 of Title 29.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 423, § 1.)

## § 8003. Duties of a candidate [Effective July 1, 2027].

(a) A candidate shall establish a candidate committee. There shall only be 1 candidate committee for any candidate, although such candidate committee may have subcommittees. The candidate committee may continue in existence for more than 1 election period, and with respect to more than 1 elective office. Each candidate committee or subcommittee shall notify the Commissioner as required under

§ 8005 of this title, and shall comply with all the other requirements of this chapter. A candidate shall be responsible for the lawful operation of the candidate's own candidate committee and all subcommittees thereof.

(b) Except for independent expenditures that meet the requirements of this chapter, all contributions to or on behalf of a candidate shall be placed into the candidate committee, and all expenditures to or on behalf of a candidate shall be made from the candidate committee.

(c) (1) Prior to July 1, 2029, a candidate shall cause the candidate's own candidate committee to keep complete records of all contributions received and all expenditures made by or on behalf of the candidate's candidacy, and must retain the records for 3 full years following the most recent election in which that candidate was a candidate; provided, however, that the candidate need not keep records of the names and mailing addresses of persons making contributions of $100 or less in an election period.

(2) Beginning July 1, 2029, a candidate shall cause the candidate's own candidate committee to keep complete records of all contributions received and all expenditures made by or on behalf of the candidate's candidacy, and must retain the records for 5 full years following the most recent election in which that candidate was a candidate; provided, however, that the candidate need not keep records of the names and mailing addresses of persons making contributions of $100 or less in an election period.

(3) For purposes of this subsection, "records" include bank account statements, cancelled checks, deposit tickets, receipts of expenditures, and any record that verifies that an expenditure was made on behalf of the committee and not for personal use.

(d) A candidate shall file or cause to be filed with the Commissioner the reports required of that candidate's campaign committee under § 8030 of this title.

(e) A candidate shall designate an individual as treasurer of that candidate's candidate committee, in order to assist with the duties under this chapter, but nothing shall relieve the candidate from the responsibility for keeping the records and filing the reports required by this chapter. The candidate must report the name and contact information of the treasurer to the Commissioner upon the formation of the committee. Within 7 business days, the candidate must notify the Commissioner in writing of any change of treasurer.

(f) A candidate for state office shall file the financial disclosure reports required by subchapter II, Chapter 58 of Title 29.

(g) A candidate and a candidate committee's treasurer must complete a biennial training on campaign finance laws provided by the Commissioner in accordance with § 8007 of this title.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 423, § 1; 85 Del. Laws, c. 429, § 1.)

## § 8004. School boards and offices paying under $1,000.

Notwithstanding § 8003 of this title, or any other provision of this chapter, a candidate for election to a school board or to any other public office that pays less than $1,000 per year is not required to form a candidate committee if the candidate signs under penalty of perjury a statement, in a form prepared by the Commissioner, certifying that the candidate does not intend or expect that the candidate's campaign will receive or spend, from the date of the first contribution or expenditure on behalf of the candidate's election until the end of the year in which the election for the office is held, more than $5,000. If, notwithstanding the execution of the statement, the candidate's campaign nevertheless receives more than $5,000 in contributions or expends more than $5,000, including any contributions or expenditures by the candidate, before the end of the year in which the election for the office is held, the candidate shall, within 7 days after the receipt or expenditure in excess of $5,000, notify the Commissioner and cause to be filed all reports that would otherwise have been required under this chapter.

(67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 400, § 2; 83 Del. Laws, c. 210, § 2.)

## § 8005. Duties of a political committee [Effective until July 1, 2027].

A political committee shall:

(1) File a statement of organization with the Commissioner no later than 24 hours after it receives any contribution or makes any expenditure that causes the aggregate amount of contributions by or expenditures to such committee to exceed $500 during an election period. The statement of organization shall be filed under penalty of perjury, and shall include the following information:

a. The full name and mailing address of the committee;

b. The full name and mailing address of each of the officers of the committee, 1 of whom shall be an individual named as its treasurer;

c. A concise statement of the committee's purposes or goals;

d. The name, office sought, and party affiliation of any candidate whom the committee is supporting or opposing, to the extent such information is known as of the date of filing; and, if the committee is supporting the entire ticket of any party, the name of the party; and

e. If the committee files reports with the Federal Elections Commission or any out-of-state agency, a statement to that effect including the name of the agency.

(2) Report any change in its officers within 7 days after such change becomes effective.

(3) Keep complete records of all contributions received and all expenditures made by or on behalf of the political committee, and shall retain such records for 3 full years following the election in connection with which the contributions and expenditures were made.

(4) File with the Commissioner the reports required under this chapter.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 400, § 3.)

## § 8005. Duties of a political committee [Effective July 1, 2027].

A political committee shall:

(1) File a statement of organization with the Commissioner no later than 24 hours after it receives any contribution or makes any expenditure that causes the aggregate amount of contributions by or expenditures to such committee to exceed $500 during an election period. The statement of organization shall be filed under penalty of perjury, and must include all the following information:

a. The full name and mailing address of the committee.

b. The full name and mailing address of each of the officers of the committee, 1 of whom shall be an individual named as its treasurer.

c. A concise statement of the committee's purposes or goals.

d. The name, office sought, and party affiliation of any candidate whom the committee is supporting or opposing, to the extent such information is known as of the date of filing; and, if the committee is supporting the entire ticket of any party, the name of the party.

e. If the committee files reports with the Federal Elections Commission or any out-of-state agency, a statement to that effect including the name of the agency.

(2) Report any change in its officers within 7 days after such change becomes effective.

(3) Keep complete records of all contributions received and all expenditures made by or on behalf of the political committee. Prior to July 1, 2029, the committee shall retain all records for 3 full years following the election in connection with which the contributions and expenditures were made. Beginning July 1, 2029, the committee shall retain all records for 5 full years following the election in connection with which the contributions and expenditures were made.

(4) File with the Commissioner the reports required under this chapter.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 400, § 3; 85 Del. Laws, c. 429, § 2.)

## § 8006. Prohibitions.

(a) No person shall, directly or through any other person, solicit or promise any contract, any vote, any employment or other service, or any official action or lack of action, in connection with any contribution.

(b) No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution made in a fictitious name or in the name of another person. No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution whose donor's true name and address is not made known to the political committee that receives it.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1.)

## § 8007. Training [Effective July 1, 2027].

All candidates and treasurers of political committees must complete a biennial training on campaign finance laws provided by the Commissioner. The initial training must be completed no later than 30 days after a statement of organization is filed with the Commissioner. A new treasurer appointed to a committee after its initial creation must complete the biennial training within 30 days of the treasurer's appointment. The Commissioner may create regulations to effectuate the purposes of this section.

(85 Del. Laws, c. 429, § 3.)

## §§ 8008-8009. Limits on expenditures; reports and sworn statements; public disclosure; certificates of election.

Repealed by 67 Del. Laws, c. 449, § 1, effective Jan. 1, 1991.

# Subchapter II

# Contribution Limits

## § 8010. Contribution limits for candidates.

(a) No person (other than a political party) shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of such person's contributions to or in support of such candidate to exceed, with respect to a statewide election, $1,200 during an election period, or with respect to any election that is not statewide, $600 during an election period.

(b) No political party shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of contributions from any political party to or in support of a candidate in an election period of such candidate to exceed, for the following offices:

(1) Governor: $75,000;

(2) All other State-wide offices: $25,000;

(3) N.C.C. Executives: $25,000;

(4) N.C.C. President: $15,000;

(5) All other county offices: $5,000;

(6) State Senate: $5,000;

(7) State House of Representatives: $3,000;

(8) All other offices: $3,000.

(67 Del. Laws, c. 449, § 1.)

## § 8011. Contribution limits for parties.

No person shall make any contributions which will cause the total amount of such person's contributions to a political party to exceed $20,000 during an election period. No treasurer or other person acting on behalf of any political party shall accept any contribution which such person knows will cause the total amount of the donor's contributions to a political party to exceed $20,000 during an election period. The contribution limits set forth in this chapter shall not be applicable to any contributions received by a political party from or on behalf of any national political party, any organization subordinate to such national political party or any other national political organization established for the purpose of supporting elections to national, state and local offices including, but not limited to, the Republican and Democratic Senatorial Campaign Committees, the Republican and Democratic Congressional Campaign Committees, the Republican and Democratic Victory Funds, the Republican and Democratic Governors' Associations.

(67 Del. Laws, c. 449, § 1.)

## § 8012. Contribution limits generally.

(a) No person shall make, and no candidate, treasurer or any other person acting on behalf of a political committee shall accept, any contribution in excess of $50 in cash to a political committee during an election period.

(b) No political party shall make any contribution to any political action committee.

(c) Any contribution by a political action committee shall be by a check which discloses the full name and address of said political action committee.

(d) No agency of the State, no political subdivision of the State, no agency of any political subdivision of the State and no agency authorized by an act of the General Assembly shall make any contribution to any political committee or candidate for any elective office. No candidate, treasurer or other person acting on behalf of a political committee shall accept any contribution from any agency of the State, any political subdivision of the State, any agency of any political subdivision of the State or any agency authorized by an act of the General Assembly. Notwithstanding the foregoing, a political subdivision of the State which has enacted an ordinance providing for public financing of elections shall be permitted to make contributions in an amount authorized by such ordinance for campaign expenditures authorized by § 8020 of this title to a candidate committee of a candidate for public office of such political subdivision and the candidate committee shall be permitted to accept such contributions.

(e) Any person other than an individual or a political committee which makes a contribution to a political committee shall notify such political committee in writing of the full names and mailing addresses of:

(1) All persons who, directly or otherwise, own a legal or equitable interest of 50% or greater (whether in the form of stock ownership, percentage of partnership interest, liability for the debts of the entity, entitlement to the profits from the other entity or other indicia of interest) in such corporation, partnership or other entity, or that no such persons exist; and

(2) A responsible party, if such contribution would cause the aggregate amount of contributions by such entity during the election period to exceed $100.

The political committee may rely on such notification, and should the notification provided by the representative of the entity be inaccurate or misleading, the person or persons responsible for the notification, and not the political committee which received the contribution, shall be liable therefor. A ratable portion of the contribution by the corporation, partnership or other entity shall be deemed to be a contribution under this chapter to the political committee by each such person who owns a 50% or greater interest in the entity, shall be included within the limit imposed by this section on individual contributions, and shall be so included in the reports filed by the candidate committee with the Commissioner under § 8030 of this title.

The Commissioner shall adopt by regulation a uniform summary of the law relating to the reporting of contributions pursuant to this subsection, with illustrative examples of how such law applies in specific cases. Such summary shall be posted on Elections Commissioner's web site, and shall be provided by a political committee to any person requesting same that has made a contribution to such political committee pursuant to this subsection.

(f) Any expenditure made by any political committee on behalf of or in connection with the campaign of any candidate (except an independent expenditure that meets the requirements of this chapter) shall be deemed a contribution under this chapter, shall be included within the limit imposed by § 8010(a) of this title on individual contributions, provided, however, that such expenditures by political

parties shall be included within the limit imposed by § 8010(b) of this title on contributions by political parties, and shall be so included in the reports filed by the candidate committee with the Commissioner under § 8030 of this title. Where such an expenditure by any political committee benefits more than 1 candidate, such expenditure shall be prorated among the candidates benefitted for purposes of the limits on contributions. For example, if a billboard depicts 2 candidates' names and likenesses with equal prominence, each candidate is benefitted equally by the expenditure for the billboard.

(g) For purposes of this chapter:

(1) Amounts paid by a political party to compensate individuals working on behalf of all of the candidates of the party, and amounts incurred on behalf of or in connection with 5 or more candidates shall not be deemed to be contributions to the candidates of such political party;

(2) Any reimbursement paid by 1 political committee to another political committee for costs actually incurred by the other political committee on behalf of the political committee that makes the reimbursement shall not be deemed to be a contribution to such other political committee;

(3) If 2 or more candidate committees share the amount of any expenditure permitted under this chapter, no contribution is made, so long as the amounts respectively paid by the respective candidate committees reasonably reflects the amount of the use made by each candidate committee of goods or services for which the expenditure was made; and

(4) Costs incurred by political parties for voter registration and get-out-the vote activities conducted by a political party shall not be considered contributions to any candidate.

(67 Del. Laws, c. 449, § 1; 68 Del. Laws, c. 230, § 1; 78 Del. Laws, c. 400, § 4; 79 Del. Laws, c. 346, § 1.)

## § 8012A. Contributions to a political party from a joint account.

(a) Any contribution to a political committee made by means of a check, debit card, or other means of payment from a joint account shall be allocated to the person who signed the check, who authorized the payment in writing, or who provided an electronic signature or electronic verification for such contribution. If more than 1 person on the joint account signed the check, authorized payment in writing, or provided their electronic signature or electronic verification authorizing the contribution, then the contribution shall be allocated equally to those persons unless written directions are provided upon receipt of the check or authorization of payment as to how to allocate the contribution amongst those persons.

(b) If a contribution to a political committee by means of a check, debit card, or other form of payment from a joint account causes a contributor to exceed the limits established in this subchapter, the treasurer of such political committee shall either:

(1) Return the excessive portion of the contribution to the contributor; or

(2) Reattribute such contribution if:

a. The treasurer informs such contributor in writing that he or she has exceeded the limit;

b. The treasurer informs such contributor in writing that he or she may request the return of the excessive portion of the contribution; and

c. Such contributor provides the treasurer with written directions reattributing the contribution signed by each person the contribution is being attributed within 60 days of the political committee receiving the contribution.

(79 Del. Laws, c. 345, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8013. Loan documentation [Effective July 1, 2027].

(a) A loan made to a political committee must be documented by a written record that includes all of the following:

(1) The lender's name, address, and signature.

(2) A statement of the schedule for repayment of the loan.

(3) A statement of the interest rate of the loan.

(b) A candidate may not charge interest on a loan made by a candidate to the candidate's own candidate committee.

(c) A political committee shall attach the written record required under subsection (a) of this section to a report required under subchapter IV of this chapter.

(d) The following applies to the proceeds of a loan subject to the requirement of subsection (a) of this section:

(1) The proceeds of the loan must be deposited into the political committee's designated account within 3 business days of receipt of the proceeds.

(2) The proceeds of the loan must not be held in a candidate's personal account at a financial institution or in the account of another person.

(85 Del. Laws, c. 429, § 4.)

## § 8013. Short title [Effective until July 1, 2027].

Repealed by 67 Del. Laws, c. 449, § 1, effective Jan. 1, 1991.

## Subchapter III
## Expenditures

### § 8020. Authorized campaign expenditures.

No political committee may make any expenditure except for the following purposes:

(1) Wages of full-time or part-time campaign staff (but no salary or wage for a candidate or a candidate's spouse).

(2) Travel expenses of the candidate and campaign staff.

(3) Payment of fees or charges for placing the name of the candidate on the ballot, and for collecting the returns of the election.

(4) Costs of telephone and other communications services.

(5) Costs of postage and other delivery services.

(6) Printing and stationery.

(7) Food, refreshments and related supplies.

(8) Purchase and preparation of lists of voters.

(9) Taking polls and making canvasses of voters.

(10) Payment for election watchers.

(11) Rental of office and rental and purchase of equipment.

(12) Advertising and publicity.

(13) In the case of a candidate committee, purchase of tickets to permit the candidate's attendance at civic or political events; and in the case of a political action committee, contributions within authorized limits, to any other political committee.

(14) Holding, promoting and furnishing meetings, demonstrations, conventions, and paying musicians and others rendering services in connection with those activities.

(15) Employing attorneys, accountants and other professional advisors.

(16) In the case of a candidate committee, contributions, within the limits set forth in § 8010(a) of this title, to another candidate committee, or as otherwise provided in § 8022 of this title.

(17) In the case of a political party or a political action committee, contributions, within authorized limits, to a candidate committee.

(18) In the case of any political action committee, in addition to any other expenditure authorized by this chapter, contributions to a political party within the limits set forth in § 8011 of this title.

(19) Returning any donor's contribution up to the amount donated.

(20) Reasonable and necessary expenses for the care of the candidate's child or children incurred in connection with the candidate's campaign activities.

(21) Any fee associated with obtaining a criminal history background check as required under this title.

(22) a. Security expenses related to ensuring the safety of the candidate that are associated with the candidate's activities, duties, or status as a candidate or elected official. Security expenses authorized under this paragraph must be separately itemized on political committee reports required under this chapter.

b. For purposes of this paragraph, "security expenses" include the reasonable costs of installing and monitoring a home or office electronic security system, personal security, cameras, fences, or other comparable security-related equipment or devices reasonably necessary to address a security risk arising from the candidate's status. "Security expenses" do not include payments for a firearm.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 79 Del. Laws, c. 360, § 1; 83 Del. Laws, c. 250, § 1; 84 Del. Laws, c. 185, § 8; 85 Del. Laws, c. 439, § 1.)

### § 8021. Identification of purchaser.

(a) All campaign advertisements having a fair market value of $500 or more, except printed items with a surface of less than 9 square inches, shall include prominently the statement:

"Paid for by [name of political committee or other person paying for such advertisement]."

For purposes of this section, "campaign advertisements" shall include any communication by a candidate committee or political party that would otherwise qualify as an independent expenditure or an electioneering communication but for the fact it was made by a candidate committee or political party.

(b) All third-party advertisements having a fair market value of $500 or more, except printed items with a surface of less than 9 square inches, shall include prominently the statement:

"Paid for by [name of political committee or other person paying for such third-party advertisement. Learn more about [name of person] at [Commissioner of Elections' web address]."

(c) The Commissioner may adopt regulations regarding the size, placement and duration of the foregoing statements as the same shall apply to specific forms of campaign advertisements. In connection therewith, the Commissioner may modify or amend the foregoing

statements to conform to the requirements of a particular medium (i.e., television, radio, print, Internet), and may by regulation create exemptions from the requirements hereunder where compliance is not reasonably practicable due to the small size or short duration of such advertisements. In all events, however, campaign advertisements having the same medium and duration (for example, 15-second radio advertisements or Internet advertisements having less than 200 characters) shall be subject to the same requirements.

(67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 400, § 5.)

## § 8022. Leftover funds.

Any funds remaining in any political committee which has completed its activities and paid all its creditors shall be paid to a successor committee or committees without being subject to the contribution limits set forth in this chapter or shall be donated to any religious, charitable, educational or scientific organization exempt from Delaware income tax under § 1902(b)(2) of Title 30 or to any volunteer fire company, and to no other person, except that an amount not in excess of the amount listed in § 8011 of this title may be given to the political party eligible to be listed on any general election ballot under § 3001 of this title. For purposes of this section, the term "successor committee" shall include any political committee, or committees, as that term is defined by § 8002(19) of this title; provided, however, that where the successor committee is one other than a candidate committee formed to promote the election of the same candidate to a different office than that for which the candidate's original candidate committee was formed, the contribution limits set forth in this chapter shall apply.

(67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 400, § 1.)

## § 8023. Independent expenditures

(67 Del. Laws, c. 449, § 1; repealed by 78 Del. Laws, c. 400, § 6, eff. Jan. 1, 2013.)

# Subchapter IV

# Public Disclosure

## § 8030. Reports of political committees.

(a) Each candidate (except a candidate who is excused from filing a report under § 8004 of this title) and every treasurer (except of a candidate excused from filing a report under § 8004 of this title) shall be responsible for filing with the Commissioner reports of contributions and expenditures on forms prescribed by the Commissioner for every reporting period during which a political committee is in existence. A candidate shall be jointly responsible with the treasurer for the filing of the report of a candidate committee.

(b) A reporting period shall begin on the day after the previous reporting period (except that for a newly-formed committee, the reporting period begins on the date the first contribution is received or expenditure made by or on behalf of such committee) and shall end on the following dates:

(1) December 31 of every year, before or after an election, from the time the committee receives its first contribution or makes its first expenditure, until and including the year in which contributions and expenditures are balanced and the political committee terminates;

(2) 30 days before any election (except for committees of candidates not on the ballot at such election);

(3) 8 days before any election (except for committees of candidates not on the ballot at such election).

(c) (1) Each report required by paragraph (b)(1) of this section must be:

a. Filed by the political committee using the Department's campaign finance reporting system and received by the Commissioner by 11:59 p.m. of the twentieth day after the end of the reporting period which is not a state holiday under Chapter 5 of Title 1.

b. [Repealed.]

(2) Each report required by paragraph (b)(2) of this section must be:

a. Filed by the political committee using the Department's campaign finance reporting system and received by the Commissioner by 11:59 p.m. of the second day after the end of the reporting period which is not a state holiday under Chapter 5 of Title 1.

b. [Repealed.]

(3) Each report required by paragraph (b)(3) of this section must be filed by the political committee using the Department's campaign finance reporting system and received by the Commissioner by 11:59 p.m. of the second day after the end of the reporting period which is not a State holiday under Chapter 5 of Title 1.

(d) Each report under this section shall disclose all of the following information, for the entire reporting period:

(1) Amount of cash and other intangible and tangible assets on hand at the beginning of the reporting period;

(2) Full name and mailing address of each person who has made contributions to such political committee (including the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events, whether or not the tickets were used by the person who paid for them) during the election period in an aggregate amount or value in excess of $100, the total of all contributions from such person during the election period, and the amount and date of all contributions from such person during the reporting period. If the person who made the contribution is not an individual, then the report shall also include the name and address of 1 responsible party for such person;

(3) Total of contributions made to such political committee during the reporting period and not reported under paragraph (d)(2) of this section;

(4) Name and address of each political committee from which the political committee received, or to which the political committee made, any transfer of funds, together with the amounts and dates of all transfers, no matter what the amount;

(5) The amount of each debt in excess of $50, owed to or owing by such political committee at the end of the reporting period, the full names and mailing addresses of any lender, borrower and endorser of such debt, the date and the interest rate of such loan, and a description of any security given therefor;

(6) Total amount of proceeds from:

a. Sale of tickets to each reception, meal, rally or other fund-raising event;

b. Collections made at such events; and

c. Sales of items such as campaign pins, buttons, badges and similar materials; provided, however, that all payments and contributions by any person, whether as gifts, as purchases of tickets or other goods or services, or partially as gifts and partially as purchases, by any person during any election period, shall be aggregated and, if such aggregate total exceeds $50 during such election period, shall be reported under paragraph (d)(2) of this section;

(7) Each contribution or other receipt in excess of $100 not otherwise listed under paragraphs (d)(2) through (6) of this section;

(8) Total receipts by such political committee or candidate during the reporting period;

(9) Full name and mailing address of each person to whom any expenditure has been made by such political committee during the reporting period in an aggregate amount in excess of $100, the amount, date and purpose of each such expenditure and the name of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) Total expenditures made by such political committee or candidate in connection with such campaign; and

(11) All goods and services that are contributed in kind, or at no charge or at a cost less than fair market value (except for services excluded from the definition of "contribution" under § 8002 of this title) to the extent that the fair market value, less any amount paid by the candidate or committee, exceeds $100.

(e) The reports required to be filed by this section shall be cumulative for the election period to which they relate, but where there has been no change in an item previously reported, only the amount need be carried forward.

(f) Each statement shall be accompanied by an affidavit verified by the candidate or the treasurer of the political committee, which states as follows:

"I solemnly swear [or affirm] that the foregoing statement is in every respect true and correct, and discloses all contributions received and expenditures required by me under Title 15, Chapter 80 of the Delaware Code."

(g) The report required under paragraph (b)(3) of this section may omit the information required under paragraph (d)(9) of this section; provided, however, that all such information shall be disclosed in the next report required hereunder.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 68 Del. Laws, c. 262, § 1; 68 Del. Laws, c. 444, §§ 1-4; 70 Del. Laws, c. 153, § 1; 78 Del. Laws, c. 400, § 7; 79 Del. Laws, c. 346, § 2; 83 Del. Laws, c. 210, § 3; 84 Del. Laws, c. 496, § 1.)

## § 8031. Special reports — Third-party advertisements.

(a) Any person other than a candidate committee or political party who makes an expenditure for any third-party advertisement that causes the aggregate amount of expenditures for third-party advertisements made by such person to exceed $500 during an election period shall file a third-party advertisement report with the Commissioner. The report shall be filed under penalty of perjury and shall include the following:

(1) The information required under § 8005(1) of this title with respect to the person making such expenditure;

(2) The full name and mailing address of each person to whom any expenditure has been made by such person during the reporting period in an aggregate amount in excess of $100; the amount, date and purpose of each such expenditure; and the name of, and office sought by, each candidate on whose behalf such expenditure was made;

(3) The full name and mailing address of each person who has made contributions to such person during the election period in an aggregate amount or value in excess of $100; the total of all contributions from such person during the election period, and the amount and date of all contributions from such person during the reporting period;

(4) If a person who made a contribution under paragraph (a)(3) of this section is not an individual, the full name and mailing address of:

a. Any person who, directly or otherwise, owns a legal or equitable interest of 50 percent or greater in such entity; and

b. One responsible party, if the aggregate amount of contributions made by such entity during the election period exceeds $1,200; and

(5) The aggregate amount of all contributions made to the person who made the expenditure.

(b) For purposes of this section, a reporting period shall begin on the day after the previous reporting period under § 8030 of this title or this section, whichever is later. However, if the person making the expenditure hereunder was not previously required to file any reports

during the election period under § 8030 of this title or this section, then the reporting period shall begin on the date the first contribution is received or expenditure made by or on behalf of such person in the current election period. A reporting period shall end on the date of the expenditure set forth in subsection (a) of this section.

(c) Any person other than an individual that makes a contribution for which disclosure is required under paragraph (a)(3) of this section shall provide written notification in accordance with § 8012(e) of this title to the person filing the report hereunder. The person filing the report may rely on such notification, and should the notification provided by the representative of the entity be inaccurate or misleading, the person or persons responsible for the notification, and not the person filing the report, shall be liable therefor.

(d) If the expenditure is made more than 30 days before a primary or special election or 60 days before a general election, the report required under this section shall be filed within 48 hours after such expenditure is made. If the expenditure is made 30 days or less before a primary or special election or 60 days or less before an election, such report shall be filed with the Commissioner within 24 hours after such expenditure is made. For purposes of this section, an expenditure shall be deemed to be made on the date it is paid or obligated, whichever is earlier.

(e) The Commissioner shall adopt regulations exempting, to the extent possible, persons from reporting duplicative information under this chapter.

(f) Persons required to file reports under this section shall retain complete records of all expenditures made and contributions received in connection herewith for 3 years following the election for which such report was filed.

(67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 400, § 8.)

## § 8031A. Negative balance prohibited [Effective July 1, 2027].

No report submitted under § 8030 or § 8031 of this title may contain a negative ending balance. “Ending balance” means the ending balance from the last reporting period and total receipts from the current reporting period minus total expenditures from the current reporting period. A report containing a negative balance is incomplete and may be considered tardy under § 8044 of this title.

(85 Del. Laws, c. 429, § 6.)

## § 8032. Public disclosure.

All reports made to the Commissioner and all rulings made by the Commissioner under this chapter shall be public and shall, immediately upon their filing, be made available by the office of the Commissioner for inspection and copying at reasonable cost by the public, except that the identity of the candidate or committee which requested a ruling shall not be disclosed without the candidate’s or committee’s consent. The Office of the Election Commissioner shall remain open beyond the ordinary close of business on the day the reports are due to be received under § 8030(c) of this title, until all persons who are present at said office at the time of the ordinary close of business have had an opportunity to make reasonable inspection and copying of said reports.

Any contributor who is a law-enforcement officer as defined by § 222 or § 2401 of Title 11, a probation and parole officer, or a federal or state judicial officer may request that the Commissioner remove that officer’s mailing address from any report to the Commissioner before the report is publicly disclosed. Any other person, upon application to the board of elections for the county in which that person resides, may request that the person’s mailing address be removed from any report to the Commissioner before the report is publicly disclosed. After considering the application, if the board of elections determines that good cause exists, it shall approve the removal of the person’s mailing address by the Commissioner before the report is publicly disclosed.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 316, § 1.)

## § 8033. Reporting campaign violations.

(a) The Department shall establish a telephone number and online form for the reporting of any suspected violations under this chapter.

(b) A person reporting a suspected violation under subsection (a) of this section must provide their name, address, telephone number and email address to the Department. The information provided under this subsection is not a “public record” as defined under Chapter 100 of Title 29.

(84 Del. Laws, c. 496, § 1.)

# Subchapter V

# Enforcement

## § 8040. Certificates of election.

No certificate of election shall be granted to any candidate until the Superior Court has certified that such candidate has caused to be filed all reports required by § 8030 of this title to be filed prior to the election.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1.)

## § 8041. Duties and powers of Commissioner [Effective until July 1, 2027].

The Commissioner shall:

(1) Make and publish such rules and regulations not inconsistent with the provisions of this chapter as are necessary to implement and enforce this chapter. Upon their adoption under the provisions of the Administrative Procedures Act (Chapter 101 of Title 29), such rules and regulations shall have the force and effect of law. Without limitation of the foregoing, no later than December 31, 2012, the Commissioner shall promulgate all forms required in connection with the filing of reports under this chapter, as well as regulations:

a. Exempting, to the extent possible, persons from reporting duplicative information hereunder;

b. Promulgating standards with respect to the size, layout and timing of the statements required under § 8021 of this title;

c. Adopting any amendments or modifications to the statements required under § 8021 of this title, or exemptions from the requirements thereunder; and

d. Adopting procedures for the electronic filing of reports and the posting of said reports to the Commissioner of Elections' web site.

(2) At the request of any person, make a ruling that applies this chapter to a set of facts specified by the person. The entire such ruling shall be made in writing, and a copy thereof shall be made available to any person, except that the identity of the person that requested the ruling shall not be disclosed without the person's consent. Copies of the ruling shall be mailed immediately to the Governor, the Attorney General and the chair of each political party entitled to be listed on any general election ballot under § 3001 of this title. Within 7 days after any such ruling is made, a summary thereof shall be mailed to each candidate having a committee which has not completed its activities on file in the office of the Commissioner and shall be distributed to any person who has, within the previous 12 months, requested distribution of such summaries. Any candidate or treasurer who reasonably and in good faith acts in reliance upon any ruling requested by that candidate or treasurer pursuant to this section, shall not be liable nor subject to any penalty with respect to conduct conforming to the ruling, provided there was a full disclosure to the Commissioner of all material facts necessary for the ruling.

(3) Mail to the treasurer of every political committee, to every candidate for whom a political committee has been formed, and to every candidate who has notified the Commissioner of the candidate's candidacy under § 3101 of this title, a copy of this chapter, the rules and regulations thereunder and a concise explanation of their terms, responsibilities and penalties, not later than 15 days after such political committee has been formed or such candidate has filed for office. In January of every election year, the Commissioner shall send similar documents to the chairs of all political parties' legally recognized political party subdivisions, down to the local organizing district level.

(4) Retain and permit public inspection of all reports required to be filed under this chapter for 10 years after the end of the calendar year to which they pertain.

(67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 400, § 9.)

## § 8041. Duties and powers of Commissioner [Effective July 1, 2027].

The Commissioner shall:

(1) Make and publish such rules and regulations not inconsistent with the provisions of this chapter as are necessary to implement and enforce this chapter. Upon their adoption under the provisions of the Administrative Procedures Act (Chapter 101 of Title 29), such rules and regulations shall have the force and effect of law. Without limitation of the foregoing, no later than December 31, 2012, the Commissioner shall promulgate all forms required in connection with the filing of reports under this chapter, as well as regulations:

a. Exempting, to the extent possible, persons from reporting duplicative information hereunder;

b. Promulgating standards with respect to the size, layout and timing of the statements required under § 8021 of this title;

c. Adopting any amendments or modifications to the statements required under § 8021 of this title, or exemptions from the requirements thereunder; and

d. Adopting procedures for the electronic filing of reports and the posting of said reports to the Commissioner of Elections' web site.

(2) At the request of any person, make a ruling that applies this chapter to a set of facts specified by the person. The entire such ruling shall be made in writing, and a copy thereof shall be made available to any person, except that the identity of the person that requested the ruling shall not be disclosed without the person's consent. Copies of the ruling shall be mailed immediately to the Governor, the Attorney General and the chair of each political party entitled to be listed on any general election ballot under § 3001 of this title. Within 7 days after any such ruling is made, a summary thereof shall be mailed to each candidate having a committee which has not completed its activities on file in the office of the Commissioner and shall be distributed to any person who has, within the previous 12 months, requested distribution of such summaries. Any candidate or treasurer who reasonably and in good faith acts in reliance upon any ruling requested by that candidate or treasurer pursuant to this section, shall not be liable nor subject to any penalty with respect to conduct conforming to the ruling, provided there was a full disclosure to the Commissioner of all material facts necessary for the ruling.

(3) Mail to the treasurer of every political committee, to every candidate for whom a political committee has been formed, and to every candidate who has notified the Commissioner of the candidate's candidacy under § 3101 of this title, a copy of this chapter, the rules and regulations thereunder and a concise explanation of their terms, responsibilities and penalties, not later than 15 days after such political committee has been formed or such candidate has filed for office. In January of every election year, the Commissioner shall send similar documents to the chairs of all political parties' legally recognized political party subdivisions, down to the local organizing district level.

(4) Retain and permit public inspection of all reports required to be filed under this chapter for 10 years after the end of the calendar year to which they pertain.

(5) Submit a monthly report to the Division of Civil Rights and Public Trust that contains a list of all alleged violations of this chapter that are under investigation or have not been resolved.

(6) Have the authority to audit committee reports for compliance with this chapter. The Commissioner may promulgate regulations regarding procedures for an audit under this paragraph (6).

(7) Establish a mandatory biennial training program on the requirements of this chapter to be completed by candidates and treasurers of political committees.

(67 Del. Laws, c. 449, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 400, § 9; 85 Del. Laws, c. 429, § 5.)

## § 8042. Civil remedies.

For purposes of any civil remedy on behalf of any injured person, the Court of Chancery shall have jurisdiction.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1.)

## § 8043. Violations; penalties; jurisdiction in Superior Court.

(a) Except as set forth in § 8044 of this title, any person who knowingly violates any provision of § 8003, § 8004 or § 8005 of this title shall be guilty of a class B misdemeanor.

(b) Any person who knowingly accepts or knowingly makes an unlawful contribution or expenditure in violation of any provision of subchapter II or III of this chapter shall be guilty of a class A misdemeanor.

(c) Any reporting party who knowingly files any report required under this chapter that is false in any material respect, or fails to file any such report, shall be guilty of a class A misdemeanor. For purposes of this subchapter, "reporting party" means any candidate, treasurer or other person required to file reports under this chapter.

(d) Any person who knowingly violates any provision of § 8006 of this title shall be guilty of a class G felony.

(e) A reporting party who reasonably relies upon information provided by another person which is inaccurate, false or misleading and who has no reason to know that such information was inaccurate, false or misleading, shall not be liable for any report filed by such reporting party which is inaccurate, false or misleading as a result of such information, if such reporting party, within 30 days after learning that such information was inaccurate, false or misleading, files an amended report with the Commissioner that corrects the inaccurate, false or misleading aspects of the report. Where a reporting party files an amended report later than 30 days after learning that such information was inaccurate, false or misleading, the reporting party shall not be liable if the reporting party shows good cause for filing the amended report beyond the 30-day period.

(f) The Superior Court shall have jurisdiction over all offenses under this chapter.

(g) A reporting party shall report immediately to the Commissioner and the Attorney General any attempt to make a prohibited contribution, or to demand a prohibited expenditure, where such attempt is made with intent to violate this chapter.

(h) A reporting party who receives a prohibited contribution or makes a prohibited expenditure without intent to violate this chapter will not be held liable for a violation of this chapter if the reporting party does either of the following within 30 days after being informed by the Department that the contribution or expenditure was prohibited:

(1) Returns the contribution or reimburses the political committee or other person making the expenditure.

(2) Pays the contribution to the State Treasurer for deposit in the General Fund.

(i) Any person who accepts an unlawful contribution from a person or entity with knowledge that it is a prohibited contribution under this title must return the full amount of the unlawful contribution to the donor.

(j) A reporting party who violates § 8021 of this title shall be assessed a fine by the Commissioner of $500 or 25% of the cost of the campaign advertisement subject thereto, whichever is greater.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 399, § 1; 79 Del. Laws, c. 347, § 1; 84 Del. Laws, c. 496, § 1.)

## § 8044. Tardy reports [Effective until July 1, 2027].

(a) (1) The Commissioner may issue a citation to a reporting party when a report required under this chapter is tardy.

(2) For the purposes of this section, "tardy" and "tardiness" means a report that is not filed, not filed on time, or is filed on time but incomplete.

(3) Notwithstanding paragraph (a)(1) of this section, a reporting party is entitled to an automatic, 1-time 24-hour extension to file a report required under this chapter if the reporting party notifies the Commissioner in writing no later than 11:59 p.m. on the date the report is due.

(4) a. The penalty for a citation issued under paragraph (a)(1) of this section is as follows:

1. An administrative penalty of $50 for each day that the report is tardy in delivery to the Commissioner, up to a maximum of 100 days.

2. An order requiring the completion of training on the Department's electronic campaign finance reporting system.

b. The penalty under this paragraph (a)(4) is in addition to any other sanction provided by this chapter.

(5) a. A reporting party named in a citation is responsible for the administrative penalty assessed under paragraph (a)(4)a.1. of this section.

b. Notwithstanding paragraph (a)(5)a. of this section, the administrative penalty may be paid by a political committee or political action committee for which a reporting party named in a citation is responsible for filing a report required under this chapter.

(6) The Commissioner may do the following:

a. If a reporting party has filed or corrected the tardy report, permit the reporting party to enter a payment plan to pay an administrative penalty assessed against the reporting party.

b. If an administrative penalty assessed against a reporting party totals less than $500 and the reporting party has filed or corrected the tardy report, waive the administrative penalty assessed against the reporting party, in whole or part.

c. If a reporting party has filed or corrected the tardy report, negotiate with the reporting party to reach a settlement as to the total administrative penalty due.

(b) (1) If the Commissioner issues a citation under subsection (a) of this section, the citation must include all of the following:

a. The name and address of the reporting party charged.

b. A statement explaining why the Commissioner has determined the report to be tardy.

c. A statement that a penalty for a tardy report is an administrative penalty under paragraph (a)(4) of this section and that the penalty is being assessed for each late day that the report is tardy.

d. Information on how to complete the training required under paragraph (a)(4)a.2. of this section.

e. A statement that the reporting party receiving the citation may appeal the Commissioner's determination to the Reports Appeals Subcommittee of the State Board of Elections under § 220 of this title ("Subcommittee") within the time prescribed under subsection (c) of this section.

f. The consequences of failing to do 1 of the following:

1. File the tardy report, pay the penalty due, and complete training on the Department's electronic campaign finance reporting system.

2. Demand an appeal in the time prescribed under subsection (c) of this section.

(2) The Commissioner shall serve a citation on a reporting party by 1 of the following:

a. Personal service on the reporting party.

b. Certified mail, return receipt requested, to the reporting party's last known address and by electronic means to the reporting party's last known e-mail address.

(c) On receipt of a citation under subsection (b) of this section, a reporting party has 30 days to appeal the citation in writing to the Subcommittee.

(d) (1) When an appeal is timely filed under subsection (c) of this section, the Subcommittee shall do all of the following:

a. Meet and conduct an appeal hearing not later than 45 days after the filing of the appeal. The Subcommittee Chair shall schedule the meeting and give notice of the meeting to the members and the reporting party that filed the appeal.

b. Take testimony.

c. Keep records of all evidence taken at a hearing under this section, including a recording of the hearing by electronic or any other means standard to recording judicial or quasi-judicial hearings.

d. Make and put into writing factual findings and conclusions regarding the appeal.

e. Notify the reporting party of the Subcommittee's factual findings and conclusions regarding the appeal by mail to the reporting party's last known address and by electronic means to the reporting party's last known e-mail address not later than 10 business days after the hearing on the appeal. The notice must include a statement on the consequences of failing to file the tardy report, pay the penalty due, and complete training on the Department's electronic campaign finance reporting system.

(2) The accrual and payment of the administrative penalty due and mandatory training required under paragraph (a)(4) of this section is stayed pending a validly filed appeal.

(e) The reporting party has the opportunity and burden of proof to show the Subcommittee, by a preponderance of the evidence, that the reporting party's tardiness in filing a report required under this chapter is due to reasonable cause and not wilful neglect.

(f) (1) If the Subcommittee determines that a reporting party's tardiness in filing a report required under this chapter is not due to reasonable cause, or the reporting party fails to timely file an appeal, the administrative penalty under paragraph (a)(4) of this section constitutes a debt due and owing the State, assessable by the Commissioner and recoverable against the reporting party.

(2) If the Subcommittee determines that a reporting party's tardiness in filing a report required under this chapter is not due to reasonable cause, the stay on the accrual and payment of the administrative penalty due under paragraph (a)(4) of this section is immediately lifted and penalty continues to accrue until the tardy report is filed or the maximum period under paragraph (a)(4)a.1. of this section is met.

(g) The Subcommittee shall notify the Office of the Attorney General that the reporting party has failed to file a report if a tardy report is not filed or corrected not later than 30 days after 1 of the following:

(1) A determination by the Subcommittee that the tardiness is not due to reasonable cause.

(2) The expiration of the appeal period set forth in subsection (c) of this section.

(h) On receipt of the notice under subsection (g) of this section, the Attorney General may file charges based on the reporting party's failure to file the report that is the subject of the citation.

(i) The Commissioner shall publish all of the following information on the Department of Elections website:

(1) The name of a candidate who the Subcommittee determines has failed to file or correct a report without reasonable cause.

(2) The name of a candidate against whom the Commissioner has assessed an administrative penalty for failing to file or correct a report required by this chapter, along with the total amount of the penalty.

(67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 399, § 2; 80 Del. Laws, c. 394, § 4; 83 Del. Laws, c. 209, § 1; 84 Del. Laws, c. 233, § 34.)

## § 8044. Tardy reports [Effective July 1, 2027].

(a) (1) The Commissioner may issue a citation to a reporting party when a report required under this chapter is tardy.

(2) For the purposes of this section, "tardy" and "tardiness" means a report that is not filed, not filed on time, or is filed on time but incomplete.

(3) Notwithstanding paragraph (a)(1) of this section, a reporting party is entitled to an automatic, 1-time 48-hour extension to file a report required under this chapter if the reporting party notifies the Commissioner in writing no later than 11:59 p.m. on the date the report is due.

(4) a. The penalty for a citation issued under paragraph (a)(1) of this section is as follows:

1. An administrative penalty of $50 for each day that the report is tardy in delivery to the Commissioner, up to a maximum of 100 days.

2. An order requiring the completion of training on the Department's electronic campaign finance reporting system.

b. The penalty under this paragraph (a)(4) is in addition to any other sanction provided by this chapter.

(5) a. A reporting party named in a citation is responsible for the administrative penalty assessed under paragraph (a)(4)a.1. of this section.

b. Notwithstanding paragraph (a)(5)a. of this section, the administrative penalty may be paid by a political committee or political action committee for which a reporting party named in a citation is responsible for filing a report required under this chapter.

(6) The Commissioner may do the following:

a. If a reporting party has filed or corrected the tardy report, permit the reporting party to enter a payment plan to pay an administrative penalty assessed against the reporting party.

b. If an administrative penalty assessed against a reporting party totals less than $500 and the reporting party has filed or corrected the tardy report, waive the administrative penalty assessed against the reporting party, in whole or part.

c. If a reporting party has filed or corrected the tardy report, negotiate with the reporting party to reach a settlement as to the total administrative penalty due.

(7) Once a citation is issued under this subsection, the reporting party has 30 days in which to file and correct the tardy report and pay all fines. After this time, the political committee, for which the reporting party is responsible for, is prohibited from engaging in any campaign finance activities until the tardy report is correctly filed and all fines have been paid.

(b) (1) If the Commissioner issues a citation under subsection (a) of this section, the citation must include all of the following:

a. The name and address of the reporting party charged.

b. A statement explaining why the Commissioner has determined the report to be tardy.

c. A statement that a penalty for a tardy report is an administrative penalty under paragraph (a)(4) of this section and that the penalty is being assessed for each late day that the report is tardy.

d. Information on how to complete the training required under paragraph (a)(4)a.2. of this section.

e. A statement that the reporting party receiving the citation may appeal the Commissioner's determination to the Reports Appeals Subcommittee of the State Board of Elections under § 220 of this title ("Subcommittee") within the time prescribed under subsection (c) of this section.

f. The consequences of failing to do 1 of the following:

1. File the tardy report, pay the penalty due, and complete training on the Department's electronic campaign finance reporting system.

2. Demand an appeal in the time prescribed under subsection (c) of this section.

(2) The Commissioner shall serve a citation on a reporting party by 1 of the following:

a. Personal service on the reporting party.

b. Certified mail, return receipt requested, to the reporting party's last known address and by electronic means to the reporting party's last known e-mail address.

(c) On receipt of a citation under subsection (b) of this section, a reporting party has 30 days to appeal the citation in writing to the Subcommittee.

(d) (1) When an appeal is timely filed under subsection (c) of this section, the Subcommittee shall do all of the following:

a. Meet and conduct an appeal hearing not later than 45 days after the filing of the appeal. The Subcommittee Chair shall schedule the meeting and give notice of the meeting to the members and the reporting party that filed the appeal.

b. Take testimony.

c. Keep records of all evidence taken at a hearing under this section, including a recording of the hearing by electronic or any other means standard to recording judicial or quasi-judicial hearings.

d. Make and put into writing factual findings and conclusions regarding the appeal.

e. Notify the reporting party of the Subcommittee's factual findings and conclusions regarding the appeal by mail to the reporting party's last known address and by electronic means to the reporting party's last known e-mail address not later than 10 business days after the hearing on the appeal. The notice must include a statement on the consequences of failing to file the tardy report, pay the penalty due, and complete training on the Department's electronic campaign finance reporting system.

(2) The accrual and payment of the administrative penalty due and mandatory training required under paragraph (a)(4) of this section is stayed pending a validly filed appeal.

(3) The prohibition on campaign finance activities under paragraph (a)(7) of this section is stayed pending a validly filed appeal.

(e) The reporting party has the opportunity and burden of proof to show the Subcommittee, by a preponderance of the evidence, that the reporting party's tardiness in filing a report required under this chapter is due to reasonable cause and not wilful neglect.

(f) (1) If the Subcommittee determines that a reporting party's tardiness in filing a report required under this chapter is not due to reasonable cause, or the reporting party fails to timely file an appeal, the administrative penalty under paragraph (a)(4) of this section constitutes a debt due and owing the State, assessable by the Commissioner and recoverable against the reporting party.

(2) If the Subcommittee determines that a reporting party's tardiness in filing a report required under this chapter is not due to reasonable cause, the stay on the accrual and payment of the administrative penalty due under paragraph (a)(4) of this section is immediately lifted and penalty continues to accrue until the tardy report is filed or the maximum period under paragraph (a)(4)a.1. of this section is met.

(3) If the Subcommittee determines that a reporting party's tardiness in filing a report required under this chapter is not due to reasonable cause, the stay on the prohibition on campaign finance activities under paragraph (d)(3) of this section is lifted and all campaign finance activities by the committee are prohibited until all reports are correctly filed and all penalties are paid.

(g) The Commissioner shall notify the Division of Civil Rights and Public Trust that the reporting party has failed to file a report if a tardy report is not filed or corrected not later than 30 days after 1 of the following:

(1) A determination by the Subcommittee that the tardiness is not due to reasonable cause.

(2) The expiration of the appeal period set forth in subsection (c) of this section.

(h) On receipt of the notice under subsection (g) of this section, the Division of Civil Rights and Public Trust may file charges based on the reporting party's failure to file the report that is the subject of the citation.

(i) The Commissioner shall publish all of the following information on the Department of Elections website:

(1) The name of a candidate who the Subcommittee determines has failed to file or correct a report without reasonable cause.

(2) The name of a candidate against whom the Commissioner has assessed an administrative penalty for failing to file or correct a report required by this chapter, along with the total amount of the penalty.

(67 Del. Laws, c. 449, § 1; 78 Del. Laws, c. 399, § 2; 80 Del. Laws, c. 394, § 4; 83 Del. Laws, c. 209, § 1; 84 Del. Laws, c. 233, § 34; 85 Del. Laws, c. 429, § 7.)

## § 8045. Attorney General candidates.

Whenever it shall be alleged that an offense under this chapter has been committed by a candidate for the Office of Attorney General of Delaware, if the Chancellor of the State of Delaware finds probable cause, based on sworn information, to believe this chapter has been violated, a member of the Bar of the Supreme Court of the State of Delaware shall be appointed as independent counsel by the Chancellor. Such independent counsel shall have the authority to prosecute any violation of this chapter that has been committed by any candidate for the Office of Attorney General.

(59 Del. Laws, c. 580, § 1; 67 Del. Laws, c. 449, § 1.)

## § 8045A. Use of prerecorded or automated voice message.

(a) Every individual, party, entity, person, including a corporation, organization, political or otherwise, candidate for public office, political party, company, or otherwise that makes an automated telephone call, which includes without limitation a pre-recorded or

automated voice message and is commonly referred to as a “robo call,” in support of and/or against a candidate for public office and/or a political party shall fully disclose, at the start of such call and before any message is delivered:

(1) The full, legal name of the individual, party, entity, person, including a corporation, organization, political or otherwise, candidate for public office, political party, committee, company, or otherwise on whose behalf such individual, party, entity, person, including a corporation, organization, political or otherwise, candidate for public office, political party, committee, company, or otherwise is placing the automated call;

(2) The individual, party, entity, person, including a corporation, organization, political or otherwise, candidate for public office, political party, committee, company, or otherwise that has paid for the automated telephone call; and

(3) When paragraphs (a)(1) and/or (a)(2) of this section are other than an individual, disclosure of the name of the president (or other chief officer and treasurer) of the entity listed in paragraphs (a)(1) and/or (a)(2) of this section shall also be made.

(b) An automated call, as described in subsection (a) of this section, shall be received no earlier than 8 a.m. nor later then 9 p.m., as such time is determined in the State.

(c) Failure to make the disclosures mandated by subsection (a) of this section or to comply with the restrictions set forth in subsection (b) of this section shall result in a civil fine of $25 per incident, as determined by each household in the State that was called and the caller failed to make the necessary disclosures in subsection (a) of this section or a call was received in violation of the restrictions set forth in subsection (b) of this section.

(77 Del. Laws, c. 280, § 1; 82 Del. Laws, c. 170, § 18.)

## § 8046. Short title.

This chapter shall be known as the “Campaign Financing and Disclosure Act of 1990.”

(67 Del. Laws, c. 449, § 1.)

# Part VII
# Voting Rights [Effective July 1, 2027].
## Chapter 81
## Voting Rights Act [Effective July 1, 2027].

(85 Del. Laws, c. 421, § 3.)

### Subchapter I
### Prohibition on Discrimination in Voting [Effective July 1, 2027].

(85 Del. Laws, c. 421, § 3.)

### § 8101. Mechanisms to challenge voting discrimination [Effective July 1, 2027].

(a) Pursuant to the procedure set forth in § 8105 of this title, any election policy or practice that is contained in a charter provision approved by the General Assembly or any other enactment containing any election policy or practice for a specific political subdivision that is approved by the General Assembly may be invalidated if it violates the Delaware Constitution. This procedure does not preclude any other procedures that may be used to amend or invalidate charter provisions or other enactments approved by the General Assembly.

(b) Pursuant to the procedure outlined in § 8105 of this title, any provision, municipal ordinance, or other election policy or practice of a political subdivision that is enacted without approval by the General Assembly may be invalidated if it violates § 8102 or § 8103 of this title.

(c) Pursuant to the procedure outlined in § 8105 of this title, any action of the Department of Elections, election officers, or officials within a political subdivision with authority over elections, including a municipal Board of Elections, acting within their discretionary authority without explicit legislative authorization, may be invalidated if it violates § 8102 of this title.

(85 Del. Laws, c. 421, § 3.)

### § 8102. Prohibited voter suppression [Effective July 1, 2027].

(a) A political subdivision, a state agency, or an official of a political subdivision or a state agency may not engage in voter suppression as set forth in this section.

(b) Prohibited voter suppression is the implementation, imposing, or enforcing of any election policy or practice that results in, is likely to result in, or is motivated in whole or in part by the intent to result in either of the following:

(1) A material disparity affecting protected class members in voter participation, access to voting opportunities, or the opportunity or ability to participate in any stage of the political process, as a result of the policy or practice.

(2) Based on the totality of circumstances, an impairment of the equal opportunity or ability of protected class members to participate in any stage of the political process.

(c) A violation of subsection (a) of this section must be attributable to an action of a political subdivision or the Department of Elections. A violation of subsection (a) of this section may include, but is not limited to, any of the following:

(1) Discriminatory designation and substitution of polling places and early voting locations, and the discriminatory assignment of voting machines therein.

(2) Discriminatory establishment, division, or combination of election districts and the discriminatory furnishing of necessary materials, voter information, and supplies therein.

(3) Discriminatory distribution of public notices pertaining to elections.

(4) Discriminatory instruction provided to election officers as well as any discriminatory discretionary use of authority by an election officer.

(5) Discriminatory handling of administrative complaints pertaining to elections.

(d) Prohibited voter suppression cannot be found under subsection (b) of this section if the political subdivision or the Department of Elections demonstrates by clear and convincing evidence that both of the following apply:

(1) The election policy or practice is necessary to significantly further an important and particularized governmental interest.

(2) There is no alternative election policy or practice that results in a smaller disparity between protected class members and other members of the electorate.

(e) Prohibited voter suppression may be established through direct or circumstantial evidence of intentional discrimination; however, evidence of intentional discrimination, including evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members, is never required under this section.

(85 Del. Laws, c. 421, § 3.)

### § 8103. Prohibited vote dilution [Effective July 1, 2027].

(a) A political subdivision may not employ a method of election that has the effect, is likely to have the effect, or is motivated in whole or in part by an intent to dilute the vote of protected class members.

(b) Prohibited vote dilution is when both of the following are met:

(1) One of the following is found:

a. Elections in the political subdivision exhibit racially polarized voting resulting in an impairment of the equal opportunity or ability of protected class members to nominate or elect candidates of their choice.

b. Based on the totality of circumstances, the equal opportunity or ability of protected class members to nominate or elect candidates of their choice is impaired.

(2) Another method of election or change to the existing method of election exists, that could be constitutionally adopted or ordered under § 8106 of this title, which would likely mitigate the impairment.

(c) Prohibited vote dilution may also be established through direct or circumstantial evidence of intentional discrimination; however, evidence of intentional discrimination, including evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members, is never required under this section.

(85 Del. Laws, c. 421, § 3.)

## § 8104. Guidelines and relevant circumstances [Effective July 1, 2027].

(a) Where a totality of the circumstances test applies under § 8102(b)(2) or § 8103(b)(1)b. of this title, factors that may be considered include all of the following:

(1) The history of discrimination in or affecting protected class members within the political subdivision.

(2) The extent to which the protected class members have been elected to office.

(3) The use of any election policy or practice that may enhance the discriminatory or dilutive effects of a relevant election policy, practice, or method of election in the political subdivision.

(4) The extent to which protected class members vote or register to vote at lower rates than other voters.

(5) The extent to which protected class members are disadvantaged or otherwise bear the effects of public or private discrimination in areas that may hinder their ability to participate effectively in any stage of the political process, such as education, employment, health, criminal justice, housing, transportation, land use, or environmental protection.

(6) The use of overt or subtle racial appeals, whether in the course of political campaigns or by government officials, or in connection with the adoption or maintenance of the election policy or practice.

(7) The extent to which candidates who are protected class members face hostility or barriers with respect to campaigning, getting on the ballot, receiving financial support, or receiving any other support for an election due to their membership in a protected class.

(8) The lack of responsiveness by elected officials to the particular needs of protected class members or a community of protected class members.

(9) Whether the election policy or practice is necessary to significantly further a compelling and particularized governmental interest.

(10) The extent to which protected class members have historically made campaign contributions at lower rates.

(11) Any other relevant factor.

(b) No particular number or combination of factors under subsection (a) of this section are required to determine that a violation of § 8102 or § 8103 of this title occurred. There is no requirement that evidence must affect all subgroups within a protected class to be relevant.

(c) For alleged violations pertaining to a political subdivision, evidence of the factors under subsection (a) of this section is most probative when it relates to the political subdivision in which the alleged violation occurred but is still probative if it relates to Delaware generally or to the geographic region in which that political subdivision is located.

(d) To determine whether elections in the political subdivision exhibit racially polarized voting under § 8103 of this title, the following may be considered:

(1) Elections for offices of the political subdivision; elections held in the political subdivision for other offices, such as state or federal offices; referenda; and other electoral choices that bear on the rights and privileges of the protected class.

(2) No set number or combination of elections are required to establish the existence of racially polarized voting.

(3) Evidence of nonpolarized voting in elections for offices outside the political subdivision does not preclude a finding of racially polarized voting based on elections for offices within the political subdivision.

(4) Nonstatistical or nonquantitative evidence does not preclude a finding of racially polarized voting based on statistical or quantitative evidence.

(5) Low turnout or registration rates among protected class members does not preclude a finding of racially polarized voting.

(6) When assessing the combined candidate preferences, political preferences, or electoral choices of a protected class comprised of 2 or more groups of voters, there is no requirement that the electoral preferences of each protected class or any subgroup within a protected class be separately polarized from those of other voters.

(7) The causes of or reasons for racially polarized voting, including partisan explanations or discriminatory intent, are not relevant.

(e) The following factors do not preclude a finding of a violation under § 8102(b)(2) or § 8103(b)(1)b. of this title:

(1) The total number or share of protected class members on whom the election policy or practice does not impose a material burden.

(2) The degree to which the election policy or practice has a long pedigree or was in widespread use at some earlier date.

(3) The use of an identical or similar election policy or practice in other jurisdictions.

(4) The availability of forms of voting unimpacted by the election policy or practice.

(f) A state interest in preventing voter fraud or bolstering voter confidence in the integrity of elections is not relevant to a violation of § 8102 or § 8103 of this title unless there is substantial evidence that criminal activity by individual electors has occurred in the political subdivision in substantial numbers and the connection between the election policy or practice and a state interest in preventing voter fraud or bolstering voter confidence in the integrity of elections is supported by substantial evidence.

(g) Evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members is not required under § 8102 or § 8103 of this title.

(h) Whether protected class members typically elect candidates of their choice to the governing body in approximate proportion to their total number or share of the population may be relevant under § 8103 of this title.

(i) For the purpose of satisfying § 8103 of this title, it is not necessary for the total number or share of protected class members to exceed any numerical threshold in any district or in the political subdivision as a whole.

(j) The General Assembly intends that the legal tests for voter suppression and vote dilution under §§ 8102 and 8103 of this title and the remedies provided in § 8106 of this title provide a framework for identifying and remedying violations of § 3 or § 21 of Article I of the Delaware Constitution, including facial constitutional challenges under § 8101(a) of this title and as-applied challenges under § 8101(a) of this title alleging that a statute enacted by this State has an unconstitutional impact in a particular political subdivision or electoral context.

(85 Del. Laws, c. 421, § 3.)

## § 8105. Enforcement and pre-suit notice [Effective July 1, 2027].

(a) An action to cure a violation of § 8102 or § 8103 of this title may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, an organization aggrieved by such a violation, or the Attorney General. Members of 2 or more protected classes may jointly file an action. In furtherance of § 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly.

(b) An organization aggrieved by a violation of the Delaware Constitution or § 8102 or § 8103 of this title includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) In an action involving a districting plan, an individual who is a protected class member or an organization with a protected class member who resides in the defendant jurisdiction, whether or not the individual resides in any particular district, may challenge the districting plan as a whole.

(d) Except as set forth in subsection (e) of this section, before filing an action under § 8101 of this title, a party described in subsection (a) of this section, other than the Attorney General, must send a notice letter to the political subdivision or the Department of Elections identifying with specificity the potential violation of § 8102 or § 8103 of this title or the Delaware Constitution, the type of remedy the plaintiff believes may address the potential violation, and relevant facts and evidence that the prospective plaintiff relied upon when evaluating whether a potential violation is present. The party may not file an action within 50 days after sending the notice letter. The party may file an action if the constitutional or statutory deficiency persists 50 days following the sending of the notice letter.

(1) The political subdivision or the Department of Elections may work with the party that provided notice to implement a remedy that cures the potential violation. If the legislative body of the political subdivision adopts a resolution identifying a remedy, affirming its intent to enact and implement a remedy, and establishing a timeline and specific steps it will take to do so, the party may not file an action within 120 days after sending the notice letter.

(2) In response to a notice letter, the political subdivision may adopt a resolution denying that a violation exists, or otherwise formally deny a violation, which will abrogate the 50-day waiting period otherwise required and permit the party who sent a notice letter to file an action immediately.

(3) If, under the laws of this State, the legislative body of a political subdivision lacks authority to enact or implement a remedy identified in such a resolution, the political subdivision may nonetheless enact and implement a proposed remedy upon approval of a court of competent jurisdiction.

(4) Following the party's submission of a notice letter, the party may file an action if the political subdivision has not enacted or implemented a remedy within the time periods designated by this subsection or the political subdivision has enacted or implemented a remedy that does not remedy the violation identified in the party's notice letter.

(e) A party with standing under subsection (a) of this section may file an action against a political subdivision or the Department of Elections without first sending a notice letter under any of the following circumstances:

(1) The party is seeking preliminary relief with respect to an upcoming election.

(2) Another party has already submitted a notice letter alleging a substantially similar violation and that party is eligible to file an action.

(3) The prospect of obtaining relief under subsection (d) of this section would be futile.

(4) The party has received an initial written decision regarding the alleged violation of § 8102 or § 8103 of this title from either a municipal Board of Elections or the State Election Commissioner pursuant to § 7552(a) and (b) of this title.

(f) In any action alleging a violation of § 8102 or § 8103 of this title, in which a party seeks preliminary relief with respect to an upcoming election, a court must grant relief if it determines both of the following:

(1) Plaintiffs are more likely than not to succeed on the merits.

(2) It is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election and such remedy would not substantially increase the risk that eligible voters will be prevented from voting or having their ballots counted.

(85 Del. Laws, c. 421, § 3.)

## § 8106. Remedies [Effective July 1, 2027].

(a) Upon finding a violation of the Delaware Constitution or § 8102 or § 8103 of this title, a court of competent jurisdiction may order 1 or more appropriate remedies that are tailored to address the violation and ensure protected class members have equitable opportunities to fully participate in the political process notwithstanding any other law. Appropriate remedies may include any of the following:

(1) Changes to the method of election.

(2) Changes to any election policy or practice.

(3) New or revised redistricting plans.

(4) Elimination of staggered elections.

(5) Reasonably increasing the size of the elected body.

(6) Additional voting days or hours.

(7) Additional polling places.

(8) Holding of special elections.

(9) Additional voter education.

(10) The restoration or addition of individuals to registry lists.

(11) Retaining jurisdiction for such period of time as the court may deem appropriate.

(b) The court must consider remedies proposed by any parties to an action filed under § 8102 of this title and by other interested persons who are not parties to the action. The court may not give deference or priority to a remedy proposed by a political subdivision or the Department of Elections simply because it has been proposed by a defendant political subdivision or the Department of Elections.

(c) Where a constitutional violation is found, the court has authority to order that a political subdivision implement 1 or more remedies that may be inconsistent with the provisions of any municipal charter or a legislative enactment containing an election policy or practice for a political subdivision where the inconsistent provisions would otherwise preclude the court from ordering an appropriate remedy.

(d) Upon a court order of any remedy under this section, a prevailing plaintiff party is entitled to reimbursement of attorneys' fees and for the costs associated with bringing the case. A party must submit a claim in writing and substantiate the claim with financial documentation, including a detailed invoice for any demography services or analysis of voting patterns. A defendant must reimburse such party for reasonable costs claimed or for an amount to which the parties agree.

(e) When a political subdivision plans to voluntarily adopt a new election policy or practice after receiving a notice letter, a complaint under this subchapter, or the filing of a lawsuit, the political subdivision must hold at least 1 public hearing at which members of the public may provide input regarding the proposed new election policy or practice. Notice of the public hearing must be published at least 3 weeks prior to the date of the public hearing. In advance of each public hearing, the political subdivision must conduct outreach to members of the public, including to language minority groups, to explain the method of election or districting process and to encourage input.

(f) When voluntary adoption of a new election policy of practice occurs following a political subdivision's receipt of 1 or more notice letters sent in accordance with the requirements of § 8105 of this title, a party who sent a notification letter may submit a claim for reimbursement from the political subdivision for reasonable costs associated with producing and sending the notification letter. A party must submit a claim in writing and substantiate the claim with financial documentation, including a detailed invoice for any demography services or analysis of voting patterns. Reimbursement amounts for attorney fees are limited to amounts calculated using a lodestar

methodology. Any such claim made for reimbursement is capped at $60,000, adjusted in accordance with any change in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics. Upon receipt of any claim, the political subdivision may request additional financial documentation if the information provided by a party is insufficient to substantiate the costs. If the parties fail to agree to a reimbursement amount, either party may file an action for a declaratory judgment with a court of competent jurisdiction for a clarification of rights.

(g) After the adoption of any remedy, the political subdivision must hold at least 1 public education event during which the political subdivision explains changes to elections resulting from the remedy. Notice of the public education event must be published online on the Board of Elections webpage and social media pages at least 3 weeks prior to the date of the public education event.

(h) A remedy ordered under this section must be implemented in the next relevant election, scheduled or ordered, wherever possible.

(85 Del. Laws, c. 421, § 3.)

## Subchapter II

## Language Assistance [Effective July 1, 2027].

(85 Del. Laws, c. 421, § 3.)

### § 8120. Language access [Effective July 1, 2027].

(a) The Department of Elections must designate 1 or more languages, other than English, for which local offices will be required to implement language assistance programs if the Department of Elections finds that a significant and substantial need exists for such assistance in the local office.

(b) Significant and substantial need is determined through examination of the best available data, which may include information from the United States Census Bureau's American Community Survey or data of comparable quality collected by a governmental entity.

(c) Either of the following criteria are sufficient for the finding of significant and substantial need requiring the Department of Elections to designate language assistance:

(1) More than 2% of the citizens, but in no instance fewer than 100 individuals, of voting age in a local office speak a particular shared language other than English and are LEP individuals.

(2) More than 1,000 of the citizens of voting age in a local office speak a particular shared language other than English and are LEP individuals.

(d) On January 1 of each year, the Department of Elections must publish on its website a list of each local office in which assistance in voting and elections in a language other than English must be provided. The Department's determinations under this section are effective upon publication. The Department must distribute to each affected local office the information contained in its list and each local office must provide the assistance determined by the list.

(e) A jurisdiction described in subsection (d) of this section must provide assistance in voting and elections, including related materials, in any language designated by the Department of Elections under subsection (a) of this section to electors in that jurisdiction who are limited English proficient individuals.

(f) Whenever the Department of Elections determines, under this section, that language assistance must be provided in a local office, the local office must provide competent assistance in each designated language and must provide related materials in English and in each designated language. "Related materials" includes registration or voting notices, forms, instructions, notices of available assistance, information pamphlets, sample ballots, candidate qualification information, ballots, and other materials or information relating to the electoral process, whether the related materials are physical materials or hosted on the local office's website. In the case of a language that is oral or unwritten, including historically unwritten as may be the case for some Native Americans, a local office may provide only oral instructions, assistance, or other information relating to the electoral process in such language. All materials provided in a designated language must be of an equal quality to the corresponding English materials. All provided translations must convey the intent and essential meaning of the original text or communication and shall not rely solely on any automatic translation service. Whenever available, language assistance must include live translation.

(g) The Department of Elections shall adopt regulations to establish a review process under which the Department shall determine, upon receipt of a request submitted under this subsection, whether a significant and substantial need exists in a local office for a language to be designated for the provision of assistance in voting and elections whenever such a need has not been found under subsection (c) of this section. The process must include all of the following:

(1) An opportunity for any elector, organization whose membership includes or is likely to include electors, organization whose mission would be frustrated by a jurisdiction's failure to provide language assistance, or organization that would expend resources in order to fulfill such organization's mission as a result of the failure, to submit a request for the Department of Elections to consider so designating a language in a local office.

(2) A timeline specifying when requests to determine whether a significant and substantial need exists in a local office may be submitted to be considered timely for the next election, and a time period by which the Department of Elections must provide a written determination, which shall be published on its website.

(3) An opportunity for public comment, testimony, or affidavits from individuals or entities representing or serving the language minority community, including impacted voters.

(4) That, upon receipt of any request and consideration of any public comment, the Department of Elections may, in accordance with the process of making a determination, so designate any language in a local office.

(h) Section 4943(a) of this title shall be construed to include LEP individuals who speak a language other than English.

(85 Del. Laws, c. 421, § 3.)

### § 8121. Enforcement [Effective July 1, 2027].

(a) An action to cure a violation of this subchapter may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, or an organization aggrieved by such a violation, or the Attorney General. Members of 2 or more protected classes may jointly file an action. In furtherance of § 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly, except that no determination of the Department of Elections under this section to designate a local office or a language for the provision of assistance constitutes a violation of this section.

(b) An organization aggrieved by a violation of this subchapter includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) Attorneys' fees are available to a prevailing plaintiff party in any action pertaining to language assistance. Fees are also available when a local office voluntarily adopts language assistance after a party files suit under this section.

(85 Del. Laws, c. 421, § 3.)

## Subchapter III

## Prohibitions Against Intimidation, Deception, or Obstruction [Effective July 1, 2027].

(85 Del. Laws, c. 421, § 3.)

### § 8130. Prohibited interference with the right to vote [Effective July 1, 2027].

(a) In addition to the criminal and civil offenses in Chapters 51 and 53 of this title, a person, whether acting under color of state law or otherwise, may not engage in acts of intimidation, deception, or obstruction that interfere with any elector's right to vote.

(b) A violation of subsection (a) of this section includes any of the following:

(1) The use or threat to use any force, violence, restraint, abduction, or duress, by any person who inflicts or threatens to inflict any injury, damage, harm, or loss or who by any other conduct practices intimidation that causes or will reasonably have the effect of causing interference with any elector's right to vote.

(2) The reckless use by any person of any deceptive or fraudulent device, contrivance, or communication pertaining to the time, place, or manner of an election; the qualifications or restrictions on voter eligibility for such election; a particular elector's eligibility to vote in such election; the consequence of voting or abstaining from voting in any election; or a statement of endorsement by any specifically named person, political party, or organization if such deceptive or fraudulent device, contrivance, or communication causes or will reasonably have the effect of causing interference with any elector's right to vote.

(3) Obstructing, impeding, or otherwise interfering with access to any polling place or elections office, or obstructing, impeding, or otherwise interfering with any voter in any manner that causes or will reasonably have the effect of causing interference with any elector's right to vote.

(c) In accordance with the purpose of this chapter, an elector's right to vote shall be construed broadly and includes an elector's right to cast a ballot for the candidate of their choice, to register to vote, and to vote by any method of voting established by the General Assembly.

(85 Del. Laws, c. 421, § 3.)

### § 8131. Standing and remedies [Effective July 1, 2027].

(a) An action to cure a violation of this subchapter may be brought in a court of competent jurisdiction by an individual aggrieved by such violation, or an organization aggrieved by such a violation, or the Attorney General. Members of 2 or more protected classes may

jointly file an action. In furtherance of § 9 of Article I of the Delaware Constitution, this section must be construed liberally to confer standing broadly.

(b) An organization aggrieved by a violation of this subchapter includes an organization whose membership includes individuals aggrieved by a violation, an organization whose mission would be frustrated by a violation, an organization that would expend or divert resources to fulfill its mission as a result of a violation, or an organization that would expend greater resources or efforts to advocate before an elected body that is less responsive to the organization or its members due to a violation. An organization shall not be compelled to disclose the identity of any specific member to pursue a claim on behalf of its members, except, however, if an organization asserts standing on the basis that members of the organization are aggrieved, a court may compel the organization to provide affidavits from impacted members sufficient to satisfy these requirements if it is not satisfied with any initial organizational affidavit or other proof lacking identifying membership information. Such court order must allow for an organization to produce any necessary records or portions thereof under seal or in any like manner recognized by court rules in which confidential information is protected from public view so long as the organization demonstrates good cause by providing any credible statement that its members privacy or safety interests would be negatively impacted by public knowledge of their membership in the organization or involvement in the lawsuit. Such sealed or confidential records shall remain under seal indefinitely following final judgment.

(c) The action may be filed irrespective of any action, criminal or civil, that has been or may be filed under Chapter 51 of this title.

(d) Upon a finding of a violation of any provision of this subchapter, a court of competent jurisdiction shall implement appropriate remedies that are tailored to remedy the violation, which includes providing for additional time to cast a ballot that may be counted in the election at issue. Any party who violates any of the provisions of this subchapter or who aids the violation of any of said provisions is liable to any prevailing plaintiff party for attorneys' fees, damages, including nominal damages for any violation, and compensatory or punitive damages for any intentional violation.

(85 Del. Laws, c. 421, § 3.)