U.S. ELECTION ASSISTANCE COMMISSION

2016 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing Federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2016 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

As appropriate, please provide your state's legal citation for the responses to the questions beginning on the following page.

Please answer each question to the best of your ability. If a term or concept is ambiguous, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference in your state but is widely used in practice, please explain. If election procedures vary at the local level within your state, please explain these variations to the best of your ability.

The Statutory Overview data collection document has two columns below each question.

- On the left, we have provided you with the answer your state provided for the 2014 Statutory Overview. If there has not been a change in your state's laws or legal citation in the response to a question, please mark the box labeled **No Change since 2014** at the top of the left column.

- If the response has changed since 2014 – or your state has not answered this question previously for some reason— please mark the box labeled **Changed since 2014** at the top of the right column and then provide the new answer in the text box provided. If your response is too long to fit in the box, please make a note in the text box and place your response in the "Notes" page at the end of the document. Additionally, if a law was repealed in full, please answer "repealed in full" in the box.

If any of your state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court or by executive decision, please specify.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

State code 1.11 - An attempt to vote for a larger number of candidates than is allowed.

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

This term has no legal definition.

State code 1.12 - An attempt to vote for a smaller number of candidates than is allowed.

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

An over-vote is when more than one candidate receives a vote for the same office. Delaware's voting machines do not allow over-votes, however, our central count absentee scan does. In that case, no vote would be counted for that office.

2016 Response:

b) Under-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

An under-vote is when there is no vote for any candidate for a specific office.

2016 Response:

c) Blank ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A blank ballot would be when no votes are cast on the entire ballot. Delaware's voting machines would not allow a blank ballot since one vote must be cast for the "Vote" button to work. Delaware's central count absentee system would, however, allow a blank ballot.

2016 Response:

d) Void/Spoiled ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A void or spoiled ballot in Delaware would only pertain to our central count absentee ballots. Should a voter make an error, they would then request a new ballot.

2016 Response:

e) Provisional/Challenged ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Provisional ballots in Delaware are for voters who do not appear on the voter registration rolls. In Delaware, Provisional Ballots are counted only if the voter is registered to vote and is in the correct polling place. Provisional Ballots have only federal candidates.

2016 Response:

f) Absentee

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware Code, Title 15 - § 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.)

2016 Response:

g) Early voting

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware does not have early voting

2016 Response:

h) Active Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

All voters who are registered to vote.

2016 Response:

i) Inactive Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

j) Other terms (please specify) _____

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. "Significant" does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware's system is and has been long before HAVA a top-down system. The Commissioner of Elections and the Departments of Elections in each of the counties work on the same mainframe system in real time.

2016 Response:

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

They transmit in real time.

2016 Response:

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No

2016 Response:

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or Federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The Departments of Elections and the Commissioner of Elections office can access information from the Division of Motor Vehicles.

2016 Response:

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware Code – Title 15 –
(a) The Commissioner of Elections on or before April 1 of each year shall compile a list of registered voters who no longer reside at the address at which they are registered to vote. The Commissioner shall accomplish this by:
(1) Contracting with a U.S. Postal Service licensed vendor to compare the list of registered voters against the list of persons who have filed a permanent change of address with the U.S. Postal Service and obtain from the vendor a list of registered voters who have changed their address both within and without this State.
This has worked well in Delaware.

2016 Response:

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

See Delaware Code, Title 15, Chapter 61

Felons may register to vote once they have fully discharged their sentence (completed imprisonment, parole, work release, early release, supervised custody and probation and community supervision). Those with disqualifying felonies may not register to vote.

They do not have to produce any documentation.

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware now has online voter registration that uses a signature on file with the Dept. of Elections or DMV. Entire process can be completed online which also allows voters to sign on a tablet or place a stored signature on the application. If they cannot use any of the mentioned ways to sign, they must then print, sign and mail.

2016 Response:

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

All absentee votes are centrally counted and then attributed to the correct election district.

2016 Response:

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Yes

2016 Response:

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Machine votes and absentee votes are reported separately and then added to total.

2016 Response:

d. How are UOCAVA ballots counted and reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The same.

2016 Response:

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No – only absentee with a reason, however, those voters can vote in the Department of Elections offices and they offer extended and Saturday hours before elections.

2016 Response:

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

No

2016 Response:

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.

If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware does a random audit of election districts following the election. They choose districts where there were unusual situations (fusion candidates, cross-county districts, etc).

2016 Response:

C8. Please describe any state requirements for poll worker training.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware Code – Title 15 - § 4741. Training election officers.
(a) The departments of elections shall train the appointed election officers on their duties for each election conducted in accordance with this title. This training shall include instruction on applicable election law, the proper conduct of the election and operation of the voting machines.
(b) The departments of elections shall prior to the day of the election file a report with the Commissioner of Elections stating the number of election officers who were trained for the election. This report shall be a public record. (15 Del. C. 1953, § 4741; 57 Del. Laws, c. 181, § 52; 58 Del. Laws, c. 148, § 73; 75 Del. Laws, c. 232, § 50.)

2016 Response:

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Our voting machines will not allow an overvote. Our central count absentee system will not count the vote for either candidate if they have voted for more than one. Undervotes are allowed.

2016 Response:

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The forms of identification may include:
a. A Delawaredrivers license;
b. A Delaware identification card;
c. Work identification, provided it has a photograph and address; or
d. U.S. postal material.

2016 Response:

b. casting an in-person ballot;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Voters may show identification or sign an affidavit affirming their identity as long as their name appears on the voter registration rolls. First time voters who have not shown identification when registering must show identification as indicated in D2.

2016 Response:

c. casting a mail-in or absentee vote;

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Mail-in absentee – signature on affidavit
In person absentee – identification or affidavit

2016 Response:

d. casting a ballot under UOCAVA;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Signature on affidavit

2016 Response:

e. any other stage in registration or voting process in which identification is required (please specify).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Delaware Code, Title 15 - § 4933. Persons permitted in the voting room.
(a) The following persons shall be admitted to the voting room:
(1) Members and employees of the departments of elections identified by a badge or written authorization;
(2) The Commissioner of Elections and the Commissioner's employees identified by a badge or written authorization;
(3) Persons voting and waiting to vote, or a child lawfully accompanying such a person pursuant to § 4937(e) of this title;
(4) One challenger from a political party with a candidate on the ballot as provided in § 4934 of this title;
(5) Any people accompanied by persons listed in paragraphs (1) and (2) of this
subsection above.
(6) Persons with business in the building that is not connected to the election. For example: an athletic team picking up or dropping off equipment at their school. Such persons shall remain outside of the voting room except to pass through or by the voting room in the conduct of their business.
(7) A person or persons deemed necessary to the conduct of the election by majority vote of the inspector and judges.
(b) No other person except as noted below shall be permitted within 50 feet of any entrance to the building used by voters.
(c) Media and persons conducting exit polls shall be permitted within the 50-foot exclusion zone, but may not talk to persons who have not voted while in the 50-foot exclusion zone. (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.)
§ 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

2016 Response:

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing Federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 04/30/2017). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2014 Election Administration and Voting Survey, 1335 East West Highway, Suite 4300, Silver Spring MD, 20910.

NOTES – please place longer responses below

Appendix A – Delaware 2014 Responses

A1i. Inactive voter

Delaware Code – Title 15 - § 1704. Identification of persons who are no longer eligible to vote, establishment of an "inactive status," cancellation of registration and provision for reregistration.

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

Commissioner shall accomplish this by:

(1) Contracting with a U.S. Postal Service licensed vendor to compare the list of registered voters against the list of persons who have filed a permanent change of address with the U.S. Postal Service and obtain from the vendor a list of registered voters who have changed their address both within and without this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) A person properly removed from the voting rolls in accordance with this chapter must reregister in order to vote in any election conducted in accordance with this title. A person removed in error through the process described in this chapter, however, may be restored to the voting rolls upon the concurrence of the respective Department of Elections Administrative Director and Deputy Administrative Director. (70 Del. Laws, c. 188, § 9; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 13.)

B3. Delaware Code, Title 15 - § 1701.Qualifications for registration as qualified voter.

Every applicant for registration shall be a qualified voter if such applicant is a citizen of this State of the age of 18 years and upwards, or who will be 18 years old on or before the day of the general election next succeeding the applicant's registration, and is a bona fide resident of this State. No person in the military, naval or marine service of the United States shall become a resident of this State by being stationed in any garrison, barrack or military or naval place or station within this State; and no person adjudged mentally incompetent, person convicted of a crime deemed by law a felony, or person who shall have been rendered incapable of voting by reason of 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. (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.)

§ 1702. Removal of names by board of elections.

(a) At any duly called meeting of the board of elections for each county, the board may sit to consider the removal of names from the County Master Record in cases where there is a valid reason to believe a person is no longer a duly qualified elector in the election district in which that person is registered. (b) The board shall afford the affected voter the full right to be heard at such meeting with the right of appeal in all cases, first giving notice as required by § 1711 of this title [repealed]. (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.)

§ 1703. Duty of officers to notify departments 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 of the county in which the person is a resident 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.)

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

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

(1) Contracting with a U.S. Postal Service licensed vendor to compare the list of registered voters against the list of persons who have filed a permanent change of address with the U.S. Postal Service and obtain from the vendor a list of registered voters who have changed their address both within and without this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) A person properly removed from the voting rolls in accordance with this chapter must reregister in order to vote in any election conducted in accordance with this title. A person removed in error through the process described in this chapter, however, may be restored to the voting rolls upon the concurrence of the respective Department of Elections Administrative Director and Deputy Administrative Director. (70 Del. Laws, c. 188, § 9; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 232, § 13.)

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

(a) The State's Office of Vital Statistics shall send each month to the departments of elections and to the Commissioner of Elections 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 departments of elections and the Commissioner of Elections 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, each department of elections shall cancel the registration of each registered voter from their county whose name is on the list.

(d) The departments of elections 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 or a surviving child.

(e) The departments of elections 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.)

§ 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 departments of elections 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 departments of elections shall also consider a written notice from a parent that the parent's child has moved out of state as permission from that child to cancel the child's voter registration.

(c) The board of elections for a county 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 respective department of elections or Commissioner of Elections 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.)

B6. Delaware Code, Title 15 - § 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) "Commissioner of Elections" shall mean the State Election Commissioner or the Commissioner's designee.

(2) "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.

(3) "Financial obligations" includes such fees, fines, costs and restitution which a felony offender may be required to pay as part of the criminal sanctions imposed upon such offender.

(4) "Full discharge" or "fully discharged" shall mean that a person convicted of a criminal offense has served the required sentence of imprisonment, parole, work release, early release, supervised custody, probation and community supervision, and has also paid all financial obligations required by the sentence.

(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 criminal offense has served the required sentence of imprisonment, parole, work release, early release, or supervised custody

and community supervision and has also paid all financial obligations and restitution required by the sentence. (72 Del. Laws, c. 314, § 1.)

§ 6103. Application for registration: felony conviction reviews.

(a) The county 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 department 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 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 felony conviction occurred within 5 years preceding the date of the application, 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 department of elections shall forward the application to the Commissioner of Elections. (72 Del. Laws, c. 314, § 1.)

§ 6104. Commissioner's review of application.

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

(b) Upon request by the Commissioner of Elections, the OSCCE shall review its records to determine if the applicant has paid all financial obligations assessed against such applicant.

Upon request by the Commissioner of Elections, the Department of Correction shall review its records to determine if all sentences of imprisonment and community supervision imposed upon the applicant have been fully discharged.

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

(d) Where the Commissioner of Elections determines from information received from OSCCE or from the Department of Correction that there are financial obligations which have not been paid; or that not all sentences have been fully discharged; or that other questions or issues relating to the applicant's eligibility are still unresolved, the Commissioner shall deny the application for registration. Upon denial of an application under this section, the applicant shall be notified by mail. (72 Del. Laws, c. 314, § 1.)

§ 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 Commissioner of Elections 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 Commissioner of Elections 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.)

§ 6106. Rules and regulations.

The Commissioner of Elections 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.)

§ 6107. Appeals.

Any decision by the Commissioner of Elections may be appealed to the Superior Court.

No person whose registration application has been denied by the Commissioner of Elections shall be permitted to register or to vote until the Commissioner of Elections or the Court, in writing, approves such person's registration application. (72 Del. Laws, c. 314, § 1.)

C2. You must have a reason to vote absentee in Delaware. Title 15, Delaware Code - §

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; or

(4) Because such person is sick, physically disabled or providing care to a parent, spouse or that person's child who is living at home and requires constant care due to illness or injury; or

(5) Because such person is absent from the district while on vacation; or

(6) Because such person is unable to vote at a certain time or on a certain day due to the tenets or teachings of that person's religion; or

(7) Because such person is otherwise authorized pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) [42 U.S.C. § 1973ff et seq.] to vote by absentee ballot; or

(8) Because such person is otherwise authorize by federal law to vote by absentee ballot.

C6. You must be in the correct election district for your provisional ballot to be counted in

Delaware.

Delaware Code – Title 15 - § 4948. Provisional ballots.

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

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

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

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

(e) Provisional ballots shall be as much as possible in the same form as absentee ballots except that only federal offices shall be listed and they shall be labeled as provisional ballots. The Departments of Elections for the counties shall provide to each election district provisional ballots for 6% of the registered voters in the election district as of 45 days prior to the date of the election. Regardless of the number of ballots required by this subsection, the Departments of Elections for the counties shall provide a minimum of 15 provisional ballots to each election district. Each Department of Elections for the counties shall deliver additional provisional ballots, envelopes, instructions or voter information sheets to the polling place for an election district when notified by an election officer from the district that the supply of some or all of the provisional ballot materials is very low.

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

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

(h) Tallying provisional ballots.

(1) The day following an election in which provisional ballots were used, the

Department of Elections for each county shall meet to examine the provisional ballots, determine which of the ballots should be tallied in accordance with the rules stated below, and then tally those ballots.

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

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

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

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

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

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

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

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

(i) Post election processing and notification.

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

(2) The respective Department of Elections for a county shall use the provisional ballot affidavit as authority to register a person to vote who voted by provisional ballot in an election and who is not already registered to vote providing that the minimum information required to register a person to vote is provided. The provisional ballot envelope shall be used to transfer a registered voter's address and/or update the registered voter's name when the address and/or name is different than the information on the person's voter registration record. (74 Del. Laws, c. 168, § 7; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 287, § 2.)

E1. Delaware Code, Title 15 - § 4990.Applicability.

The Administrative Complaint Process shall only apply to alleged violations of Title III of the Help America Vote Act of 2002 [42 U.S.C. § 15481, 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 shall submit the complaint to the Commissioner of Elections or any of the Departments of Elections for the counties. The complaint shall be in writing, notarized and signed and sworn to by the person making the complaint.

(b) If 1 of the Departments for the counties receives such a complaint, the Department shall forward it to the Commissioner of Elections on the same business day that it is received.

(c) The Commissioner of Elections 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 Commissioner of Elections may consolidate similar complaints.

(e) If requested by the complainant or complainants, there shall be a hearing for the record.

(f) The Commissioner of Elections 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 [42 U.S.C. § 15481, et seq.].

(g) If the person handling the complaint determines that a violation has occurred, that person shall recommend a suitable remedy to the Commissioner of Elections. 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 Commissioner of Elections 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 Commissioner of Elections 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 Commissioner of Elections shall develop a system for tracking complaints alleging Title III of the Help America Vote Act of 2002 [42 U.S.C. § 15481, et seq.] violations. (74 Del. Laws, c. 168, § 5; 70 Del. Laws, c. 186, § 1.)