



LAWS OF DELAWARE
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CHAPTER 313
153rd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 266

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 1, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 101. Definitions.

~~As used in~~ For purposes of this title:

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

(2)~~a.~~ “Ballot” means those portions of cardboard, paper or other material to be placed within the ballot frames of a voting machine or to be used for absentee voting in order to list the names of the offices to be voted for, the name of each candidate and the designation of the party by which the candidate is nominated, a space for the voter to write in the name of any candidate of that voter’s choice for any office, and the statement of any question submitted with provision for a “yes” or “no” vote. 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.

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

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

(6) (10) “Department” means the State Department of Elections, consisting of the State Board of Elections and such staff as the Board shall appoint under this title, but shall including the Commissioner, County Directors, County Deputy Directors, and Department employees. “Department” does not include the State Election Commissioner. The Department, under the direction of the Board of Elections, shall administer the election laws of this State as defined in this title. 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.

(8) (13) “Election Management System” refers to management system” means the computer programs software programs, computer modules, and databases used and managed by the State Election Commissioner and used by the State Election Commissioner and the Department of Elections to maintain voter registration records, to manage absentee voting, maintain election officer information, maintain polling place information, structure elections and for other purposes. to administer elections under 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) “Primary ballots” means paper ballots used with ballot boxes or ballots used in voting machines.

(17) “Primary election” means an election at which voters registered as members of a major political party may vote to determine the nominees of that political party for the general election.

(20) “Question” means any proposition or other question to be submitted to the voters.

(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.

(22) (27) “Registration record” or “voter registration record” means a voter’s registration record the information about an individual collected by the Department and maintained in the State’s Election Management System, the list or file of registered voters sent to each election district for use by election officers on the day of the election, and until determined obsolete, it also applies to a voter’s record maintained in the county master file. 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.

(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.

(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.

§ 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 facie 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 post-secondary 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.

§§ 103-120. §§ 104-120.

Transferred.

Section 2. Amend Title 15 of the Delaware Code by transferring Chapter 50A to Chapter 50 of Title 15 and then by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

Chapter 50. Electronic Voting Machines ~~[Repealed]~~ Systems

~~§ 5000A.~~ § 5001. Electronic voting system use.

~~In any general, special, or primary elections, An election conducted under this title an electronic voting system must be used~~ use an electronic voting system and must comply with the requirements ~~of~~ under this chapter.

~~§ 5001A.~~ § 5002. Requirements.

~~(a) An electronic voting system may be adopted, purchased, or used if it meets~~ must meet all of the following requirements: following:

(1) Each voting device that is part of the electronic voting system must have comply with all of the following:

a. Have a serial number permanently attached to or stamped to on the device.

(2) b. Secure secrecy to the voter seerecy in during the act of voting for or against as many 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 submitted, included in an election conducted in this State.

2. Candidates from as many parties that may be included in an election under this title.

(3) Permit d. Allow the voter to vote for cast votes as follows:

1. For the candidates of 1 or more parties, or to write any party on the ballot.

2. For candidates on the ballot who are not affiliated with a party.

3. By writing in the name or candidate 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.

(4) e. Permit the voter to vote for as many persons candidates for an office as for which the voter is lawfully entitled to vote for, and the vote. The automatic tabulating equipment used in such the electronic voting systems shall reject choices recorded on any system must prevent the voter from casting votes on a ballot card or any voting device if the number of such choices for that office exceeds the number to for which a the voter is entitled. entitled to vote.

(5) f. Prevent the voter from voting for the same person candidate more than once for the same office.

(6) 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.

(7) (2)a. Permit each voter in a primary elections election to vote only for only the candidates of the party with which the voter has declared designated in that voter's own affiliation, and preclude the 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.

(8) (3) Correctly record and accurately count all votes cast for any and all candidates of a political party, and for or against any and all questions, and correctly record the names of all candidates written in by votes. 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.

(9) Be provided with means for sealing the vote recording devices to prevent its (4) Allow each voting device to be sealed in a manner that prevents the use of the voting device and to prevent prevents tampering with ballot labels, both before labels as follows:

a. Before and after the polls are open or before open.

b. Before the operation of the vote recording voting device for any an election is begun and immediately begins.

c. Immediately after the polls are closed or after the operation of the vote recording voting device for an election is completed.

(11) Be so equipped that it shall prevent the voter from voting for all the candidates of 1 party by the use of a single mark, punch or other action; however, it shall be provided a device or method for each party, for voting for all presidential electors of that party by 1 mark, punch or other action. [Transferred.]

(b) All voting devices used in any an election must be provided with side curtains and front shield to ensure that no person can see or know for whom any voter has voted or is voting. 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) A At the time of purchase and before delivery to and acceptance by this State, a voting device or system purchased by the State must be certified 1 or more of the following:

(1) Certified by the United States Election Assistance Commission, Commission (EAC), or designated federal authority, as meeting or exceeding the voluntary voting systems standards or guidelines as promulgated by the United States Election Assistance Commission, or designated federal authority, before delivery to and acceptance by the State. 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.

~~§ 5002A.~~ § 5003. Compliance guarantee.

Before ~~any~~ an electronic voting system is purchased, rented or otherwise acquired, or used, the person owning or manufacturing ~~such that~~ voting device system must ~~give~~ provide the Commissioner an adequate written guarantee ~~in writing~~ and post a bond accompanied by satisfactory surety ~~with the State Election Commissioner~~ guaranteeing and securing ~~that such~~ all of the following:

(1) That the voting system, including the voting devices devices, comply fully with all of the requirements contained in § 5001A under § 5002 of this title and will correctly and accurately record every vote cast and further guaranteeing such title.

(2) The voting device against defects in labor and materials for a period of 5 equal to either of the following:

a. Five years from the date of acquisition thereof, or, in the case of the Department receives the voting devices.

b. For a rented voting devices, device, for the period of rental.

§ 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.

(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.

~~§ 5003A.~~ § 5005. Use of voting devices; costs in municipal elections. [Repealed.]

~~Electronic voting devices may be used throughout this State in all primary, general and special elections and in all municipal elections in all incorporated cities and towns of this State. In the event no contest exists, in municipal elections voting~~

devices shall not be required. Voting devices may be used in elections held under Title 14. Incorporated cities or towns may use voting devices in the custody of the Department upon payment of all costs and expenses incident to their use.

~~§ 5004A. § 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.

~~§ 5005A. § 5007.~~ Printing of ballots; distribution of ballots. ~~[Repealed.]~~

~~(a) [Repealed.]~~

~~(b) (1) The party emblem which has been duly adopted by a party in accordance with law and the party name or other designation for each political party represented on the device must appear on the ballot.~~

~~(2) The titles of offices may be arranged horizontally, with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically, with the names of candidates for an office arranged horizontally opposite the title of the office, each office to occupy as many columns or rows on the voting device as the number of candidates to be elected to that office.~~

~~(3) Except as otherwise provided under this chapter, the names of all candidates nominated by a party for an office must always appear in the row or column containing generally the names of candidates nominated by the party for other offices.~~

~~(c) Official ballots for voting devices shall be prepared and furnished by the Department in the same manner as provided by law.~~

~~(d) Nothing in this section shall preclude the use of an electronic device where the ballot is electronically generated and displayed or which has the capability to generate and display multiple ballots.~~

~~§ 5006A. § 5008.~~ Number of official ballots to be furnished ~~[Repealed.]~~.

~~§ 5007A. § 5009.~~ Substitute ballots ~~[Repealed.]~~.

~~§ 5008A. § 5010.~~ Preparation of voting devices.

~~(a)(1)a.~~ The Department shall ~~cause sufficient~~ deliver the number of voting devices ~~to be delivered~~ required under § 5006 of this title to the proper each polling places place before the time ~~appointed for~~ 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) The~~ Before each election, the Department shall certify that each voting device ~~to be used in an election that will be delivered to a polling place~~ has been properly prepared and inspected by doing all of the following ~~before each primary and general election:~~ following:

a. Confirming that the most recent federally approved all software is installed: 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 electronically.

~~(b) The Department shall mail written notices to the State Chairperson of each party with candidates listed on the ballot, stating the time and place at which the voting device will be inspected. The State Chairperson of each such political party may designate 1 representative to be present during the inspection. [Repealed.]~~

~~(c)(1)~~ The Department shall designate at least 2 ~~representatives of opposite political affiliation, other than the person preparing the voting devices,~~ individuals to do certify all of the following:

(1) Certify the a. The numbers on the voting devices and the election districts for which they are designated: designated are correct.

(2) Certify that all b. All of the voting devices are in proper working condition.

(3) Certify that the 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.

(e) The (1) No more than 10 days before an election, the Department shall test all voting systems systems, including the absentee ballot system, to ascertain confirm that the voting systems will accurately count the votes cast for all offices candidates and on all ballot questions. Public

(2) The Department shall provide notice of the time and place of the test of both the voting device system and the absentee ballot system must be published and a test must be conducted within 10 days before the election. 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 by under this section is a public record and must be available for inspection at the Department. Department under the Delaware Freedom of Information Act, Chapter 100 of Title 29.

(g) The Department shall require that all persons a person with custody of the a voting devices, either for delivery or storage before and after the election, shall ensure the voting devices' device ensures the safety and protection. 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.

§ 5009A. § 5011. Instruction model. [Repealed.]

§ 5010A. § 5012. Inoperative voting devices.

(a) If a voting device becomes inoperative during the conduct of an election a voting device becomes inoperative, election, the election officers shall seal it in such the voting device in a manner as to prevent that prevents further voting thereon. on that voting device.

(b) The Department shall maintain and hold in readiness a reasonable number of extra voting devices to that can be supplied to election districts where a voting device has become inoperative, and the inoperative. The Department shall take reasonable steps to ensure rapid delivery in such event. of these voting devices when needed.

§ 5011A. § 5013. Voting device curtains; absentee voting [Repealed].

§ 5012A. § 5014. Audits; audit discrepancy procedure. procedures.

(a) For purposes of this section, "audit" means counting (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 comparing 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) Within 48 hours of the certification of the results of the primary and general elections, and school board elections conducted under Title 14, the Department shall audit the results of 1 randomly selected voting device in each county and 1 randomly selected election district in the City of Wilmington. [Transferred.]

(c) Within 60 days of the certification of the results of the primary and general elections, and school board elections conducted under Title 14, the Department shall conduct an audit of all such elections, as follows:

(1) The Department shall audit all results of 1 randomly selected election district in each county and 1 randomly selected election district in the City of Wilmington. An election district selected for audit under this paragraph (c)(1) of this section must be different than the election districts selected under subsection (b) and paragraph (c)(2) of this section.

(2) The Department shall audit the results of 1 randomly selected election district in each county and 1 randomly selected election district in the City of Wilmington in 1 randomly selected statewide race. An election district selected for audit under this paragraph (c)(2) of this section must be different than the election districts selected under subsection (b) and paragraph (c)(1) of this section. [Transferred.]

(d) The Department shall conduct an audit under this section in public. 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 ~~section, chapter,~~ the Department shall ~~do all of the following:~~

(1) ~~Publish complete a report containing that contains the results of the audit conducted under this section. that~~
~~audit.~~

(2) ~~Post a.~~ The Department shall post the report required under paragraph (e)(1) of this section on the Department's website. 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,~~
~~including 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.

§ 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.

§ 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.

§ 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.

Section 3. Amend § 4972, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 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 ~~be permitted to~~ 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 at any election on voter marked paper by absentee ballots must be counted for whom as the votes are intended intended as far as can be ascertained by the marks on the ballot. The following rules must be observed in determining those votes on paper ballots that must be counted:~~

(4) b. ~~The voter shall mark the ballot for 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 ~~not in accordance~~ that does not comply with paragraph (b)(1) (b)(1)b. of this section, the election officers 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.

(3) 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 on the ballot where the voter's intention can be determined.

(4) c. A voter may only vote for 2 or more choices for any office or ballot question when specifically instructed on the ballot that it is allowable. allowed in the instructions on the ballot.

(5) ~~Where d. When a voter is permitted to may make more than 1 choice for candidates and or responses to an office or a ballot question, the voter may make fewer than the allowable total number of choices. choices allowed.~~

(6) e. If a ballot is marked for more names or responses than are permitted, it must not be counted choices than allowed under paragraph (b)(3)c. of this section, all of the following apply:

1. The votes for that office or question, but it ballot question are not counted.

2. The votes for all other offices or ballot questions on the ballot must be counted for all other offices or questions on the ballot in accordance with the rules or adjudicated as required under this section.

(7) f. If a ballot has been defaced or torn so that it is impossible to determine the voter's choice for 1 or more offices or questions, it must not be counted for the offices or questions but must be counted 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 where the voter's choice or choices can be determined. determined must be counted or adjudicated as required under this section.

~~(8) The 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 the 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. Additionally, writing in the

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.

~~(9) h.~~ Writing in the name of either a candidate for President or Vice President constitutes a valid vote for the slate. 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.

Section 4. Amend Chapter 55, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 5509. Procedure on receipt of ballot envelope by Department.

(a) Upon receipt of a ballot envelope the ~~Department, or a person authorized by the Department, shall:~~ Department shall do all of the following:

(1) Ascertain the names name of each elector as they appear voter as it appears on the face of each ballot envelope; envelope.

(2) Ascertain from the information on the ballot envelope the election district with whose votes the ballot within it shall be tallied; and 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 ~~(the director or any other person) shall open~~ may do any of the following:

(1) Open or attempt to open the ballot envelope, or change or alter envelope.

(2) Except as required under paragraph (a)(4) of this section, change, alter, or attempt to change or alter the ballot envelope, or including any writing, printing or anything whatsoever thereon. writing or printing on the ballot envelope.

§ 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.

§ 5510. Opening and preparing absentee ballots for tabulation.

(a)(1)a. The Department may open ballot envelopes and prepare the ballots for tabulation ~~as set forth in this section in public meetings~~ beginning 30 days before the day of the ~~election.~~ 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 meetings. ~~The challengers may challenge ballots as provided elsewhere in this title.~~ 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 ~~set forth in~~ under this section. No more than half of the judges on a team may ~~be registered with any 1 party. A single team may not handle or process ballots or ballot envelopes for more than 1 election district at a time.~~ have the same party affiliation, as recorded in each individual's voter registration record.

(c) The ~~teams~~ 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 ~~pursuant to~~ under this ~~chapter.~~ 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 ~~a team~~ the election judges determines that an original ballot will not be readable by the tabulating equipment, ~~it~~ they shall duplicate the ballot as follows:

a. The ~~team~~ election judges shall assign the same unique identifier to the original ballot and the duplicate ballot.

b. The ~~team~~ 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 ~~a team~~ the election judges cannot determine a voter's intent, ~~they~~ the election judges shall consult the ~~county director~~ County Director and ~~deputy county director~~ County Deputy Director for advice and ~~guidance.~~ guidance on how to adjudicate the votes on the ballot under § 4972 of this title.

c. After the ~~team~~ election judges have duplicated any ballots necessary for an election district, the ~~team~~ election judges shall put the original ballots in a ~~separate envelope~~ separate, secure container to be securely stored. The duplicate ballot ~~shall~~ 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 ~~team~~ election judges shall record the proper notations ~~of such~~ for write-in votes in the election records for the election district in which an absentee voter is registered to vote.

(e) When ~~a team~~ the election judges have completed the steps ~~set forth in~~ under subsections (c) and through (d) of this section, ~~a team~~ 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 ~~set forth in~~ under this section, the ~~teams~~ election judges shall ~~secure~~ do all of the following:

a. Secure the ballots in a ~~carrier envelope,~~ seal secure container.

b. Seal the ~~carrier envelope,~~ and each member of the team shall secure container.

c. Each election judge must sign ~~the member's~~ their name on the outside of the ~~carrier envelope,~~ secure container, affirming that the ~~team~~ election judges sealed the ~~envelope~~ container and that the ~~envelope~~ container contains ballots for the election district to which the ~~envelope~~ container is assigned. ~~Each carrier envelope~~

(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 ~~carrier envelope~~ secure container may be filled at a time. Each signed and sealed ~~envelope~~ shall 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.

(2) ~~At the end of every day, and during any pause in the process set forth in this section, all ballots shall be secured in carrier envelopes and be stored in locked cabinets until opened in a subsequent public meeting for the completion of processing under this section.~~

(g) The results of the absentee ballots ~~shall~~ must not be ~~extracted or~~ reported before the polls have closed on the day of the election.

Section 5. Amend § 3114, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 3114. Candidate residency requirements.

(a) Each candidate shall provide the Commissioner of Elections 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 ~~shall~~ 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.

(c) ~~For the purposes of this section:~~

(1) ~~"Commissioner" means the Commissioner of Elections.~~

(2) ~~"Primary residence" or "primary residential address" means the candidate resides at that address. [Transferred.]~~

Section 6. Amend § 4508, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4508. Certificates of the vote cast in each election district.

~~The Department shall program the voting machine to produce at least 2 copies of the paper tape showing the number of votes cast for each candidate on each voting machine. [Transferred.]~~

Section 7. Amend § 4941, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4941. Residency of voter.

If a vote is objected to for the reason that the ~~person~~ individual is not a ~~bona fide~~ resident of the election district ~~in whose record that person's name appears,~~ 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 shall apply:

(1) ~~If any person~~ an individual who has resided within this State ~~actually moves outside this State with the intention of remaining there for an indefinite time as a place of present domicile, such person shall lose that person's own and establishes a new place of residence under § 103(d) of this title, the individual loses their qualification of residence within the State, notwithstanding any floating intention that person may entertain to return at some future time. this State.~~

(2) ~~A person~~ An individual registered to vote in the this State who has moved from ~~an address or a place of residence located within 1 election district within the this State to another address or a new place of residence within another elections a different election district within the this State shall be permitted to vote at the polling place for that person's individual's new residence or address. place of residence.~~

Section 8. Amend § 4948, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 4948. Provisional ballots.

(a) Provisional ballots ~~shall~~ must 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. for federal offices.~~

(b) ~~A person~~ (1) An individual claiming to be properly registered in an election district, but whose eligibility to vote at that election district cannot be determined, ~~shall be~~ is entitled to ~~vote~~ cast a provisional ~~ballot. ballot for the federal offices on the ballot in that election.~~

(2) Election officers shall inform ~~a person~~ an individual who is not being permitted to ~~vote~~ vote, for ~~whatever reason any reason,~~ that the ~~person~~ 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) ~~Persons~~ (1)a. An individual voting a provisional ballot ~~shall~~ must present proof of identity and address to the election officers. ~~The type of ID shown by the voter shall be annotated~~

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. If the person

(2) Notwithstanding paragraph (c)(1) of this section, if the individual does not show proof of identity or address, the ~~person shall~~ individual must be permitted to vote by provisional ballot ~~and the fact~~ ballot. The election officers shall indicate that the ~~person~~ individual did not show proof of identity ~~and/or address shall be annotated~~ or address, or both, 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 on the night of the election. [Repealed].~~

(e) ~~Provisional ballots shall be as much as possible~~ (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 except that only ballots for the federal offices shall be listed and they shall be labeled as provisional ballots. on the ballot in that election.

(2) ~~For a general and special elections, the departments election, the Department shall provide a minimum of 10 blank provisional ballots to each election district, a 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 machines, and a devices.

b. A minimum of 30 blank provisional ballots to election district with 4 or more assigned voting machines. devices.

(3) ~~For a primary election, each department~~ the Department shall develop a standard appropriate for the respective primary. to determine the number of provisional ballots that should be provided.

(4) The Department shall deliver additional provisional ballots, envelopes, ~~instructions~~ 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~~ an individual who is voting by provisional ballot. When ~~that the~~ the assistance the voter requests includes marking or assisting in marking the ~~person's~~ individual's ballot, 2 election officers with different political party affiliations shall provide that assistance.

(g) ~~A voter~~ An individual who spoils ~~that voter's~~ their own provisional ballot ~~shall, 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 ~~meet to~~ examine the provisional ballots, determine which of ~~the~~ those ballots should be tallied in accordance with the rules ~~stated below, 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~~ 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~~ meals, and rest periods.

(5) ~~Where~~ If the provisional ballot affidavit is incomplete, the provisional ballot ~~shall~~ must be set aside, must not ~~opened~~ be opened, and the votes not tallied. An incomplete affidavit ~~shall be defined as one is an affidavit~~ that does not include all of the following ~~information: full name, complete address, political party affiliation (primary elections only), and date~~ 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) ~~Where~~ If the ~~person~~ individual who voted by provisional ballot did not show suitable identification at the polling place, the ballot ~~shall~~ must be set aside, must not ~~opened~~ be opened, and the votes not tallied.

(7) ~~Provisional ballots~~ A provisional ballot cast by ~~persons~~ an individual who ~~are~~ is not registered to vote in the state this State or who ~~are~~ is not registered to vote in the election district in which they were the provisional ballot was cast shall must be set aside, must not ~~opened~~ be opened, and the votes not tallied.

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

(9) The Department shall tally the provisional ballots that meet the ~~above criteria~~ requirements under paragraphs (h)(2) through (h)(8) of this section.

(10) ~~After all of the provisional ballots determined as meeting the above criteria have been tallied, 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~~, all the election district.

2. All provisional ballots cast in the ~~election~~, and all election.

3. All affidavits, ~~envelopes~~ envelopes, and supporting ~~documentation to the Prothonotary~~ 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 ~~a person~~ an individual who voted by provisional ballot may determine ~~whether or not that person's~~ if their ballot was counted, and if it was not counted, ~~the reason or all of the reasons for which~~ it was not counted.

(2)a. The Department shall use the provisional ballot affidavit as authority to register ~~a person~~ an individual to vote ~~who~~ after the individual voted by provisional ballot in an election ~~and who~~ if all of the following apply:

1. The individual is not already registered to ~~vote~~ providing that the vote.

2. The minimum information required to register ~~a person~~ an individual to vote is provided.

b. The Department shall use 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~~ to update all of the following if the information is different than the information on the ~~person's~~ individual's voter registration ~~record~~ record:

1. The registered voter's name.

2. The registered voter's address.

Section 9. Amend § 4980, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4980. Return and custody of voting devices, media containing election results, and ballot container.

(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, Assembly or the Attorney General, or the Department for the purpose of conducting an audit under § 5012A of this title. General.

Approved June 24, 2026