



# SPECIAL ELECTION FAQS

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Process for filling vacancies in  
Delaware's General Assembly



# 1. What is a Special Election?

- A Special Election is an election that must be held per Title 15, Section 7101 of the Delaware Code when a vacancy occurs in the office of State Representative or State Senator in Delaware's General Assembly.
- Per Title 15, Section 7101 of the Delaware Code, the reasons for which a vacancy in either house of General Assembly may be declared include:
  - *failure to elect,*
  - *ineligibility,*
  - *death,*
  - *resignation or otherwise.*
- In a Special Election, voters elect a candidate to fill the balance of the current term of the vacant seat.

## 2. What happens first when a vacancy occurs?

- **Writ of Election:**

- Within 10 days of the vacancy, the presiding officer of the House or Senate, wherever the vacancy has occurred, must issue a Writ of Election to the Department of Elections directing the Department to conduct a Special Election for the vacated seat.

### 3. Who issues the Writ of Election if the General Assembly is not in session?

- The **Governor** may issue the Writ if the General Assembly is **not in session**, and the Writ would be executed as issued by the presiding officer of the house in which the vacancy occurred.
- When the General Assembly is **in Recess** the standard process of issuing the Writ by the presiding officer of the house is followed.

## 4. What information is contained in the Writ of Election issued to the Department of Elections?

- The Writ of Election specifies the date on which the Special Election will be held.
- The Special Election date is determined by the officer (presiding officer/Governor) issuing the Writ.
- The Special Election date must be **no earlier than 30 days and no more than 35 days** from the day after the Writ is issued by the officer.

## 5. How is the date of a Special Election determined?

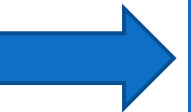
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## 5. How is the date of a Special Election determined? (Continued)

- If the vacancy occurs in the year of a general election, the date of a Special Election may be determined differently per Delaware Code so as not to interfere with standard general election year processes. The points on the next slide detail how a Special Election day may be determined in a general election year.

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## 5. How is the date of a Special Election determined? (Continued)

- If a vacancy occurs that sets the date of the special election after June 30<sup>th</sup> using the standard calculation as detailed on slide #6, the presiding officer determines that the vacant seat will appear on the general election ballot.
- However, if the vacancy occurs after September 1<sup>st</sup> in a general election year, the election for the vacant seat must be set for no earlier than December 12<sup>th</sup> and no later than December 20<sup>th</sup>.
- The Delaware Code provides the presiding officer the flexibility to schedule a Special Election to be held sooner than the date of the general election.



## 6. What happens when the Department of Elections receives the Writ of Election?

- The next business day after receiving the **Writ of Election**, the Department of Elections must post a **Proclamation** notifying the public of the Special Election.

## 7. What information is contained in the Proclamation?

The Proclamation includes the following information:

- The date of the Special Election,
- The office for which the Special Election is being held (State Representative or State Senator and District number), AND
- A copy of the Writ of Election, which is “copied and pasted” into the Proclamation document.

## 8. Where must the Department post the Proclamation?

- The Delaware Code requires that the Proclamation is posted:
  - on the door of the County Courthouse of the county in which the special election will be held,
  - on the State's main website, <https://delaware.gov>,
  - on the Department of Elections' website, <https://elections.delaware.gov>, AND
  - on the State's Public Meeting Calendar, <https://publicmeetings.delaware.gov/#/>.

## 9. Does the Department print a Notice of Special Election in the newspaper?

- The Delaware Code requires the Department to publish a Notice of Special Election in a newspaper whose distribution and readership covers the district of the office up for election, on the 5<sup>th</sup>, 3<sup>rd</sup>, and last day prior to a Special Election.

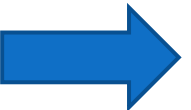
# 10. How can a candidate affiliated with a political party get on the Special Election Ballot?

- County committees of political parties eligible to place candidates on the most recent general election ballot may nominate candidates to appear on the Special Election ballot. If a party does not have a county committee, the party's state committee may nominate a candidate.
- The Party Certificate of Nomination form is available on the Department's website at [https://elections.delaware.gov/pubs/pdfs/party\\_certificate\\_of\\_nomination.pdf](https://elections.delaware.gov/pubs/pdfs/party_certificate_of_nomination.pdf).
- Party committees must submit candidate nomination forms to the Department of Elections **no later than 25 days** before the date of the Special Election.
- A Nominated Candidate must complete and submit a Candidate Ballot Name Form to the Department. The Candidate Ballot Name Form is available on the Department of Elections website at [candidate\\_ballot\\_name\\_form.pdf](#) (delaware.gov).

# 11. How can an unaffiliated candidate get on the Special Election Ballot?

- To run as an unaffiliated candidate in the Special Election, the candidate must complete and submit an **Unaffiliated Candidate Declaration** form with the Department of Elections.
- The **Unaffiliated Candidate Declaration** is available on the Department's website at [cf Unaffiliated Candidate Declaration.pdf \(delaware.gov\)](https://www.delaware.gov/cf/Unaffiliated_Candidate_Declaration.pdf).
- To run as an unaffiliated candidate in the Special Election, the candidate must **file a petition with the Department of Elections bearing the valid signatures of at least 1% of the number of voters registered in the legislative district** of the vacancy as of the first day of the month before the vacancy occurred.

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# 11. How can an unaffiliated candidate get on the Special Election Ballot (Continued)?

- The **Petition for Unaffiliated Candidates to Secure Ballot Status** is available on the Department's website at [Petition to Secure Ballot Status\\_new.xls \(delaware.gov\)](#).
- An unaffiliated Candidate must complete and submit a **Candidate Ballot Name Form** to the Department. The Candidate Ballot Name Form is available on the Department of Elections website at [candidate\\_ballot\\_name\\_form.pdf \(delaware.gov\)](#).
- The Unaffiliated Candidate Declaration form, Petition with the required number of valid signature (as above), and Ballot Name Form must be submitted to the Department of Elections **no later than 25 days** before the date of the Special Election.

## 12. How can a write-in candidate get on the Special Election ballot?

- Write-In candidates must file a **Write-In Candidate Declaration** to the Department of Elections office in the county in which the candidate resides **no later than 8 days prior to the election at 4:30 p.m.**
- Write-In Candidates who have submitted their Write-In Declaration may NOT withdraw their Declaration.



# 13. What are the Campaign Finance requirements for Special Election Candidates?

- Special Election Candidates for the General Assembly, in order to be able to raise or spend money to support their candidacy, are required by Delaware Code to file with the Delaware Department of Elections a signed, notarized Statement of Organization, and also to file required campaign finance reports as required by Delaware law, Title 15, Chapter 80 [Delaware Code Online](#).
- Candidates establish their committees on the Department's Campaign Finance Reporting System (CFRS), <https://cfrs.elections.delaware.gov>. Candidates must print their Statement of Organization (SO) from CFRS, sign the SO and have it notarized. Candidates must submit their Statement of Organization to the State Election Commissioner's (SEC) Office, which they may do in person, by mail, or email. Candidates may have their SO notarized at the SEC Office if they submit their form in person. If candidates are emailing their SO as a PDF, they need to ensure that the notarial seal/stamp is clearly visible and legible.

## 14. Who may vote in a Special Election?

To be eligible to vote in a particular Special Election, you must be:

- a duly qualified, registered voter,
- 18 years of age on or before Special Election Day, AND
- a resident of the District in which the vacancy occurred.

## 15. Is there a voter registration deadline to vote in a Special Election?

- Yes, per Delaware Code, the last day to register to vote in a Special Election is **10 days before the Special Election.**
- As a reminder, in order to be eligible to vote in the Special Election, a **registered voter must be 18 years of age or older by the date of the Special Election.**

## 16. Which voting options are available to voters in a Special Election?

- Special Elections are run exactly like General Elections.
- Voters may vote:
  - By **absentee ballot**, if eligible, for reasons outlined in the Delaware Code and Delaware's State Constitution,
  - **In person at an Early Voting Site** during the 10-day early voting period prior to Special Election Day, OR
  - **In person at your assigned Polling Place** on Special Election Day. Polling Places are open from 7 a.m. to 8 p.m. for Special Elections.

## 17. Are Logic & Accuracy, Ballot Scan & Preparation, Certification, and Audits held in Public Meetings for Special Elections?

- Yes, all of the public meetings required for standard **General Elections** are required for **Special Elections**. These public meetings include:
  - Logic & Accuracy of Voting Machines, Early Voting and Absentee Scanning Equipment
  - Certification of Voting Machines
  - Absentee Ballot Preparation and Scanning
  - Early Voting Ballot Scanning
  - Election Results Tabulation
  - Audits of Election Results
- Notices for these meetings are posted on the State's Public Meeting Calendar, <https://publicmeetings.delaware.gov/#/>.
- Certification of Election Results for Special Elections is conducted by the Court of Canvass.

## 18. How are election results transmitted and reported?

- Results are collected from machines into dedicated USB sticks and physically transported to State facilities across Delaware. At these State facilities the USB sticks are read, and results are transmitted through dedicated elections network (non-internet connected) to a centralized repository. Results are consolidated and formatted then saved to a separate external media (USB stick). A report of the unofficial election results is published to the Department's website at <https://elections.delaware.gov>.

## 19. How are Special Election Results certified in Delaware?

- Special Election results are certified by the Superior Court of the County acting as the Board of Canvass. They manually count/tabulate votes and declare them as official.

**20. As a member of the public and a concerned Delaware citizen, am I allowed to attend the Board of Canvass which convenes in the Superior Court of the county two days after the Special Election to certify the election?**

- The Delaware Department of Elections has no authority over the Board of Canvass or its operations, intentionally, as it is designed to be the independent canvass of the election results.
- Per Code, the Superior Court of the county sits as the Board of Canvass, so they convene the Board and oversee the process.
- Please contact the Office of the Prothonotary for the Superior Court of the county with your question.



## **21. How are all the people that verify the machine tapes and counts, absentee counts, and other election materials, selected for the Board of Canvass?**

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## 22. How do I volunteer to be one of the vote counters at the Board of Canvass?

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