Town Meeting & Elections

Chapter 10

Secret Ballot – Election Day

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- Town Meeting & Elections Manual, revised 2015
- Voter Registration & Election Manual
- Your town's attorney
- Clerk mentors

resources

EVERY VOTE MATTERS
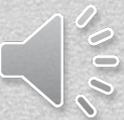
- Election officials for secret ballot voting are the moderator, the clerk and the ballot clerks.

- Candidates or the immediate family member of candidates are ineligible to serve as election officials. Also ineligible are employees of a political party or candidate, and persons with a direct interest in an outcome of a vote.

- If a clerk is on the ballot in a contested race, the clerk may not process absentee ballots and absentee ballot applications; therefore a deputy must be selected to perform these duties.

Election officials

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- Ballot clerks in municipal elections are the same as election clerks in state elections.
- Qualifications:
    - Must be at least 18 years of age
    - Must be registered to vote
    - Must be a resident of the county where the municipality is located
    - Should be enrolled in a political party
- Appointed by the municipal officers, or town manager if s/he has appointment authority.
- Ballot clerks represent the major political parties, and the number of ballot clerks from one party must not exceed the number of ballot clerks from another party by more than one.

ballot clerks

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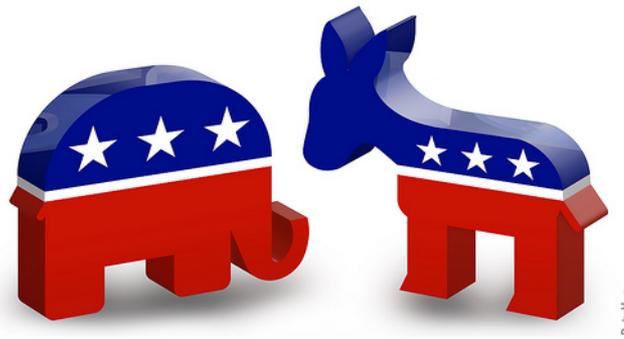
- At least two ballot clerks must be appointed for each voting place (one D and one R).

- Additional ballot clerks may be appointed, so long as the balance between the major parties is maintained.

- Replacement clerks can be appointed by the moderator on election day, if needed.

number nominated
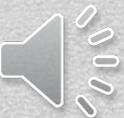
- A ballot clerk must be sworn before assuming the duties of that office.
- An election clerk appointed to serve for federal and state elections who also serves as a ballot clerk for a municipal election must also be sworn as a ballot clerk.


oath required
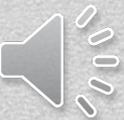
- The term of office for ballot clerks appears to be for one secret ballot election, where the term for election clerks is for two years for state elections.

- Ballot clerks check the incoming voter list and serve as counters when the polls are closed. They also assist the moderator as needed.

term of office & duties
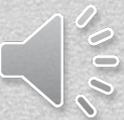
- General layout – arranged so that the ballot box and the entrance to each voting booth is within view of those present
- Guardrail – must be set so that no one outside the guardrail may approach within 6 feet of the ballot box and voting booths; separates the voters from the non-voters
- Flag – must be displayed
- Pollwatchers – must allow at least one worker from each political party to remain outside the guardrail area to view the proceedings and challenge voters at each check-in table.

arrangement of voting place

- The moderator is responsible for ensuring that the ballot box is attended at all times.
- The moderator must return the ballot box to the clerk following the election.

custody of ballot box

- Maine law requires that each booth have back and side panels to screen the voter from the observation of others.
- Each booth must have a shelf and an instruction poster securely placed above the shelf, which is more comprehensive than the instruction posters that are required for state, federal or county elections.
- A ballot marking device with no erasers must be placed in each booth.
- For state elections, there must be 1 booth for every 200 voters.
- At least one booth must be made accessible for voters with disabilities, which must be wide enough to accommodate a wheelchair and have a lowered shelf. An enlarged instruction poster and specimen ballot must be placed in one booth, with a lamp for improved lighting.
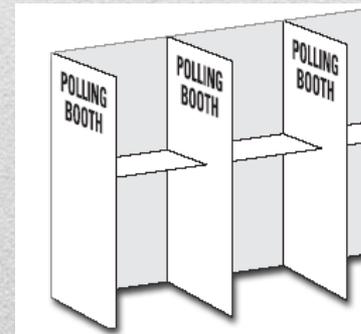
voting booths

- Anyone wishing to collect signatures at the polls on election day must make advance arrangements with the clerk.
- A moderator can limit the number of persons collecting signatures to one for each specific question or issue.
- The moderator must monitor this process, and should instruct the circulators that they may not solicit a voter's signature before the voter has voted.
- The circulator can not inhibit the free flow of the voters.

collection of petition signatures

- Municipalities may be divided into voting districts, but must follow the requirements in 21A MRSA Sec. 631.
- This type of district is created solely for the convenience of the voters in voting.
- Voting districts created by this statute do not change the means by which this town can change from having at-large elections for municipal officers to where they are elected to represent a specific district. This change must be established by charter.
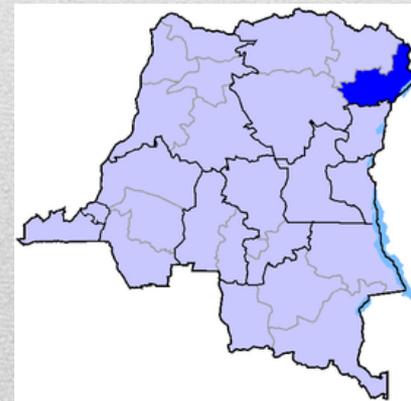
voting districts

- The clerk must deliver the ballots to the ballot clerks on election day, before the polls are open, and receive a written receipt from the ballot clerks.
- The clerk must post an instructional card in each voting booth, and at least 3 instruction cards and 5 specimen ballots in the voting room, outside the guardrail area.
- The municipal officers are required to prepare a duplicate incoming voter list for use by the ballot clerks, but realistically, it is the clerk that will prepare this.
- Outgoing voter lists are not required.
- The moderator publicly breaks open the printed ballot packages, not more than two hours before the polls open.
- The moderator should publicly open the ballot box, examine it and show that it is empty, and relock the box, giving the key to the clerk.
- All election workers must be provided with, and may use only red ink pens or red pencils while performing their duties.

Prior to opening the polls
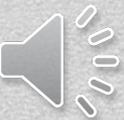
- Voter states their name and residence address to the ballot clerk, who repeats the name in a loud, clear voice, the ballot clerk places a checkmark, in red, next to the voter's name and allows the person to enter the guardrail area, the voter is given the appropriate ballot(s) and is allowed to enter a booth, the voter places the ballot, whether marked or unmarked, into the ballot box, and the voter exits the guardrail area.

- No one may accompany the voters into the booth except someone who is 17 years of age or younger, or another person who is assisting the voter in reading and/or marking the ballot. Any person accompanying a voter in the booth may not say or do anything to influence the voter's choices.

voting procedure
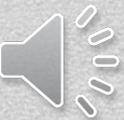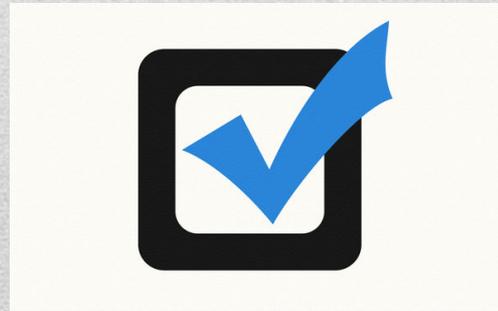
- Voters are required to follow the instructions on the ballot with regard to how to mark a vote correctly.

- If a voter spoils a ballot, they may be given a replacement ballot. The moderator must write "Spoiled by voter" and "Replacement ballot issued." if one was issued.

- A voter may not obtain more than 2 replacement ballots.

- Spoiled ballots must be segregated in an envelope marked "Spoiled ballots".

# spoiled ballots

this is what spoiled looks like
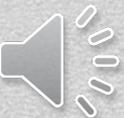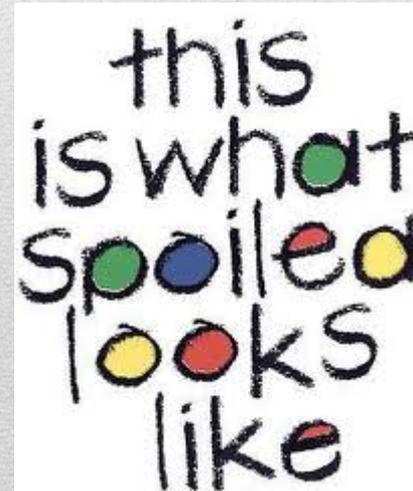
- The moderator should ensure that no one is allowed to remain where they can see how a voter votes.
- Privacy envelopes must be available for any voter who wishes to use one to shield their ballot choices while placing the ballots into the ballot box or tabulator.
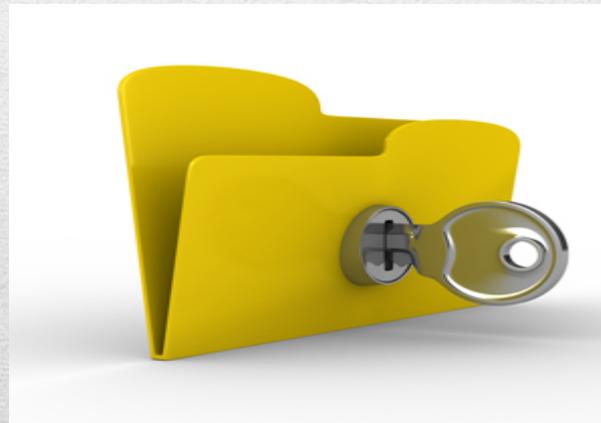
voting privacy
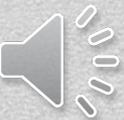
- No influence of voters is allowed within 100' of the entrance to the polling place on public property.
- Although candidates are allowed to be at the polling place on election day, they are not allowed to ask for a voter's vote, but can simply greet voters and introduce themselves and must stay outside the 8 foot access corridor, which allows for the free passage of voters.
- Campaign buttons or clothing that displays a message to advocate for the election or defeat of any question or candidate for an office that is on the ballot for that day can not be worn by voters.
- Vehicles with political advertising or a sound amplification device relating to a party, a candidate for an elected office on the ballot for that day or a question on the ballot for that day, is not permitted within 100' of the entrance to the polling place on public property.

unlawful practices within the polling place

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- Any voter in a municipality may challenge the right of another to vote in an election in that town.

- Registrars, clerks and other election officials may also challenge a voter.

- The challenge must be made between the time the voter checks in and before entering the voting booth.

challenges
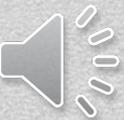
- Is not a registered voter
- Is not qualified to be a registered voter (not 18, not a U.S. citizen, not a resident)
- Irregularities with absentee voting (did not have appropriate witnesses, did not properly apply for ballot, etc.)
- Registered during the closed period and did not provide proof of identity and/or residency
- Voted using the name of another

valid reasons to challenge a voter

- Merits of a challenge are <u>not </u>determined at the polls
- **Challenge does not proceed if the challenger:**
- Is not a registered voter in this municipality
- Does not know the name of the voter being challenged
- Does not make the challenge before the voter has entered the voting booth
- Does not give a reason for the challenge that is outlined in law
- Does not state either personal knowledge or provide the reasonably supported belief that the voter is not qualified
- Refuses to take the oath on challenge affidavit

# determining whether a challenge proceeds

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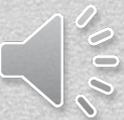
- Moderator fills out the Challenge Certificate
- The election clerk in charge of the IVL writes "challenged" next to the voter's name on the list and gives the ballots to the Moderator
- Moderator writes a (confidential) secret number on the ballot(s) and on the Certificate of Challenge. (Upper right hand corner)
- Moderator seals the Challenge Certificate in plain envelope marked #1, #2, #3 (sequential)
- Moderator enters the challenged voters name, the name of the challenger and the reason for the challenge on the List of Challenged Voters (not the secret number)
- Moderator keeps the sealed envelopes until they are sealed with the voted ballots
- The List of Challenged Voters is returned to the clerk.

challenge process
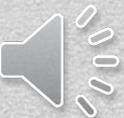
- A challenged ballot must be counted just like all other ballots.

- If the number of challenged ballots is determined to be enough that they could affect the outcome of an election, the challenges must be resolved.

- The authority to resolve challenges can be delegated to an independent panel or to the Superior Court, which is preferable since the municipal officers may have a direct interest in the outcome of an election.

effect and resolution of challenges
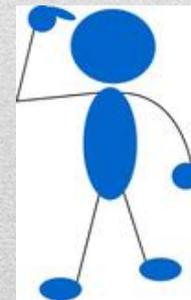
WRONG ANSWER!

- Occurs when the voter has not properly filled out a ballot.
  - Marked more names or choices that instructions indicated (voted yes and no)
  - Marked in such a way that it is impossible to determine the voter's intent (filled in two circles half-way)
  - Marked the box next to the write-in line, but didn't write in any candidate's name
  - Written in a name but didn't mark the box next to that name.

invalid votes

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- Defective ballots are ballots, or portions of ballots, that have not been prepared properly (missing voting indicator boxes, wrong town name, etc.). The moderator should write "defective ballot" and the reason why, sign the ballot and place it in a segregated envelope labeled "defective & void ballots".

- Void ballots are void if the voter makes a distinguishing mark on the ballot, such as the voter's signature, comments or other marks. The moderator has sole authority to determine whether a ballot is void. The moderator should write "void ballot" and the reason why, sign the ballot and place it in a segregated envelope with the defective ballots, if any. Void ballots may not be counted.

defective & void ballots 24

- A vote for a write-in must include the candidate's municipality of residence for any office where residency is not required, but isn't needed for votes for municipal officer, school board member, or other position which a local charter requires residency.
- Even when required, a write-in vote that doesn't contain the candidate's municipality of residence may be counted if it is possible to determine the voter's intent (unique name or has conducted a write-in campaign).
- Can be written last name first, or first name first, and can be counted even if the voter gives only a last name and a nickname.
- The box next to the line where the candidate's name is written in must be checked; otherwise, the vote is invalid.
- Stickers supplied by write-in candidates can be used only in a municipal primary election, but municipalities that use electronic tabulators may want to check with the machine vendor to be sure these won't harm the equipment.
- State law requires candidate's running a write-in campaign for a state office to file a declaration of candidacy at least 60 days before election day.

Write-in votes

- Processing after the polls close:
- Moderator verifies that the affidavit on the envelope has been properly completed, and checks the incoming voter list to be sure that the voter has not voted in person.
- If not properly completed or voted in person, the moderator must reject the ballot, and not count it. If the affidavit is correct and the person has not voted at the polls, the moderator accepts the ballot, states the voter's name, opens the envelope and places the ballot into the ballot box to be counted.
- The ballot clerk must place "AV" next to the voter's name, along with a checkmark on the incoming voter list.

processing absentee ballots
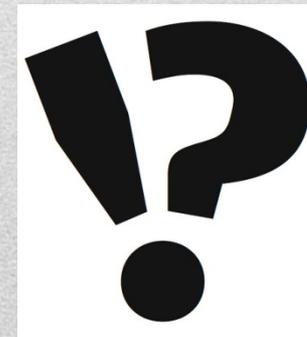
- Absentee ballots processed before election day or during the time the polls are open on election day:
- Clerk must have posted a notice in the same manner as the warrant, at least 7 days prior to the election, indicating when processing would take place.
- Moderator verifies that the affidavit on the envelope has been properly completed. All absentees received and entered into CVR before the incoming voter list has been printed will have "AV" printed next to the voter's name. If the voter shows up to vote on election day, they should be told that their absentee ballot has already been processed; therefore they cannot vote in person. If not properly completed, the moderator must reject the ballot, and not count it. If the affidavit is correct, the moderator accepts the ballot, states the voter's name, opens the envelope and places the ballot into the ballot box to be counted. Those absentee ballots that are received after the incoming voter list is printed must be checked off the incoming voter list to ensure that the voter did not vote at the polls before the ballots were processed. If the voter voted at the polls, the absentee ballot must be rejected and kept in its envelope, not to be processed or counted.

processing absentee ballots

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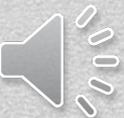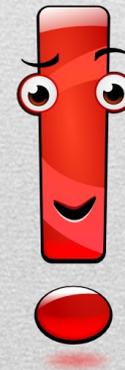
- Ballots must be counted in public, normally immediately after the polls have closed. In a solely referendum election, the ballots may be counted on the next day, as long as counting is completed within 24 hours after the polls closing.
- Ballots must be divided into lots of 50. Teams of two ballot clerks (D&R), count the ballots. Although 30A doesn't specify a method of counting, 21A does, so it is advisable to use the method directed by the Secretary of State, which is the verbal concurrent method. This method has the team members concurrently reviewing each race, and choice verbally, and confirming that the tally is marked on both sheets. When finished with that lot, they compare tallies. If they agree, that lot is done, if not, the team must recount the race that was off and correct the tally sheets. One sheet stays with the lot, the other goes to the moderator.
- Tallies must use hash marks in increments of 5 votes, and blanks for each race must also be recorded.
- The moderator will use the tally sheets to declare the results of the election. The moderator should certify the results by signing the tally sheets.

counting process

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- The moderator delivers the tally sheets and all of the counted ballots to the clerk, who seals the ballots and keeps them in the clerk's office. These ballots must be retained for two months, and should include the absentee ballots, challenged ballot envelopes, defective and void ballots, and spoiled ballots.
- If a state election is held concurrently, state ballots must be packed separately from municipal ballots.
- Unused ballots should be retained in the container in which they were delivered and labelled clearly as to its contents.
- The incoming voter list should be signed by one ballot clerk from each political party and the moderator, then sealed in an envelope. This must be retained as a public record for 5 years.

packaging and return of ballots and lists

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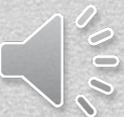
- Election officials qualifications and duties
- Arrangement of polling place
- Voting procedure
- Prohibited activities in and near the polling place
- Challenged ballots, invalid ballots, defective, void and spoiled ballots
- Absentee ballot procedures and forms

knowledge check

- You have reached the end of Module 10 of the Town Meeting and Elections class.
- For specific questions on any topic in this module, please contact the legal department at Maine Municipal Association, your town's attorney, or a clerk mentor.
- Please print this final page as proof of completion of this module.
- You may submit the final page to MMA along with the other eleven modules' completion pages to obtain a certificate to be used for certification points.

thank you