

# Town Meeting & Elections

Chapter 8

Secret Ballot Nominating Process





- Two modern forms of town meetings:
  - Secret ballot voting under 30A 2528 – nomination papers for designated offices must be filed in advance of election day, and voters vote on these offices by secret ballot at the polls.
  - Under 30A 2527, nomination papers are filed in advance for certain designated offices, but the offices are filled by a vote taken at open town meeting.

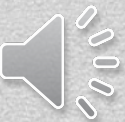
## **30A Sec. 2527 & 2528**





- A town must vote to accept whichever statute will govern the town meeting at least 90 days before the annual town meeting at which it will take effect.

**nomination process must  
be accepted**





- In both 2527 and 2528 towns, the nomination paper procedures apply to the office of selectperson and municipal school committee member; however this nomination process can be applied to other offices by approving a separate article.

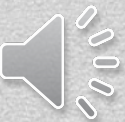
# applicable offices

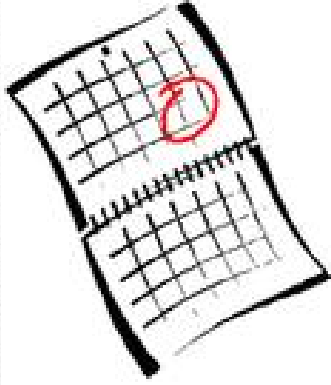


- The filing deadline is 60 days before election day, and papers must be made available for 40 days before the deadline; therefore, clerks should be ready to issue papers on the 100<sup>th</sup> day before election day.
- Although the statute is not clear as to whether issuance of papers before the 100<sup>th</sup> day is allowed, it is recommended to avoid doing so to avoid any situation that could claim that these papers invalid.



# **nomination procedures**

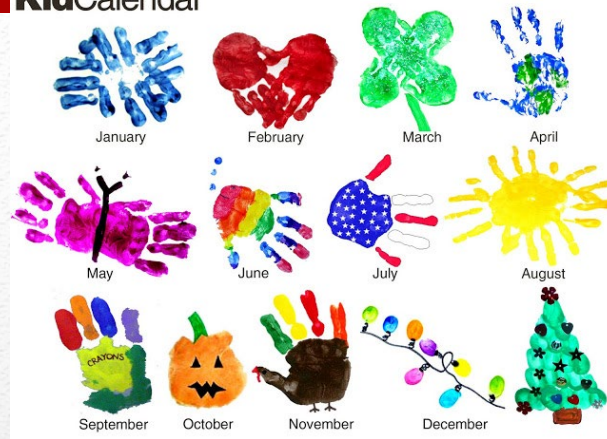




- Title 21A Section 6 states that when the date on which an act must be performed falls on a Saturday, Sunday or legal holiday, the act shall be performed on the next following business day.

**papers available when date  
falls on a weekend or holiday**





- 21A section 6 clearly extends the filing deadline that falls on a Saturday, Sunday or a holiday to be extended to the next business day.
- Be sure to state the filing deadline on the nomination papers, to avoid any confusion.

# filing deadline falling on a weekend or holiday



- For any towns that use the nomination process under 30A 2527 or 2528, 30A Section 2528(4)(E) allows for a shortening of the nomination process for filling vacancies in the offices of municipal officers and municipal school committee members.
- This shortened process can only be used for a vacancy that arises from a method other than the regular expiration of the elected office, such as by death or resignation.



## **special procedure for shortening nomination process to fill vacancies**

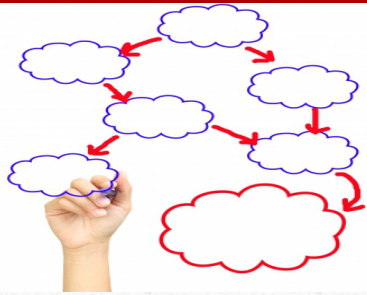




- Filing deadline can be shortened to as little as 14 days, and the availability of nomination papers can be shortened to as little as 10 days before the filing deadline, which equals 24 days.
- The date on which absentee ballots must be made available stays at 30 days before the election, so it is best to set the nomination paper filing deadline to be more than 30 days prior to the election, to allow time to prepare absentee ballots in accordance with 21A Section 752.

## **extent of shortening permitted**





- Municipal officers must designate the shortened period for the availability of papers and the filing deadline by motion and vote at a properly noticed, public meeting of the board. The municipal officers should provide the clerk notice of their designation so that the clerk is aware of what papers to prepare and what time periods apply.
- The shortened period must be posted in the same places as the town meeting warrants are posted, and local media must be notified.

# procedure for shortening nomination process



- 30A 2528(4)(A) states that the clerk must complete each nomination sheet by writing in the name of the candidate, the title of the office being sought, and the term of the office.
- 30A 2528(4)(A)(2) requires a voter who signs a nomination paper to add the voter's street number and street name.
- 30A 2528(4)(C) requires the candidate to submit a consent form with the completed nomination papers at the time they are filed in the clerk's office, which must include the agreement to 1) accept the nomination 2) not to withdraw and 3) to qualify for the office, if elected

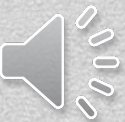
# form of nomination papers





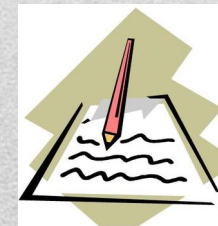
- Clear statement of the time, day and date when nomination papers can be filed.
- A statement that consent is required to be signed by the candidate and filed together with the nomination papers.
- A statement that the papers and the consent must be delivered in hand or by mail by the deadline, and not by fax or email.
- A notation to the signing voters that they are not obligated to vote for this candidate or prohibited from signing papers for another candidate for the same office.

## **other recommended content on nomination papers**



- A person requesting papers need not be a candidate or an agent of a candidate. Papers can be requested and circulated on behalf of a candidate, whether or not the candidate has consented. Consent to run and serve must be filed only when the nomination papers are filed.
- A candidate can circulate several sets of papers for the same office.
- A candidate can circulate papers for more than one office.
- A person can circulate papers for several candidates for several different offices.
- A circulator doesn't need to personally observe the signing of the papers by voters, or vouch for the signer's identity in any way.

# circulators of nomination papers





- 30A 2528(4)(A)(1) says that nomination papers must be signed by a number of voters based on the town's population at the most recent federal census:
  - Not less than 3 nor more than 10, in towns of 200 or fewer
  - Not less than 10 nor more than 25, in towns of 201 to 500
  - Not less than 25 nor more than 100, in towns of more than 500

**number of signatures  
required**



- In validating nomination petitions, clerks should:
  - Ensure that the minimum number of signatures has been obtained.
  - Ensure that the maximum number of signatures has not been exceeded.
  - Ensure that the names of the signatures are the names of registered voters.



# validation of nomination petition





- There must be one blank line for each vacancy in that office, so that voters can write-in a candidate.
- In a secret ballot election, candidates win with a plurality of the votes, or 1 more than any other candidate.
- If a write in candidate who received the most votes declines to serve or fails to qualify, the seat is declared vacant.

# no filers in local election

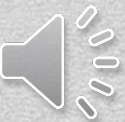
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- A candidate doesn't need to be qualified for an office to run for or be elected to an office, but cannot be sworn to an office unless qualified for it.
- The candidate's consent form constitutes the candidate's agreement that they will not withdraw from the race and will qualify if elected, and must accompany the completed nomination papers when they are filed with the clerk.

**candidate need not be  
qualified to run**

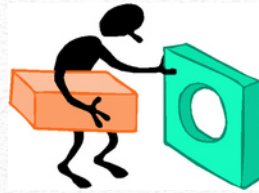


- Even if a person clearly could not serve in two seats on the same board, papers should be issued when requested, since they may fail to obtain a sufficient number of signatures for one or both seats, or may choose to file only one set of papers. Either way, the clerk should issue and accept for filing all sets of papers.



# running for multiple offices





- Incompatible offices exist where it is impossible for the same person to perform the duties of both offices, especially where one of the duties in one office is to oversee the other office. Some incompatibilities of office are detailed in state statutes. If unsure as to whether two offices are incompatible, consult with legal counsel.
- If a candidate seeks incompatible offices, the incompatibility should be pointed out when the person is taking out papers and again at filing. The person should be told that they would be deemed to have resigned from the first office as soon as the oath to the second office is taken.

# running for incompatible offices



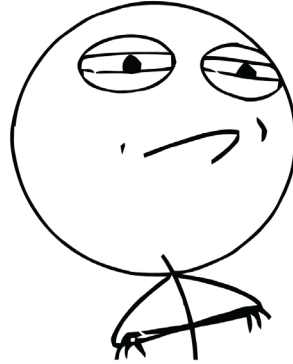
- Always date nomination papers at the time of issuance, so that papers issued from an earlier year are not held from one year and submitted another year, since it is possible that some of the people who signed last year would not sign again this year.
- If papers are submitted that appear to be from a prior election, receive for filing as a public records, but mark invalid due to staleness.



# doctrine of staleness



## CHALLENGE ACCEPTED



- Challenges are governed by 30A MRSA Sec. 2528(4)(D)
- Challenges can be made by anyone and must be:
  - Made in writing
  - Addressed to the municipal officers, and
  - Received by the 58<sup>rd</sup> day before election day

# challenge to nomination



- Once received, the clerk should immediately notify the affected candidate and the municipal officers.
- Municipal officers must set a public meeting to determine whether to sustain or overrule the objection, and give advance notice of the meeting. The challenger should be allowed to state their case, either in person or through an agent or attorney, and the challenged person should be allowed to present any defenses.
- Municipal officers should make written findings of fact and state their conclusions, and provide copies of the written findings to the challenger and the candidate.

# **challenge procedure & notice**





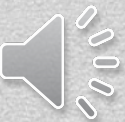
- Withdrawal before filing of papers is not necessary, since papers must be submitted in order to be a candidate.
- 30A MRSA Sec. 2528(6-A) states that withdrawal is a matter of right at any time up until the filing deadline of 60 days before election day, presumably because ballots have not been prepared yet.
- Withdrawal after the 60<sup>th</sup> day can be allowed only at the discretion of the clerk.
- In all cases, the candidate must file a written notice of intent to withdraw and the reason for the withdrawal.

# **withdrawal of candidacy**



- Difference between 2527 & 2528 nominating and voting processes
- When a nomination process must be accepted before town meeting
- Nomination procedures and timelines
- Process for shortening the nomination process
- What must be included on nomination papers
- Details on circulators
- Number of signatures required
- Validation process
- Challenges to nominations

# knowledge check







- You have reached the end of Module 8 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

