



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

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To: Municipal Clerks
From: Secretary of State, Division of Elections
RE: Powers and Duties of Election Wardens
Date: October 7, 2020

To date, we have seen historic numbers of voters exercising their right to vote by making use of the absentee ballot in order to have their voices heard at the General Election this November 3rd. Concurrently, we have received inquiries about the conduct of the election at the polls, especially how disruptions through demonstrations, protests, or acts of possible intimidation can be addressed.

Title 21-A section 662 of the Maine Revised Statutes defines the election warden's powers and duties:

§662. Warden

A warden has the following powers and duties.

1. Enforcement of election law. He shall enforce the law governing voting and counting procedures at the voting place over which he has jurisdiction on election day.

2. Order at voting place. He shall keep order at all times in and around the voting place. He shall direct that any person who creates a disturbance or otherwise violates the law at the voting place be removed from it and, if necessary, confined until the polls are closed.

A. On request of the warden, a peace officer shall remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place.

3. Control of election clerk. The election clerks at the voting place are under the supervision and control of the warden. He may assign their duties for convenience and efficiency and may delegate his ministerial duties to them.

4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. Persons collecting signatures at the polls may make arrangements with the clerk prior to election day and with the warden on election day. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection.

(Continued on Reverse)

In other words, the warden has expansive powers to maintain order in the voting place. We address in a separate memo that while we strongly encourage the use of personal protective equipment such as face masks by voters as they enter the voting place, they may not be turned away if they lack a mask or are wearing a mask or other apparel that displays the name of a candidate on the ballot. No political advertising is allowed within the 250-foot restricted zone within and around the voting place, and voters wearing such apparel who linger within the zone after voting should be regarded as in violation of these restrictions and instructed to leave.

Influencing or attempting to influence any voter's decision about how to vote, or intimidating a voter, is prohibited by federal and state law, and the warden should respond quickly to any complaints of such activity. A frequent question regards the carrying of firearms in or around the voting place. If a voting place is located at a school, even if the school is closed for the election, the law prohibits the possession of firearms on school grounds (excepting sworn law enforcement officers). If a voting place is not in a school, the law does not prohibit the possession of firearms carried either openly or concealed. However, if individuals are within the 250-foot restricted zone and brandish or carry firearms and voters complain that they feel intimidated, the warden can direct them to leave the premises.

Likewise, if individuals or groups attempt to discourage citizens from registering to vote or from voting or interfere with the free passage of voters into and out of the voting place, the warden has the authority to have them removed from the premises. If any individual or group contests the warden's directives, the warden has the authority to request that law enforcement intervene and carry out the warden's directives.

There are limitations in obtaining law enforcement services. Armed federal law enforcement officers are prohibited from being at active voting places in their official capacities. This prohibition does not apply if the voting place is closed.

Finally, when the polls close at 8:00 pm on November 3rd, if the social distancing requirements necessitate voters waiting in line outside the voting place, an election worker should stand at the back of the line to demark the end of the line. Any voter in line at 8:00 pm must be allowed to mark and cast their ballot, as well as to complete their voter registration in order to obtain a ballot.