

MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date May 19, 1976

To Markham L. Gartley, Secretary of State Dept. State
From Robert J. Stolt, Assistant Dept. Attorney General
Subject 21 M.R.S.A. § 1578, sub-§ 7 - preservation of checklists

This will respond to your inquiry regarding preservation of checklists after the time for appeal has expired.

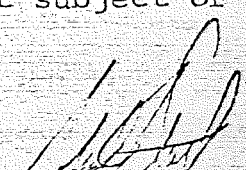
21 M.R.S.A. § 1578(7) provides:

"The clerk shall keep the ballots and other election materials listed in section 926 in his office for 2 months and checklists for one year unless sooner released to the Secretary of State or required by him to be kept longer. Once released to the Secretary of State, they shall be kept by him until any appeal period bearing on the validity of the election has expired."

The time for presentation of election checklists where the checklists have not been released to the Secretary of State is clearly spelled out in § 1578(7). The municipal clerk must keep the "checklists for one year unless sooner released to the Secretary of State or required by him to be kept longer." "One year" means one calendar year (1 M.R.S.A. § 72) from the date of the election.

If the checklists have been released to the Secretary of State, the Secretary of State must keep them "until any appeal period bearing on the validity of the election has expired." The checklists need not be preserved longer than the expiration of the appeal period.

In those instances where an appeal is taken, the Secretary of State must keep the checklist until needed by the Governor and Council [21 M.R.S.A. § 1152(9)] or during the pendency of any court or other challenge. The statutes make no provision for further retention or preservation of the checklists after a decision on the appeal. Checklists retained by town clerks for more than one year and not subject of a pending appeal may be disposed of.


ROBERT J. STOLT
Assistant Attorney General

RJS/ec