

# MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date September 29, 1977

To Commissioner

Dept. Indian Affairs

From Kate Flora, Assistant

Dept. Attorney General

Subject Certification of School Board elections

You have asked whether you, as Commissioner, have the authority to designate a representative to act in your place after you leave office, to certify school board election results in the three Indian voting districts so that the newly elected school board members can be paid. This memo responds to that question.

1. Does the Commissioner of the Department of Indian Affairs have the authority to appoint a Deputy Commissioner to act in his place?

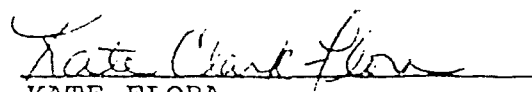
There is no specific statutory authority for the Commissioner to appoint a Deputy to act in his place.

In the absence of a specific grant of authority to appoint a deputy commissioner, it must be assumed that such authority does not exist. This conclusion is supported by the existence of such authority in other statutes, see, e.g., Title 5 § 282, authorizing the Commissioner of the Department of Finance and Administration to appoint a Deputy Commissioner. In addition, there is a general grant of authority to the Governor to appoint a temporary Deputy Commissioner in the case of a vacancy in office in Title 5 M.R.S.A.

1. Therefore, I conclude that there is no authority to appoint a Deputy Commissioner to certify election results.

2. Is appointment of a Deputy Commissioner necessary in order to certify tribal election results?

The simple answer to this question is no. Title 22 M.R.S.A. §§ 4792 and 4831, which describe tribal elections, refer to certification of the results by a commissioner or his authorized representative. (emphasis supplied). Title 21 M.R.S.A. § 1622(3) provides that the Governor shall appoint a person to act as voting registration commissioner for each of the three Indian voting districts. It is a cardinal rule of statutory interpretation that statutes in pari materia must be construed together. Looking at the two statutes together, it is clear that the commissioner referred to in §§ 4792 and 4831 is the voting registration commissioner, not the Commissioner of Indian Affairs. This finds support in the fact that throughout Part 6 of Title 22, dealing with Indians, the Commissioner of Indian Affairs is referred to by his full title, while the voting registration commissioner is referred to in both Title 21 and Title 22 as simply "the commissioner." The Secretary of State's office indicates that voting registration commissioners have been appointed for the Indian Island voting District, Indian Township voting District, and Pleasant Point Voting District.



KATE FLORA

Assistant Attorney General