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TO: District Superintendents
Superintendents of Schools
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FROM: Erin M. O'Grady-Parent

RE: 2010 School District Elections and Budget Votes

In April 2009, the State Education Department's Office of Counsel issued a guidance memo to the field concerning the use of lever machines at school district elections and budget votes in light of the federal Help America Vote Act ("HAVA") and Section 11 of Chapter 506 of the Laws of 2007 ("Section 11") (see www.counsel.nysed.gov/memos/voting.html). At that time, Counsel clarified that school districts could continue using lever machines for the 2009 elections.

Since then, the State Board of Elections has established a timetable for county boards of election to follow in order to transition from lever machines to optical scan machines for the 2010 primary elections. Under that timetable, counties have until the end of July 2010 to complete a series of transition steps. As such, the new optical scan machines are still not widely available and ready for use.

Therefore, regardless of whether HAVA or Section 11 are eventually found to apply to school district elections, school districts may continue their use of lever machines for the upcoming elections and budget votes.

We are engaged in conversations about the impact of the counties' transition activities on future school district elections. We will continue to update you on any new developments.

If you have any questions, please direct them to your school attorney or write to legal@mail.nysed.gov.