



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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October 1, 2010

**TO:** District Superintendents  
Superintendents of Schools  
School Attorneys

*Erin M. O'Grady-Parent*

**FROM:** Erin M. O'Grady-Parent

**RE:** Use of Lever Voting Machines by School Districts and  
BOCES

In March of this year, I issued a guidance memo addressing the use of lever voting machines for the 2010 annual district meetings and budget votes. Subsequently, legislation was introduced to address the use of lever voting machines by school districts and BOCES (A. 10507-A). On August 13, 2010, this legislation was signed into law as Chapter 359 of the Laws of 2010.

Chapter 359 amends subdivision 1 of §2035 and various other provisions of the Education Law to authorize schools districts to use lever voting machines at district meetings and elections, and BOCES to use lever voting machines in BOCES referenda. It also amends paragraph 1 of subdivision 10 of Education Law §2553 to authorize the Buffalo City School District to use lever voting machines for elections of board of education members and amends paragraph 1 of subdivisions 9 and 9-a of Education Law §2502 to authorize the Albany and Rensselaer City School Districts, respectively, to use such voting machines in board elections. These provisions remain in effect until December 31, 2012, at which time they will sunset.

Chapter 359 provides school districts and BOCES with the option to continue to use lever voting machines in school district meetings and elections up through December 31, 2012. It should help address the concerns and practical problems caused by the transition by county boards of election to the new optical scanning machines required by the federal Help Americans Vote Act ("HAVA")

and the Election Reform and Modernization Act of 2005, Chapter 181 of the Laws of 2005. It should be noted, however, that under the law, boards of election will not be required to maintain the care, custody or control of lever voting machines.

If you have any questions concerning this new law, please direct them to your school attorney or write to [legal@mail.nysed.gov](mailto:legal@mail.nysed.gov).

cc: John B. King, Jr.