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November 2, 2017

Anthony A. Caponera
Chairman, Busing & Safety
Citywide Education Council for District 75
45-18 Court Square, Room 229
Long Island City, NY 11101

Dear Mr. Caponera:

Dr. John Flateau, Commissioner of Elections in the City of New York appoint from Kings County asked me to respond to your letter to him dated October 6, 2017 in which you transmit a copy of your Advisory Opinion on the Use of District 75 Schools as Voter Registration and Polling Site.

The Board of Elections in the City of New York is a ministerial agency and must conduct its operations and functions in accordance with the applicable provisions of New York State and federal law. The State of New York has enacted legislation that expresses a clear preference for the use of buildings exempt from taxation, particularly public school buildings. [See; NYS Election Law § 4-104(3)].

The Board is required to select poll sites that meet the statutory requirements of the New York State Election Law, which mandates among other things, that the sites selected be fully accessible to all voters, as well as located in or adjacent to the election districts that the poll site serves.

The Board of Elections has repeatedly requested that the State of New York enact legislation that would mandate that each primary or general election day be a non-instructional day for students. In 2017, we submitted as part of our Recommended Revisions to the Election Law, Proposal # 17-03, the summary of which is set forth below:

PROPOSAL # 17-03

PROPOSED REVISION

To amend Section 8-100 of the Election Law to provide that public schools within the State of New York are not open for regular classes with their students on any general election or primary election day.

The Commissioners of Elections recommend that Section 8-100 of the Election Law be amended by adding a new subdivision:

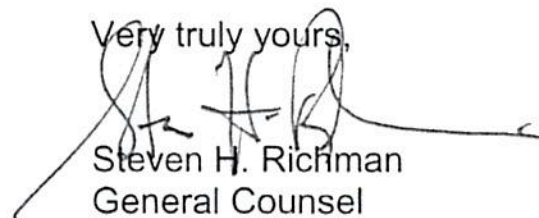
Section 8-100 is amended to read:

- 5. Notwithstanding any other provision of law to the contrary, on any day on which a general election or primary election is conducted pursuant to subdivisions 1(a), 1(b) or 1(c) of this section, the public schools within such jurisdiction conducting a primary election shall not conduct any classes or other activities within its buildings which require the presence of the students enrolled therein.**

To date, such legislation has not been enacted. Please also note that the Board has written the Chancellor of the City School District of New York, urging that in adopting the school system's calendar, the public schools designate the scheduled primary election dates as non-instructional days for students. Once again, that request has not been acted upon. The Board welcomes the support of all interested and concerned groups and individuals and invites you to join with us in urging the Governor and State Legislature or the Chancellor to take the actions previously recommended.

On behalf of Commissioner Flateau and all of his fellow Commissioners, I want to express our appreciation for providing us with your Advisory Opinion and affording the Board this opportunity to report to you on what we have sought to do with respect to the issue you presented.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. H. Richman', with a long horizontal line extending to the right.

Steven H. Richman
General Counsel

Copy: Dr. John Flateau, Commissioner of Elections



Citywide Education Council for District 75



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Council Members: Maria Arias / Hasan Sonny Dibra / Rima Izquierdo / Craig Spencer / Amy Ming Tsai

October 3, 2017

VIA E-MAIL AND FIRST CLASS MAIL

Mr. Ketler Louissaint, Superintendent,
New York City Board of Education, District 75
400 1st Avenue
New York, NY 10010

Dear Superintendent Louissaint:

Please find enclosed this committee's *advisory opinion* on the use of District 75 schools as voter polling sites. This is a follow-up study to our letter of September 15, 2017, bringing to your attention serious breaches in school security during the primary elections at the P811Q - Marathon school site.

The committee will be distributing the report to interested parties as well as publishing the same on the council's website and social media accounts.

Please advise if we may be of further assistance.

Sincerely,

Anthony A. Caponera, Chairman, *Busing and Safety*

Attachment

Cc: Ms. Letitia James, Public Advocate for the City of New York
Ms. Penny Ryan, Principal, P811Q - Marathon School