

## TOXIC SCHOOLS: WHAT PARENTS NEED TO KNOW

February 2020

Many children across Pennsylvania are suffering the health effects of attending underfunded schools. Deteriorating school buildings and cuts to staff have led to unmet repairs, deferred maintenance, and in some cases dangerous conditions in many school buildings. For example, in 2017 the School District of Philadelphia estimated that it will cost nearly \$5 billion to address deferred repairs. The cost to our children is even higher. A 2018 Philadelphia Inquirer series entitled “[Toxic City - Sick Schools](#)” highlighted health threats identified in Philadelphia’s public school facilities. These threats included environmental hazards such as asbestos, lead in paint, mold, and other asthma triggers. This is a guide for parents on these issues to understand their rights.

### WHAT’S AT STAKE?

Health hazards caused by the disrepair of school facilities can have a profound impact on student and staff health, academic achievement, and teacher recruitment and retention. Poor quality of school facilities negatively affects student behavior, engagement, learning, and academic progress. Researchers note that schools without proper facilities and resources often have large numbers of children with complex needs.

### WHERE CAN I FIND INFORMATION ON MY CHILD’S SCHOOL?

In some cases, this information will be provided on your school district’s website. For example, the School District of Philadelphia conducted a full “Facility Condition Assessment” of all its buildings in 2015-16. Reports on facility issues in every Philadelphia public school building are [here](#), including District buildings operated by charter schools. Public schools are also required to share information about asbestos monitoring and water testing under the [Right-to-Know law](#). Information on asbestos and water safety in Philadelphia schools is [here](#).

### WHAT IF MY CHILD ATTENDS A CHARTER SCHOOL?

Many charter schools are located in old facilities too, meaning they potentially contain similar health risks for students. You should ask your charter school about these issues. As public schools, charter schools are also required to share information under the [Right-to-Know law](#).

### WHAT SHOULD I DO IF I HAVE LEARN OF A POTENTIAL HEALTH HAZARD OR CONDITION IN NEED OF REPAIR AT MY SCHOOL?

You should raise your concerns with your school principal and/or superintendent. In Philadelphia, you may contact your school’s [Facilities Area Coordinator](#) by email.

### WHAT DO I NEED TO KNOW ABOUT LEAD AND ASBESTOS IN SCHOOLS?

Use of asbestos in buildings decreased in 1980, and lead-based paint was banned as of 1978. However, many schools are decades old and therefore lead and asbestos continue to be concerns. Schools built after that time should not have hazardous paint chips or dust. Consuming paint chips or drinking contaminated water can also cause lead poisoning. Your pediatrician can test your child for exposure to lead.

Exposure to lead remains a significant health concern, especially for young children whose growing bodies absorb more lead than adults. For example, in 2017, 9,325 children tested positive for [lead poisoning](#) in

Pennsylvania. *There is no safe level of lead exposure for children*, according to the Centers for Disease Control and Prevention.<sup>1</sup> A blood lead level of 5 micrograms per deciliter is considered the threshold to identify children requiring case management by a physician. However, even low levels of lead exposure have been associated with attention deficit hyperactivity disorder (ADHD). A blood lead level of 1.7 or higher should also be considered for potential evaluation for special education services or accommodations in school. See ELC's [Impact of Lead on Learning](#) report.

### WHAT MUST SCHOOLS DO TO PREVENT LEAD EXPOSURE IN DRINKING WATER?

While many states require schools to test for lead, Pennsylvania does not. However, in order to prevent exposure to lead contamination in the drinking water of Pennsylvania's schools, the General Assembly amended [Act 39 in 2018](#) to:

- Encourage schools to test for lead in their drinking water;
- Require schools that do not test to discuss lead issues at a public meeting; and
- Implement a plan if results exceed the U.S. Environmental Protection Agency (EPA) national primary drinking water standard of 15 parts per billion (ppb).

Under the Act, schools may, but are not required to, test for lead levels annually in the drinking water of any facility where children attend school. *If a school chooses not to test for lead levels, then the school must discuss lead issues in school facilities at a public meeting once a year.*

*If a school tests for lead levels in their drinking water and finds lead levels in excess of the EPA's current action level of 15 ppb, the school must immediately implement a plan to ensure that no child or adult is exposed to lead-contaminated drinking water and provide alternate sources of drinking water.* Elevated lead levels must also be reported to the Pennsylvania Department of Education (PDE) and posted on its [website](#). The [Lead in Drinking Water Report Form](#) should be used to report any elevated levels in schools. The completed form and/or any questions can be emailed to PDE's Office for Safe Schools at [RA-EDLeadTesting@pa.gov](mailto:RA-EDLeadTesting@pa.gov). [View a list of schools reporting elevated lead levels from the 2019-20 school year](#). Notably, some schools use their own water source, such as a well, and are regulated as a public water system under the Safe Drinking Water Act. These schools are required to comply with the Lead and Copper Rule (LCR). For more information about the LCR, visit the [Pennsylvania Department of Environmental Protection website](#).

For the School District of Philadelphia, the results of those tests are available [here](#). Water outlets in the District that had lead levels above the city standard of 10 parts per billion were removed from service. Even though all water outlets were subjected to testing, the presence of lead in service lines can cause spikes in lead levels. *Therefore, the safest practice is to encourage students to drink from the filtered "hydration stations" which some districts, including Philadelphia, have installed in every school.*

The [Asbestos Hazard Emergency Response Act \(AHERA\)](#) is a federal law that requires all local educational agencies to inspect their school buildings for asbestos-containing building material, prepare asbestos management plans, and perform asbestos response actions to prevent or reduce asbestos hazards. Schools must report on the status of asbestos in every school on a three-year cycle. The most recent Asbestos Inspection Reports and Asbestos Inspection Schedule for the School District of Philadelphia are available [here](#).

### WHAT IF I HAVE A COMPLAINT ABOUT ASBESTOS?

For asbestos concerns at any school, contact your school principal, superintendent, or school board or the [Pennsylvania Department of Environmental Protection](#) complaint line at 866-255-5158. If you have concerns about asbestos in any school (including charters or private schools) in Philadelphia, you can contact the

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<sup>1</sup> Childhood Lead Poisoning Prevention at <https://www.cdc.gov/nceh/lead/prevention/default.htm>

[Philadelphia Department of Public Health asbestos hotline](#) at 215-685-7576 or the [Department of Environmental Programs & Services](#) at 215-400-4730.

### WHAT ABOUT ASTHMA?

Importantly, children with asthma are at a greater risk for developing health issues related to triggers like mold, asbestos, or vermin. Thorough cleaning of schools lessens some of these asthma triggers, but not all schools are cleaned thoroughly. Cleaning issues should be raised with the school principal or school board. For schools in Philadelphia, concerns may be [reported](#) to the District's [Facilities and Maintenance office](#).

### WHAT ARE MY RIGHTS IF MY CHILD HAS HEALTH ISSUES IN SCHOOL?

Federal law provides special protections if your child has health issues such as asthma that impact their ability to learn and/or require accommodations in school to ensure equal access to educational opportunities. If your child has a disability or condition such as asthma, talk to your school about whether your child qualifies for a “504 plan” which is an individualized plan to accommodate the needs of students with medical conditions or physical disabilities. To learn more about the process for obtaining a 504 plan for your child, please view ELC’s [504 Fact Sheet](#).

In addition, if your child’s health impairment interferes with learning *and* your child needs “specially designed instruction” or modifications to instruction, you should talk to your child’s school about whether your child may need to be evaluated for special education services. If eligible, your child will be entitled to an Individualized Education Program (IEP) to ensure your child can make progress in school. To learn more about special education services, please view ELC’s Special Education [Fact sheets](#) and [Guide](#).

If your child has a 504 plan or an IEP, you can request a meeting with the school to discuss accommodations that are necessary for your child to safely attend school. These accommodations should be clearly written into your child’s 504 plan or IEP. If the school is unwilling to make the changes that you believe are needed for your child to attend school, you have several options of ways to challenge those decisions that are described more in ELC’s [Right to Special Education Guide](#).

### WHAT ARE MY RIGHTS IF MY CHILD’S SCHOOL IS CLOSED DUE TO ASBESTOS OR OTHER HEALTH HAZARDS OR BUILDING REPAIRS?

In Pennsylvania, all public schools must be open each school year for at least 180 days of instruction for pupils. The number of instructional hours in a school year is to be at least 450 for half-time pre-K and kindergarten, 900 for full-time pre-K and kindergarten and elementary, and 990 for secondary school. Instruction time is defined as time in the school day devoted to instruction and instructional activities provided as an integral part of the school program under the direction of certified school employees.<sup>2</sup> ***Accordingly, if your school is closed for repairs or due to health hazards, etc., your district must ensure that students still receive the required number of instruction hours and days.***

In addition, if your child is a student with a disability and receives special education services, she is entitled to a “free, appropriate, public education” (FAPE). If your school was closed, students with disabilities are entitled to compensatory education services (make-up services) for any day your child was deprived of a FAPE. You should ask your IEP Team to meet to address your child’s eligibility for compensatory education services for any day your school was closed. In Pennsylvania, these “comp ed hours” are awarded to students on an hourly basis for the duration of the time your child was denied a FAPE.

### WHAT ELSE DO I NEED TO KNOW?

Underfunded districts, including the School District of Philadelphia, spend millions of dollars annually on major facility improvements through their capital budgets. But that is not enough to address the problem. The normal life-cycle replacement costs for facilities in Philadelphia are estimated to be \$320 million

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<sup>2</sup> 22 PA Code 11.1; 22 PA Code 11.2.

annually. More funding for our schools is critically needed to keep our children stay safe and healthy. You may talk to your school board about the needs in your school and learn more about how these issues are being addressed through your district's capital improvement program. The current list of capital improvement projects in the School District of Philadelphia is detailed [here](#).

### WHAT ELSE CAN I DO?

ELC encourages parents to raise any concerns with their school administrators and the school board. In addition, raise your concerns about the need for additional school funding to address these issues with your state legislators. Join [PA Schools Work](#).

The Philly Healthy Schools Initiative also has a list of [solutions](#) to address the detrimental effects of health threats on students in Philadelphia schools. Learn more about advocacy by visiting their [website](#).

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**The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education.** Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Philadelphia) or 412-258-2120 (Pittsburgh) – or contact another attorney of your choice.