

TOXIC SCHOOLS: WHAT PARENTS NEED TO KNOW

August 2022

Many children across the country¹ and in Pennsylvania suffer the adverse health effects of attending underfunded schools in old school buildings.² Deteriorating 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 would cost nearly \$5 billion to address deferred repairs.³ The cost to children is even higher. A 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 to understand their rights on these issues.

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.⁴ Researchers note that schools without proper facilities and resources often have large numbers of children with complex needs.⁵ Dangerous and unsafe school conditions are also tied to class and race-based inequities in the history of schools and inequities in school funding policies and practices. School districts that serve majority poor, Black, and Brown students are more likely to have poor building conditions and fewer resources.⁶

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](#). Philadelphia provides information about [asbestos](#) and [water](#) safety in schools at the websites linked here, but information may not be current.

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 required to share information under the [Right-to-Know Law](#).

WHAT SHOULD I DO IF I HAVE LEARNED 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; therefore, lead and asbestos continue to be concerns. Schools built after 1978-1980 should not have hazardous paint chips or dust.

Exposure to lead remains a significant health concern, especially for young children, whose growing bodies absorb more lead than adults. Consuming paint chips or drinking contaminated water can cause lead poisoning. Your pediatrician can test your child for exposure to lead. Importantly, children who receive Medicaid health insurance are required to be tested before their second birthday. Despite this clear requirement, one in three Pennsylvania children with Medicaid health insurance is not tested for lead poisoning by that time.⁷ In 2020, more than 6,000 children in Pennsylvania had elevated blood lead levels.⁸

There is no safe level of lead exposure for children, according to the Centers for Disease Control and Prevention.⁹ A blood lead level of 5 micrograms per deciliter is considered the threshold to identify children requiring case management by a physician. Data from the 2020 Childhood Lead Surveillance report from the Pennsylvania Department of Health showed the rate of children with elevated blood lead levels to be about 4.65%. This is a rate two times higher than the rate of children poisoned in Flint, Michigan, at the peak of the city's crisis, according to a recent statement from the Lead-Free Promise Project, a nonprofit in Pennsylvania.¹⁰ 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.

Asbestos is the term for certain natural fibers that were used in many types of building materials, including wrapping for pipes and some floor and ceiling tiles. **Asbestos is dangerous and can cause a wide variety of diseases depending on the level of exposure.** Harmful exposure can occur when materials containing asbestos are disturbed or damaged in a way that releases fibers into the air and those fibers are inhaled or swallowed.¹¹

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 its 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. [View a list of schools reporting elevated lead levels from recent school years.](#)

Notably, some schools use their own water source, such as a well, and are regulated as a public water system under the federal Safe Drinking Water Act. These schools are required to comply with the federal Lead and Copper Rule (LCR). For more information about the LCR, visit the [Pennsylvania Department of Environmental Protection website](#). In December 2021, the EPA announced the development of a new regulation to better protect communities from exposure to lead in drinking water and is collecting input from impacted communities. See more information [here](#).

For the School District of Philadelphia, the results of lead tests are available [here](#). (Information may not be current.) 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 water service lines can cause spikes in lead levels. **Therefore, the safest practice is to encourage students to drink from the filtered hydration stations** that some districts, including Philadelphia, have installed in every school.

WHAT IF I HAVE A COMPLAINT ABOUT ASBESTOS?

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.¹² Asbestos inspection reports and the asbestos inspection schedule for the School District of Philadelphia are available [here](#). (Information may not be current.)

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

WHAT ABOUT ASTHMA?

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 Plan 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 [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, which are described more in an ELC fact sheet, [Resolving Special Education Disagreements](#).

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.¹³ ***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, they are 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. 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 annually. More funding for our schools is critically needed to keep our children 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 scheduled and recently completed 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 the initiative's [website](#).

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, multilingual 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 or call 215-238-6970 (Philadelphia) or 412-258-2120 (Pittsburgh) – or contact another attorney of your choice.

¹ See School Districts Frequently Identified Multiple Building Systems Needing Updates or Replacement, U.S. Gov't Accountability Office (Jun. 2020), <https://www.gao.gov/assets/gao-20-494.pdf>

² More than 65 percent of schools in Pennsylvania were built before 1970, according to a 2014 study commissioned by the Pennsylvania Department of Education, <https://aiapa.org/wp-content/uploads/2018/02/School-Facilities-Survey-2014.pdf>

³ For more information about the Facilities Conditions Assessments of buildings in the School District of Philadelphia in 2017 and 2022, see <https://www.philasd.org/capitalprograms/facilities-conditions-assessments-fca/>

⁴ See, e.g., The Importance of School Facilities in Improving Student Outcomes, PennState Center for Evaluation and Education Policy Analysis (2015), <https://sites.psu.edu/ceepa/2015/06/07/the-importance-of-school-facilities-in-improving-student-outcomes/>

⁵ See Mary Filardo, Jeffrey M. Vincent, and Kevin J. Sullivan, How Crumbling School Facilities Perpetuate Inequality, KAPPAN (Apr. 29, 2019), <https://kappanonline.org/how-crumbling-school-facilities-perpetuate-inequality-filardo-vincent-sullivan/>

⁶ See e.g., Erika M. Kitzmiller and Akira Drake Rodriguez, The Racialized History of Philadelphia's Toxic Public Schools, The Metropole (Jan. 2022), <https://themetropole.blog/2022/01/13/the-racialized-history-of-philadelphias-toxic-public-schools/>

⁷ See Childhood Lead Testing and Poisoning Report: 2017 and 2018 Pennsylvania Birth Cohort Analysis (January 2022), <https://www.health.pa.gov/topics/Documents/Environmental%20Health/Childhood%20Lead%20Testing%20and%20Poisoning%20Report%202017%20and%202018%20Pennsylvania%20Birth%20Cohort%20Analysis.pdf>

⁸ 2020 Childhood Lead Surveillance Annual Report, PA. Dep't of Health (Jan. 2022), <https://www.health.pa.gov/topics/Documents/Environmental%20Health/2020%20Childhood%20Lead%20Surveillance%20Annual%20Report.pdf>

⁹ Childhood Lead Poisoning Prevention at <https://www.cdc.gov/ncsh/dnpp/default.htm>

¹⁰ Read more at PALeadFree.org

¹¹ Read more at CDC Agency for Toxic Substances and Disease Registry, Public Health Statement for Asbestos, <https://wwwn.cdc.gov/TSP/PHS/PHS.aspx?phsid=28&toxid=4>

¹² Learn more at EPA, Asbestos and School Buildings, <https://www.epa.gov/asbestos/asbestos-and-school-buildings>

¹³ 22 PA Code 11.1; 22 PA Code 11.2.