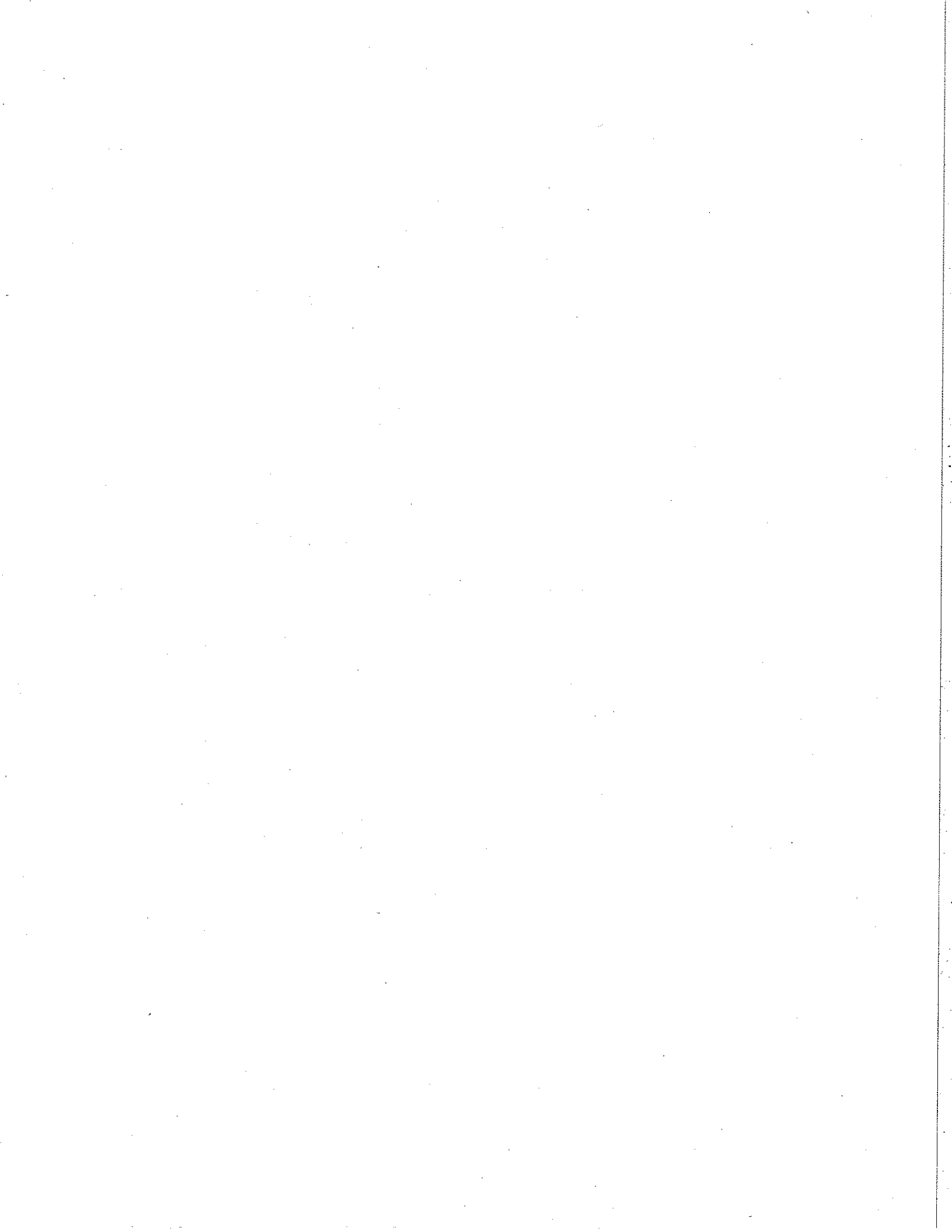


**Chapter 246-366A WAC, Primary and Secondary Schools
Comments on Proposed Rule Filed as WSR 08-15-174, July 23, 2008
Official Comment Period through September 10, 2008
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JUN 16 2008

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES WA STATE BOARD OF HEALTH
Division of Occupational Safety and Health
P.O. Box 44600 • Olympia, Washington 98504-4600

June 13, 2008

Craig McLaughlin
Executive Director
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

RE: Board of Health Rulemaking for School Safety and Health

Dear Craig:

This letter is in response to your request that the Department of Labor & Industries (L&I) provide a written explanation of our authority for workplace safety and health issues affecting school faculty and employees.

Under the Washington Industrial Safety and Health Act (WISHA), adopted in 1973 in accordance with section 18 of the Federal Occupational Safety and Health Act (OSHA), OSHA delegated exclusive jurisdiction for employee workplace safety and health issues to L&I (RCW 49.17.270). WISHA applies to employment performed in any work place within Washington (RCW 49.17.030). WISHA rules must be at least as effective as the Federal OSHA equivalent.

With respect to the current Board of Health rulemaking on environmental health and safety standards for school facilities, we believe it is important for the Board of Health to recognize L&I's jurisdiction related to faculty and school employee safety and health. Further, should a faculty member or school employee bring issues of employee safety or health to our attention, L&I would consider whether any WISHA safety or health regulations had been violated; we would not apply or attempt to implement rules adopted by the Board of Health.

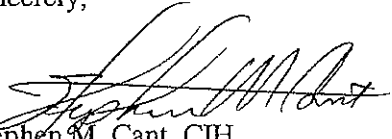
To clarify L&I's authority over worker safety and health, we suggest the following addition (i.e. underlined text) to your proposed WAC 246-366A-001, Introduction and purpose: "These rules establish minimum environmental health and safety standards for school facilities and are intended to promote a health and safety environment in school facilities. These rules are not intended to replace or supersede the Department of Labor & Industries' authority and jurisdiction over employee safety and health."



Craig McLaughlin
June 13, 2008
Page 2

If you have any questions, please feel free to contact me at by phone at (360) 902-9166,
or e-mail at cant235@Lni.wa.gov

Sincerely,



Stephen M. Cant, CIH
Assistant Director
Division of Occupational Safety and Health

cc: Mary Selecky, Secretary of Health, DOH
Bill White, Deputy Secretary, DOH
Judy Schurke, Director, L&I

State of
Washington
House of
Representatives



JUL 24 2008

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JUL 24 2008

WA STATE BOARD OF HEALTH

July 14, 2008

Mr. Treuman Katz, Chair
Board Members
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

Dear Mr. Katz and Members of the Board of Health:

We serve as members of the House Appropriations Subcommittee on Education as well as members of the Joint Task Force on Basic Education Finance.

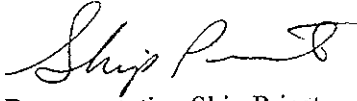
We understand that the Board of Health is considering a change to the School Environmental Health & Safety Rules, Chapter 245-366 WAC, and that the Board is considering adoption of the Proposed Rules in fall 2008. On July 14, 2008, the House Appropriations Subcommittee on Education held a work session on the proposed K-12 Environmental Health and Safety Rules. We have a better appreciation of the fiscal impacts on school districts and the potential statewide costs associated with implementing many elements of the Proposed Rules.

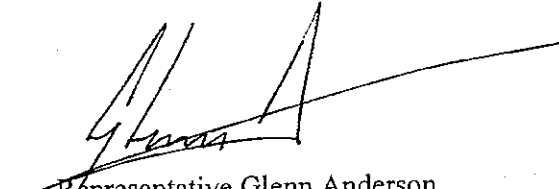
As you may know, the Joint Legislative Task Force on Basic Education Finance is studying the funding structure of our K-12 public schools. The Task Force is in the midst of preparing a comprehensive report on the costs of basic education. We are looking at funding basic education in a systemic manner and the costs for implementing the Proposed Rules would need to be worked into the recommendations of the Task Force. Therefore, we ask that the Board of Health delay taking action on the School Rules until the Task Force completes its final report (due December 2008) and until the Legislature has an opportunity to address the costs associated with Rule implementation and to consider the costs in the context of other budget decisions. Thank you.

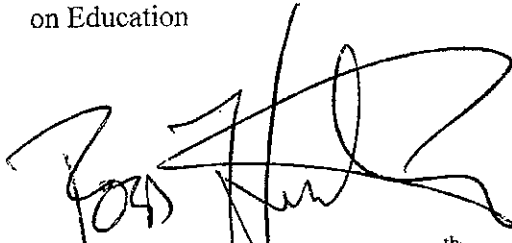
Sincerely,


Representative Kathy Haigh
Chair, Appropriations Subcommittee
on Education

Representative Pat Sullivan
Vice Chair, Appropriations Subcommittee
on Education


 Representative Skip Priest
 Ranking Minority
 Appropriations Subcommittee
 on Education


 Representative Glenn Anderson
 Assistant Ranking Minority
 Appropriations Subcommittee
 on Education


 Representative Ross Hunter (D-48th)


 Representative Fred Jarrett (D-41st)

cc: Craig McLaughlin, Executive Director, Washington State Board of Health

5

31405 18th Ave. So.
Federal Way, WA
98003-5433
Tel 253.945.2000
www.fwps.org



Federal Way
Public Schools

c: Mary Selecky
Craig McLaughlin

July 21, 2008

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JUL 24 2008
OFFICE OF THE GOVERNOR

The Honorable Christine Gregoire
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

As you may know, the Washington State Board of Health is proposing changes to the School Environmental Health and Safety Rule, Chapter 245-366 WAC. The Board is considering adopting the Proposed Rules in fall 2008, with an implementation date of fall 2010. Other than parents and family members, there is no one who cares more deeply about the health and safety of students and staff than do the 295 Superintendents who work for the citizens of the State of Washington. While many of the proposals are nice ideas, school districts are being crushed by the weight of good intentions.

We are concerned about the unintended operational and economic impacts of the Board of Health's Proposed Rules on school districts. We estimate that it will cost Federal Way Public Schools an additional \$1.4 million in the first year to implement the Proposed Rules. To put this number into perspective, with staffing for nurses at half of the level that some would recommend (target ratio of 1 nurse to 750 students), my District currently spends \$1.4 million for nursing services. Without significant additional funding from the State to pay for the requirements imposed on school districts, Federal Way Public Schools will not be able to absorb the additional costs to implement the Proposed Rules. We are already looking at the potential of \$6 to \$8 million in cuts in the next school year.

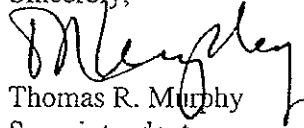
We hope that the Board of Health will not adopt the Rules without first outlining the anticipated health benefits and the costs of each proposed change and addressing the State funding needed to implement the Proposed Rules. Your office and the Legislature need to have the opportunity to address the costs associated with Rule implementation and to consider the fiscal impacts in the context of other budget decisions. The agency rule-making process must be coordinated with the state budget process, and these steps should take place before the Board takes action. Finally, we request that the Proposed Rules not go into effect until the Legislature has provided funding to pay for the new requirements statewide.

6

The Honorable Christine Gregoire
July 21, 2008
Page 2

Thank you for your attention to this important issue.

Sincerely,



Thomas R. Murphy
Superintendent
Federal Way Public Schools

c: Marty Brown, Legislative Director
Judy Hartmann, Policy Advisor
Grace T. Yuan, K&L Gates

7



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JUL 29 2008

Washington State Senate

WA STATE BOARD OF HEALTH

July 28, 2008

Mr. Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

Dear Mr. Katz and Members of the Board of Health:

Thank you for your ongoing work to address environmental health and safety in our schools. We appreciate the dedicated work of the Board of Health to protect all children.

We know that the Board of Health staff and the Department of Health staff have worked with many stakeholders over the last few months to revise the Environmental Health and Safety Rule for the Board's consideration. Thank you for this collaborative process. We also know that the Department continues to refine cost estimates of the fiscal impact of the proposed rule change. The Department currently estimates that the operations and maintenance costs to implement the rule change will be about \$16 to \$20 million per year, though that does not include "start up" costs or the costs of remediation. We understand revised data suggests that the costs will be in the range of \$96 to \$120 million over a six-year period. We look forward to reviewing the refined cost-benefit analysis.

As you know, many legislators are concerned about the fiscal impact of the proposed rules on statewide education spending and on local school district budgets. We encourage you to consider delaying the adoption of the rule change until the Legislature has the opportunity to review the final cost estimates and to determine a funding mechanism. A significant part of our budget planning will be dependent on the anticipated Basic Education Finance Report in December 2008. By delaying adoption of the School Environmental Health & Safety Rule, the Legislature will be better able to address the costs associated with rule implementation and to consider the costs of the rule in the context of other budget decisions.

Sincerely,

Sen. Rosemary McAuliffe
Chair, Senate Education

Sen. Rodney Tom
Vice-Chair, Senate Education

Senator Dale Brandland
Ranking Minority Member,
Senate Ways & Means
Co-Chair, Joint Legislative Committee on
School Construction Funding

Senator Curtis King
Ranking Minority Member
Senate Education



PUBLIC TESTIMONY - Wendell Hadden

From: Wendell.Hadden@interfaceflor.com
[mailto:Wendell.Hadden@interfaceflor.com]
Sent: Thursday, July 31, 2008 7:39 AM
To: DOH WSOBH
Subject: Re: School Environmental Health & Safety Rule Update
Newsletter and NOTICE OF PUBLIC HEARING

To Whom it may concern

Please consider the following modification:

Floor materials are to be easily cleanable and dryable (may include tightly woven carpets or carpet tile with water impervious backing)

Thanks

Wendell Hadden
Vice President Institutional Segment
InterfaceFLOR Commercial
1503 Orchard Hill Road
LaGrange Georgia 30240
1 800 336 0225 x6115
1 706 333 0102 cell
wendell.hadden@interfaceflor.com
www.interfaceflor.com
www.interfacesustainability.com

PUBLIC TESTIMONY – James Green

Sent: Monday, August 04, 2008 6:39 PM
To: McLaughlin, Craig D (DOH); Mel Tonasket; Mark Cooper; Mark; Kathy O'Toole
Subject: Comments from James W Green RE:Budget Analysis Meeting

To All State Board of Health members and others:

Craig, could you see that all members receive this?

Here are my observations and comments from the Final Budget Analysis meeting. It seemed to me that strings and accountability to any funding is paramount. Several items of concern arose in this meeting such as printer language around venting (exhaust) and the water lead testing.

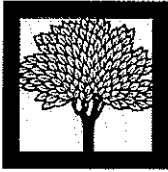
As I recall from previous meetings, consensus was built around achieving 100% K-12 over four years. Now only 25% of middle and high school over four years is required, leaving at best a result of 100% in 27 years (if ever) only if schools test a different 25% each cycle! To me this seems severely weakened and wrong!

Also, discussion came up around water impervious backed carpet. A question was asked if seams must be sealed? My further investigation found an entity attempting to include carpet tiles without sealing seams which even if water impervious carpet were used, the intent is defeated by allowing pathways for moisture and contamination under carpeting. Therefore the answer to the question is yes, all seams MUST be sealed. Even then there is some risk around perimeter of moisture incursion. I would offer an alternative of only hard surface and no carpet. Also in the process and discussion of what other expenses may have been missed relating to HVAC systems, several maintenance reps expressed concerns of qualified staff on payrolls to check systems and see they are operating as designed and to manufacturers specs, therefore creating a cost to hire outside experts(a justifiable concern). After several discussions on this issue amongst members I made the comment that we need to call it what it is and require commissioning as I have advocated all through this process and in writing of next draft wording gets changed. At least then you can better analyze the cost/benefit and remember this is one of the main elements for creating a healthy school environment. By doing this we can then move forward to secure funding.

I would like to express my thanks to the SBOH for allowing my input through this phase for consideration.

Sincerely,

James W Green



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Mike Ragan, Vice President
John Okamoto, Executive Director

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Federal Way, WA 98063-9100

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toll free: 800-622-3393

fax: 253-946-4692

www.washingtonea.org

Treuman Katz, Chair
Washington State Board of Health
PO Box 47990
Olympia WA 98504-7990

August 20, 2008

Dear Chairman. Katz:

On behalf of the 81,000 members of the Washington Education Association, I urge the members of the Board to adopt the proposed new school health rules without delay.

The urgent need for updated school health rules has been thoroughly demonstrated by public testimony from parents of students whose health has been damaged by unhealthy school environments. Many school buildings in Washington State pose a health hazard because no one has, for example, walked through them to note and remediate mold growth or water incursion that leads to mold growth. In other schools, student and staff absences spike because no one has checked the ventilation system to ensure that adequate outside air is pulled into the system and that the filters have been changed on schedule.

The construction related requirements of the proposed rules – those few rules that might cause additional costs – do not apply to schools for which a building permit application was filed before September 1, 2010; the standard regarding insulation of air ducts does not apply if a building permit application is filed before September 1, 2013. This allows school districts ample time to design new building plans to meet environmental health standards. Annual environmental health inspections by local health officers are not required until September 1, 2011; this allows local health jurisdictions time to obtain staff training. Initial water testing requirements for lead are not effective until 2010; repeat water monitoring is not required until 2017. The effective dates of copper testing requirements are further postponed. Adopting the rules immediately while setting a delayed effective date for certain provisions also gives districts and local health officers time to acquire any funding needed for compliance. The delayed effective dates strike a good balance between the urgent need to protect student and staff health, and districts' and local health officers' concerns regarding funding, staffing and planning.

Once adopted, the new rules will significantly enhance the safety and health of school buildings, providing much greater protection of student and staff health. WEA remains committed to working with the Legislature to provide the funding necessary to keep students and staff working in a healthy environment. WEA urges that the rules be adopted as soon as the public comment period ends.

Thank you.

Mary Lindquist
President, Washington Education Association

Chapter 246-366A WAC State Board of Health Primary and Secondary Schools

Commentator: Mark S. Cooper

E-mail: nano_fish@msn.com

Phone: 206-683-4182

Comment Date: Aug 28 2008 5:43PM

Comments:

A new subsection to WAC 246-366A-020 needs to be added, to clarify where the statutory authority and responsibilities of school officials and local health officers are derived from.

Suggested addition:

(g) WAC 246-366A was promulgated under RCW 43.20.050, and is enforceable under RCW 43.20.050(4).

This addition to WAC 246-366A-020 will clarify the intent of the revised WAC code. Most importantly, it will allow all interested parties to identify the relevant RCW that pertains to the actions and responsibilities of school officials and local health officers. RCW 43.20.050(4) is not currently transparent in the WAC code. Conflicts are likely to arise if the RCW pertaining to the authority and responsibilities of school officials and local health officers are not explicitly referenced in WAC 246-366A-020.

PUBLIC TESTIMONY - Dan Fitzpatrick

From: Fitzpatrick, Dan [mailto:danf@stlouiseschool.org]
Sent: Tuesday, September 02, 2008 3:35 PM
To: DOH EH School Rule
Subject: School Environmental Health and Safety Rule

To Whom It May Concern:

This letter is in response to the "Formal Rule Proposal for School Environmental Health and Safety." As the principal of a non-government-supported school (private school), I have strong concern for the impact this will have on our school and other, similar schools. I don't believe many of our private schools can absorb the cost of these new rules, which I understand will apply not only to school buildings, but to any facility (i.e. church, fellowship hall, etc) that houses children for educational purposes. Although the "spirit" of the rules is good, the practicality is very negative. I would ask that you please consider ways to alleviate the financial impact on private schools.

Thank you.

Sincerely,

Dan Fitzpatrick

Dan Fitzpatrick, St. Louise School Principal
133-156th Ave. SE
Bellevue, WA 98007
(425) 746-4220 ext. 105
danf@stlouiseschool.org

PUBLIC TESTIMONY - Patrick Young

From: Patrick Young [mailto:young@nyhs.com]
Sent: Tuesday, September 02, 2008 3:12 PM
To: Bernard, Nancy (DOH)
Cc: rfox@nyhs.com
Subject: Proposed Changes to Chapter 246-366 WAC

Nancy,

My name is Patrick Young. I am the Business Manager for the Northwest Yeshiva High School in Mercer Island.

This is a response to the proposed changes to the environmental health and safety rules for primary and secondary schools, Chapter 246-366 WAC:

While the intent of instituting mandatory Water Quality Monitoring for both Lead and Copper is commendable, these proposed regulations regarding stringent water quality testing are onerous and potentially very expensive for independent private schools.

The proposed regulation states that school officials must ensure that:

"The Environmental Protection Agency's (EPA) "3Ts For Reducing Lead in Drinking Water in Schools" (EPA publication 816-B-05-008) 1, called "EPA 3Ts publication," is used to:

- (i) design a sampling plan,
 - (ii) sample the water,
 - (iii) interpret test results,
 - (iv) inform the public, and
 - (v) correct any lead problems.
- (b) A laboratory, accredited by a state agency to perform lead analysis according to EPA drinking water laboratory certification criteria, is used to analyze all samples.
- (c) Sample sites consist of every outlet that is regularly used for cooking or drinking.
- (d) A person is designated at each school facility that is responsible for collecting the water samples and ensuring the samples are properly tested. School officials shall ensure the designated person has sufficient training and knowledge to meet these responsibilities."

The Northwest Yeshiva High School is a small private high school with an enrollment of 95 students and a small administrative staff. Assuming that

there would be no lead or copper problems to correct, the demand on our manpower to design a plan, sample the water and interpret the results will be significant. Designating and training someone to be "responsible for collecting the water samples and ensuring the samples are properly tested" will cause additional undue strain to an already overworked administrative staff.

In addition to the demands on the staff's time, the costs of submitting samples to an "accredited" laboratory are not insignificant. For small schools like NYHS that frequently run at a deficit, any additional unbudgeted cost is a concern.

Finally, in addition to any expense we may incur in the testing process, we are also expected to pay fees to the Board of Health "to ensure that (our) school environmental health and safety program is adequately funded"?

So it appears that these proposed regulations are completely unfunded, with absolutely no expense incurred by the state. This seems poorly conceived, and truly meets the definition of an "unfunded mandate".

We urge the state to reconsider implementing these particular revisions.

Patrick Young
Business Manager
Northwest Yeshiva High School
206.232.5272
young@nyhs.com

PUBLIC TESTIMONY - David Harton

From: Laura Moore [mailto:Laura.Moore@k12.wa.us]
Sent: Wednesday, September 03, 2008 8:33 AM
To: Boe, Heather D (DOH)
Subject: FW: OSPI Bulletin B073--Health Department Rule Changes

Heather, this is a comment that was sent to me regarding the proposed rule changes and how it will affect a private school.

Laura Moore

Navigation 101/Private Education and Home-Based Instruction
360-725-6433
Fax: 360-664-3575

From: David Harton [mailto:dharton8909@comcast.net]
Sent: Tuesday, August 26, 2008 8:38 PM
To: Laura Moore
Subject: Re: OSPI Bulletin B073--Health Department Rule Changes

Dear Laura,

Most private schools are very small and do not have maintenance departments staffed with highly knowledgeable people in complex mechanical issues, nor do we have staff to analyze the complexities and impacts of new regulations. I would venture to say most small private school principals would just like to know the bottom lines. How are the proposed regulations different from the present regulations, what changes will I need to make and what is it likely to cost. Governmental agencies need to realize that small private schools do not receive tax money and all required improvements will be paid for by our parents, and congregations. Because of this, I would say there needs to be some exemptions for private schools for expensive modifications, upgrades and changes.

--
Dave Harton
Principal
Spokane Christian Academy
www.spokanechristianacademy.org
dharton8909@comcast.net
509.924.4888
509.924.0432 (fax)

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23rd DISTRICT
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SEP 03 2008

WA STATE BOARD OF HEALTH

September 2, 2008

Craig McLaughlin, Executive Director
State Board of Health
MS 47990
Olympia, WA 98504

Dear Craig,

I understand that the Board of Health is currently conducting hearings regarding the Rule Proposal for School Environmental Health and Safety. I know that you have heard from many school districts and educational organizations with concerns about the cost burden to the schools, and I would like to add my voice to those concerns.

Of course, the safety of our children is of utmost concern to all of us. Most schools are doing everything in their power to keep their students safe, and imposing unfunded mandates on districts seems to make light of their efforts to manage their resources as efficiently as possible. I have heard from staff in one of the school districts in Kitsap County, who say they anticipate the increased cost of a new elementary school to be between \$200,000 and \$250,000. This is an incredible burden to place on schools already stretched too thin.

Asking school districts to choose between educating their students or improving safety measures is an untenable choice. Before you enact these rules, I request that you allow the Legislature to explore additional funding sources so we do not have to ask our schools to make this choice.

Thank you,

Christine Rolfes

Christine Rolfes



September 4, 2008

Ned Therien
101 Israel Road S.E.,
P.O. Box 47990
Olympia, WA 98504,

Subject: Western Wood Preservers Institute Comments Regarding Proposed New Regulation, Chapter 246-366A WAC, Primary And Secondary Schools

Mr. Therien:

The Western Wood Preservers Institute (WWPI) is the trade association representing wood preserving companies and wood preservative manufacturers doing business in the western United States, including Washington State. I am writing to provide comments regarding the proposed new regulations of the Washington Administrative Code related to Primary and Secondary Schools. The new regulations include requirements related to treated wood that are unnecessary and misleading.

The specific sections of the regulation that concern the WWPI are as follows:

WAC 246-366A-060 General construction requirements. School officials shall:

(8) Prohibit the use of chromated copper arsenate or creosote treated wood where it is accessible to students.

WAC 246-366A-150 Playgrounds -- Construction and installation requirements. (1) School officials shall:

(d) Prohibit the use of chromated copper arsenate or creosote treated wood to construct or install playground equipment or landscape and other structures on which students may play.

WAC 246-366A-155 Playgrounds -- Operation and maintenance requirements. School officials shall:

(2) Prohibit the use of chromated copper arsenate or creosote treated wood to repair or maintain playground equipment or landscape and other structures on which students may play.

The prohibition on use of wood treated with CCA is unnecessary because the EPA approved pesticide labels for this preservative currently does not allow the uses being prohibited. Since the end of 2003, use of CCA treated wood is limited to heavy duty or industrial type applications, such as marine construction, transportation structures, and utility poles, and is

not approved for dimensional lumber for residential or commercial applications. CCA treated dimensional lumber can no longer be purchased at lumber stores because they now stock wood treated with non-arsenical preservatives.

The proposed regulations are misleading to the public because they 1) incorrectly imply that such a restriction is needed to prevent such uses (It is not, since such material is no longer available.), 2) will lead to confusion since wood treated with other preservatives may look the same, and 3) incorrectly imply that the presence of such treated wood would present a health risk (It would not, as shown below.).

The following discussion is intended to provide some facts and perspective related to these issues.

CCA-Treated Wood

Chromated copper arsenate (CCA) is a wood preservative that has been registered and approved by the US Environmental Protection Agency to protect wood from dry rot, fungi, molds, termites, and other pests that can threaten the integrity of wood products. It is injected by a process that uses high pressure to penetrate wood products with the pesticide.

CCA-treated wood has been used since the 1930's. Prior to December 31, 2003, CCA-treated wood had been produced for use in many areas including residential and recreational applications, such as decks, walkways, home fences, gazebos, and playground equipment. Since that date, the continued uses of CCA are limited mostly to industrial applications, such as, utility poles, bridges, bulkheads, highway applications, structural columns, agricultural uses, marine construction, and cooling towers.

In February 2002, the manufacturers of CCA individually informed the Agency that they would voluntarily cancel their registrations for non-industrial uses of CCA-treated wood, effective December 31, 2003. EPA praised the industry and remarked that this voluntary action has resulted in a transition, years ahead of what the government could have done through its standard regulatory process.

On its current website, at

http://www.epa.gov/oppad001/reregistration/cca/cca_consumer_doc.htm, EPA provides two key pieces of advice for consumers:

- EPA does not believe there is any reason to remove or replace CCA-treated structures, including decks and playground equipment.
- EPA is not recommending surrounding soils be removed or replaced.

US Consumer Product Safety Commission (CPSC), in referencing the pending transition, "voted unanimously today to deny a petition to ban the use of chromated copper arsenate (CCA) pressure-treated wood in playground equipment." (November 4, 2003)

The Commission correctly took the position that it made no sense to ban a product that would no longer be manufactured after December 31, 2003 and that existing inventories would be depleted by July of 2004.

In announcing the industry voluntary plan, EPA commented,

"EPA has not concluded that CCA-treated wood poses unreasonable risks to the public for existing CCA-treated wood being used around or near their homes or from wood that remains available in stores. EPA does not believe there is any reason to remove or

replace CCA-treated structures, including decks or playground equipment. EPA is not recommending that existing structures or surrounding soils be removed or replaced." (Environmental Protection Agency, February 12, 2002)

<http://yosemite.epa.gov/opa/admpress.nsf/b1ab9f485b098972852562e7004dc686/1a8cfb4970823b3885256b5e006ffd67?OpenDocument>

More could be said, but the important message is that even if CCA treated lumber was available for construction in school grounds, it would not pose any significant risk.

As many people know, CCA treated wood is typically green or may be stained brown. New preservatives now in use, such as ACQ and copper azole, are also green and may also be stained brown. School officials may be forced to "prove" that treated wood installed meets the regulations or will simply choose more expensive non-treated wood products.

Creosote-Treated Wood

Unlike CCA, there is no prohibition or regulated use of wood pressure treated with creosote though the Consumer Information Sheet does recommend not using it where there will be frequent or prolonged contact with bare skin unless an effective sealer has been applied. However, it is unlikely creosote treated wood would be readily available for use in playground equipment though it is not uncommon for creosote treated railroad ties that have been taken out of service to be reused as a landscape retaining structure. It is important to note though, typically such railroad ties have been in use by railroads for 10 to 50 years before being taken out of service so that any creosote constituents remaining in the wood are quite stable and present minimal exposure potential.

Further Discussion

As the WWPI reads the proposed regulations, they seem not to prevent use of CCA or creosote treated wood utility poles, sign posts, or guard-rail posts on or near school grounds. However, this interpretation is not clear. The terms "where it is accessible to students" might easily be read to prevent such utility poles or posts anywhere on school grounds. If the restrictions remain in the regulations, utility poles and roadside sign and guardrail posts should be exempted from the regulation.

Wood is a cost effective and renewable resource that removes carbon dioxide from the air as it grows and when treated with a preservative it is held (sequestered) in the wood indefinitely. Confusion related to finding acceptable products will likely lead to choosing materials other than wood costing 2-3 times more, like galvanized steel or plastic, and the manufacture of which contributes to global warming due to the significant releases of carbon dioxide related to fossil fuel.

WWPI Position

The WWPI requests and recommends that the above quoted proposed sections of WAC 246-366A prohibiting the use of CCA or creosote treated wood be deleted. While we share your concerns and desire to protect our school children, the proposed rule does little in this regard because they prohibit something that would not happen anyway. They will likely result in confusion and unwarranted concern by the public. They may even cause schools to use more expensive, less safe, non-renewable materials than treated wood for other construction and maintenance projects.

Otherwise, should you choose to keep the prohibitions, then the WWPI recommends that utility and transportation related structures be exempted from the prohibitions.

Thank you for considering our comments and request. Please feel free to contact me if you have any questions.

Sincerely,

Ted LaDoux
Executive Director
Western Wood Preservers Institute

(21)

CREOSOTE COUNCIL

Post Office Box 160
Valencia, Pennsylvania 16059
Phone: 724-898-9663
www.creosotecouncil.org

September 4, 2008

Mr. Ned Therien
101 Israel Road SE
P. O. Box 47990
Olympia, WA 98504

**RE: Comments Regarding Proposed New Regulation, Chapter
246-366A WAC, Primary & Secondary Schools**

Dear Mr. Therien:

Creosote Council is a non-profit trade organization with members comprised of all the North American creosote registrants, who manufacture and/or import creosote. In addition we represent those companies who treat wood with creosote.

The comments provided relate to the new proposed regulations by the Washington Dept. of Health. These new regulations for creosote treated wood are misleading and unnecessary.

Under FIFRA, the US EPA regulates the use of creosote, not the use of creosote treated wood. Further for consideration, EPA has not prohibited, or attempted to regulate any use of creosote treated wood.

The major uses for creosote treated wood are commercial; generally limited to heavy duty construction – railroad crosstie, utility poles and piling materials. The only potential use would be landscape retaining walls. Typically such crosstie material has been “retired” from use by the railroads after 20 to 50 years service in the track bed. Exposure to such “retired” product would be minimal.

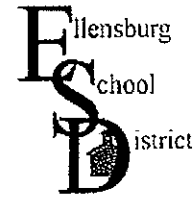
Treated wood is a cost effective renewable resource. It is significantly less expensive than the “so called” substitutes – steel and plastic materials. Appreciate the opportunity to comment on these proposed regulations. Please contact me if you have any questions.

Sincerely,

David A. Webb
Administrative Director, Creosote Council

Ellensburg School District #401

1300 East Third Avenue
Ellensburg, WA 98926-3576
(509) 925-8000 FAX (509) 925-8025
<http://eburg.wednet.edu>



27 August 2008

Mr. Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia, WA 98504-7990

RECEIVED

SEP 05 2008

WA STATE BOARD OF HEALTH

Re: Department of Health Environmental Health and Safety Rule (CR-102)

Your objective to improve health and safety in schools is appreciated. Our Board of Directors has also had occasion to make changes to improve our vigilance on behalf of students and staff. As the Board of Directors, our fiduciary responsibility to citizens of Ellensburg to be diligent, as well, in use of scarce tax resources leads to the following concerns regarding the changes embedded in the Department of Health (DOH) CR-102 Proposed Rule Making:

1. Funding: The DOH has not adequately coordinated with the State Legislature to fully fund the impact of the proposed rules. It appears that the DOH intends to pass the costs of CR-102 down to the school districts without regard for funding the consequential increases in capital costs, operational costs and start-up costs, all of which will be significant.
2. Requiring another State agency to review plans for construction is redundant; current oversight by State and local building departments is adequate.
3. School districts are already required to use professional project managers to oversee major construction projects. The requirement for professional project managers, has given new school construction the quality assurance that was missing in the past. This has addressed the construction and operating issues that negatively affect students' health and safety.
4. As part of their insurance pools, districts have risk management advisors that annually inspect schools for the issues described CR-102.
5. In the challenging economic climate of today's Washington State, we should be looking for ways to decrease State government regulation and its associated cost, not increase it.
6. Instructional programs are likely to suffer if more taxes are necessary to support additional bureaucracy and oversight.

Due to the duplication of effort and the vast expanse of State-mandated but unfunded costs, the Ellensburg School District Board of Directors conclude that the DOH should not proceed with CR-102.

Very truly,

Ellensburg Board of Directors:

Anita Boyum, Board President
Bob Haberman, Vice President
Sandy Elliot, Legislative Liaison
Chuck Wahle, member
Patrick Gigstead, member

c/ Senator Janea Holmquist
Representative Judy Warnick
Representative Bill Hinkle

PUBLIC TESTIMONY - Del Dykstra

From: Bernard, Nancy (DOH)
Sent: Thursday, September 04, 2008 6:13 PM
To: DOH EH School Rule
Subject: FW: School Health & Safety Requirements

Nancy P. Bernard, MPH
Program Manager
Indoor Air Quality/School Environmental Health and Safety
Office of Environmental Health & Safety
Washington State Department of Health
P.O. Box 47825, Olympia, WA 98504-7825
Phone: (360) 236-3072, FAX: (360) 236-2261
Nancy.Bernard@doh.wa.gov
<http://www.doh.wa.gov/ehp/ts/school/>
Public Health - Always Working for a Safer and Healthier Washington

From: Del [mailto:scoffice@embarqmail.com]
Sent: Thursday, September 04, 2008 8:54 AM
To: Bernard, Nancy (DOH)
Subject: School Health & Safety Requirements

Hi Nancy,

I wanted to respond to the new Washington State Health regulations and the meeting on September 10, 2008. After reviewing the information we (private schools) are concerned about the costs incurred for private schools, and the assumption by the department of health that tuition increases will meet financial needs. We intend, as a Christian school, that all costs will be handled in a wise way. However, it is not feasible for our school to raise tuition to meet these needs. After carefully researching the giving of our community, we feel it is not possible to raise tuition any more for these additional expenses. Many of our families are making huge sacrifices for their children to attend SCS for a Christian education. We want to keep it as affordable as possible, but with the economy as it is today, this is a difficult task. Raising tuition for the parents to absorb these costs is not a viable option for us. We are asking that the Department of Health look at options to assist the private schools rather than increasing tuition.

Thank-you

If you have any questions please call or e-mail anytime.

Sincerely,

Del Dykstra
Superintendent of Sunnyside Christian School
509-837-3044



EVERETT CHRISTIAN SCHOOL

"INVEST NOW FOR THEIR FUTURE"

WASHINGTON STATE BOARD OF HEALTH
Attn: Nancy Bernard
PO Box 47990
Olympia, WA 98504-7990

RECEIVED

SEP 08 2008

WA STATE BOARD OF HEALTH

Everett Christian School
Matt Kamps, Principal
2221 Cedar St.
Everett, WA 98201

September 4, 2008

Dear Nancy,

I am writing in regards to the proposed rules for School Environmental Health and Safety. I am unable to attend the hearing in Olympia on September 10, so please accept my comments and concerns in writing.

Everett Christian School is a K-8 private religious school of about 80 children on average. We have been around since 1926. We greatly value our students' health and safety, and strive to make as many improvements as our budget allows. I agree that our students' health and safety is a very important issue, and one that has great effects on achievement and student well-being while at school.

I agree with many of the guidelines that are proposed, but the cost of these improvements could very well put us under. We are always raising the cost of tuition to match the cost of living increases, and if we raise tuition too much, parents will turn away, and we will have to close our doors. As stated in the Preliminary Small Business Economic Impact Statement, "the department assumes that private schools will meet the intent of these rules in the least costly manner... the department assumes that any additional costs incurred by private schools will be passed on to parents via increased tuition rates. Our tuition was raised by \$94 per student from last year. If we have to implement the changes that are required by this rule proposal, according to the figures on the Economic Impact Statement, we would have to raise tuition an additional \$297.18 per student for start up costs, and additional annual increases of \$113.03 for ongoing costs of operation and maintenance. This amounts to an initial tuition increase of over 7% the first year, and 3% per year for ongoing costs. With these types of increases in addition to our normal tuition increases, it is not feasible to implement these worthy health and environmental standards as they are written.

Please consider the impact these new rules will have on small private schools in Washington and find ways for us to make our schools safer and healthier that is more cost effective.

Thank you for hearing us and giving us the opportunity to voice the concerns of our school.

Sincerely,

Matt Kamps
Matt Kamps

Principal
Everett Christian School

2221 Cedar Street • Everett, WA 98201 • Phone 425-259-3213 • Fax 425-259-0721
Email admin@everettchristian.org • Website www.everettchristian.org

25



1101 West College Avenue
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509.324.1464 | TDD
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September 8, 2008

Ned Therien
Health Policy Analyst
WA State Board of Health
P.O. Box 47990
Olympia, WA 98504

Re: Comments, Final Draft, Chapter 246-366A WAC

Dear Mr. Therien:

On August 27, 2008 David Swink, Environmental Public Health Director, Spokane Regional Health District, testified before the WA State Board of Health. His testimony consisted of our general comments regarding this draft of the school rule. In his testimony Mr. Swink stated that our technical comments would be forthcoming. Attached are those comments.

Please do not hesitate to contact me at (509) 324-1570 if you have questions or need clarification regarding our comments.

Sincerely,

ENVIRONMENTAL PUBLIC HEALTH

Juliana G. Awbrey, R.S.
School Program Manager

Encl.

c: Nancy Bernard, School Health and Safety Program Manager, DOH
Mark Soltman, Local Health Support Section Manager, DOH

JA/lh

Spokane Regional Health District - School Program

Draft - Primary and Secondary Schools WAC 246-366A - Comments		
"Applicability"		
WAC Section	Text	Comment
246-366A-005(1)	"These rules apply to all...school facilitieskindergarten through twelfth grade, and preschools that are part of schools."	See our comment regarding the definition of "school facilities". Previous comment on Draft 2: The Washington State Dept. of Early Learning already has a mandate and jurisdictional authority for preschools and daycare facilities. In keeping with recommendations from the Board's EH Committee, we suggest preschools be removed from this regulation in order to avoid conflict and duplication of service.
246-366-005(1)(a)	"...except: Private residences used for home-based instruction..."	Is the intent that LHI's continue to inspect home-school centers, where home-schooled students gather and parents share the teaching responsibilities?
"Definitions"		
WAC Section	Text	Comment
246-366A-010(14)	"Faucet means...and can discharge both hot and cold water"	Some schools have separate faucets for hot and cold water. Since the water quality monitoring section refers to faucets several times, it may be helpful to refine the definition.
246-366A-010(29)	"School facility means school-owned or leased buildings and grounds..."	This definition effectively exempts all Catholic Diocese schools (and likely some private schools) in our county from these regulations. In Spokane, the local church is the legal entity that owns the property and school building. The schools are a part of the church mission and do not own or lease any of the buildings or grounds. Per our conversation with our local Catholic Diocese School Superintendent, in is our impression that this is true for many of the Catholic schools throughout the state. Recommendation - change the definition to "school facility means buildings or* grounds intended for student use....." *"buildings or grounds" is important so off-site play fields without buildings are not exempt from the rule.
"Site Assessment, Review and Approval"		
WAC Section	Text	Comment
246-366A-	Converting an existing structure for primary	This is extremely cost-prohibitive for a small private

Spokane Regional Health District – School Program

030(1)(b) <u>A full site assessment:</u>	use as a school facility.	school, e.g., converting a house into a Montessori plus kindergarten, and may not always be warranted. We recommend moving this item to section (2) to allow for flexibility.
246-366A-030(5)(a) <u>The local health officer shall:</u>	"Conduct an inspection of the proposed site"	In some cases, e.g., installation of a portable classroom, a site visit may not be necessary, and would only increase LHJ and school costs. This should be discretionary.
246-366A-030(5)(d) <u>The local health officer shall:</u>	"For site assessments according to subsection (2)...provide written approval or describe site deficiencies needing mitigation to obtain approval"	There may be a rare occasion when an LHJ has to deny a school project, e.g., a proposed addition when the site cannot accommodate the required on-site sewage disposal system. Section (5)(c) should apply to both sections (1) and (2), or (5)(d) should be reworded to include LHJ denial of the project as an option.
246-366A-030(6)	"If school officials notified the local health officer prior to September 1, 2010, that construction is planned ..."	This is too ambiguous. It should be written notification, with stated timelines included. Is there no end-date? Some school districts have 20-year plans. Is it the intent that LHJ's can be notified of those projects and they will be exempt from revised site review requirements?

"Construction Project Review"

WAC Section	Text	Comment
246-366A-040(1)(c) <u>Subject to review:</u>	"Addition to or alteration of an existing school facility consisting of more than five thousand square feet of floor area or having a value of more than ten percent of the total replacement value of the school facility"	<ul style="list-style-type: none"> • Grammar – As written, it appears it is the school facility with more than five thousand sq ft, not the addition/alteration. • More than 10% is inequitable, and adds cost to the school for an appraisal. Why is this included? • There is a gap in this section. LHJ's do not need to review all projects; however, there needs to be a requirement for schools to <i>notify</i> LHJ's of lighting upgrades, ventilation modifications, etc. The dialogue would ensure that schools would design the systems to code, rather than find out later at a routine inspection that something was out of compliance. This would be a cost savings to schools.

"Heating, Ventilation and Air Conditioning – Operation and Maintenance Requirements"

WAC Section	Text	Comment
246-366A-095(2)(a) and (2)(b)	Both sections reference chapter 51-52 WAC	We understand why this code is referenced. Is there a way to reference certain sections, such as Table 403.3, in order to make this more user-friendly? Can appendices be added to the rule and the appropriate sections included?

Spokane Regional Health District – School Program

246-366A-095(2)(a) and (2)(b)	"For school facilities constructed under a building permit...."	Portable classrooms are not constructed under a building permit, but rather are approved by L&I. The rule as currently worded does not apply to portables. Section (2)(a) and (b) need rewording so portables are included.
246-366A-095(2)(b)	"...strive to provide outdoor air consistent with chapter 51-52 WAC. Except where indoor air quality problems have been identified..."	What is the point? What does this say? What is the requirement where indoor air quality problems have been identified?
"Restrooms and Showers – Operation and Maintenance"		
WAC Section	Text	Comment
246-366A-125(1)(b) Provide in each restroom:	"Single service handwashing soap at each sink"	We recommend "at" be changed to "for" in order to allow shared soap dispensers located between sinks.
"Water Quality Monitoring for Lead/Copper"		
WAC Section	Text	Comment
246-366A-130 246-366A-135	Water Quality Monitoring for Lead and Water Quality Monitoring for Copper	Previous Comment on Draft 2: Water testing of this nature may be very burdensome and expensive for most schools. It would likely cause funding to be diverted away from essential health and safety issues such as chemical disposal, expensive mold mitigation, laboratory safety, playground maintenance, shop safety, and ventilation improvements. While we support the provision of safe drinking water as a basic public health function, we have not observed that an adequate risk assessment has been completed in order to document the need for statewide drinking water testing to the extent currently required in this draft.
246-366A-130(2)(b)(i)	"Make sure cold water is the last to run through the fixture to be tested"	How does this pertain to automatic mixing faucets with tempered water?
246-366A-130(3)(a) & (b)	Preschools	Some preschools are located in high schools or in completely separate buildings. The monitoring timelines for preschools are not clearly stated.
246-366A-135	Water quality monitoring – copper	Preschools are not addressed in this section.

From: Greg Lee [Lee4311@comcast.net]
Sent: Monday, September 08, 2008 12:04 PM
To: Therien, Ned (DOH)
Subject: School Health and Safety Rules-Statement of Support
Attachments: SBE Final Rengrant Rpt.doc; 60 Maintenance and Operation.doc

September 8, 2008

Mr. Ned Therien, RS
Board of Health
PO Box 47990
Olympia, Washington 98504-7990

RE: School Health and Safety Rules—Statement of Support

The Board of Health (BOH) meets on Wednesday, September 10th to take public testimony and consider final action, or delay, on the new school health and safety rules. I am unable to attend because I'll be out of town. But I want the board to know that these proposed rules and the contentiousness surrounding them offer the best opportunity yet to revise school finance in a way that will support the building services (maintenance, operations, etc.) in our public schools so that safe and healthy schools becomes a sustainable practice. This is the "enabling crisis" that opens the door to legislative action to solve the problem of funding the maintenance and operations of our public school facilities in a safe, healthy, and sustainable manner once and for all.

In short, we need to 1) create a **categorically funded program** based on appropriate drivers for the building services (square footage, age, condition) and get them out of the schools' general fund; 2) allow or require the establishment of some kind of reserve fund at the local level to deal with planned future system replacements; and 3) continue to fund, at a greater level, the small repair grant program for system repairs and renovations for health and safety purposes—as originally intended.

I see from the associated materials on-line that the House and Senate have proposed a delay until the Joint Legislative Task Force on Basic Education Finance completes its study on the funding structure of our K-12 schools in December 2008. I have not followed their work but in the past the issue of school maintenance and operations was always left out of the study and discussion. I've urged SPI and the school associations to get this issue (categorical funding) on the agenda of the various school finance study groups for many years but it never happened. I don't know if this has gone anywhere in the current task force work but if not then it needs to get started in earnest. It's not rocket science and it would not de-rail the study at any point in its critical path to December completion. Perhaps this board action will push the matter forward.

I'm not sure if final adoption or delay of the new school health and safety rule is the wisest choice on September 10th. But I am more than certain that it creates the situation that proponents of school facility preservation are looking for to get the ball rolling on the only true

9/8/2008

solution to adequate and secure funding of the building services (maintenance, operations, etc.) in our local school district budgets—categorical funding. If that happened then rules such as these would be viewed as an asset instead of a liability to the school establishment because the funding formulae could be adjusted to support them. Without that compliance is doubtful and resistance can be expected.

I am asking the board to use its power and influence to persuade the joint legislative task force on basic education finance to include the establishment of a categorically funded program to support the building services for K-12 facilities in their current study. Building services need to be withdrawn from the schools' general fund and taken off the basic education drivers. There is no other way. If this gets neglected again then it will be business as usual and the schools will not respond to the health and safety needs of close to one million vulnerable aged students spending at least 180 days per year for 12 or more years of their lives in these public facilities. The public health drawbacks of this are obvious.

I am also asking the board to support a larger biennial appropriation, perhaps as much as \$10 million, for the small repair grant program to help schools fund the repairs and renovations needed to resolve the many health and safety issues that are prevalent in our public schools today. I have witnessed those up close and personal as the manager of the federally funded Rengrant program (2001-2003) which was the predecessor of the state funded small repair grant program. The Rengrant program was conducted with the full cooperation of the DOH Environmental Health Section and the K-12 Health and Safety Officer.

I have attached two documents to this message. One is a summary of the Rengrant program. It explains the fiscal hardship of funding minor repairs and renovations (for health and safety or any other purpose) at the local level. The other is a listing of the building services (the 97-60s) that are locked in the general fund and therefore vulnerable to any other instructional need. These are the activities that need the protection of categorical funding that will produce the results desired in the new school health and safety rules. Trust me on this: **THERE IS NO OTHER WAY.**

Please enter this letter and the attached documents in the official record. If you have any questions please call me.

Sincerely,

Greg Lee, Ret.
4311 60th Ave. S.W.
Olympia, WA 98512
(360) 943-3276

Attachments:

9/8/2008

Federal Emergency School Repair and Renovation Grants (Rengrants)
Filling a Niche

Washington State has been a major participant in providing capital outlay to equalize district expenditures for school construction and major modernization or building replacement for many decades. However, this participation is not universal and unlimited. Projects must be approved by the state board of education and the local share (match) must be secured and spent prior to gaining access to state funds. Costs for repairs and renovations, unless included in a major modernization, are considered "minor works" and are not shared (equalized) by the state under WAC 180-33-015 (3)(b). They are below the project cost threshold (40%) required to qualify for state assistance under WAC 180-33-035.¹ Minor works are exclusively a local financial burden.

But minor works do not fare well in the district budget process. The competition for scarce resources at the local level is fierce. Minor works and major repairs and renovations of building systems and components are commonly deferred as a means of balancing the annual district operating budget. The result of that practice is inevitable—accelerated deterioration. And as building systems and components deteriorate, they eventually transform into health and safety risks, building deficiencies, or code violations. Over time, districts accumulate an extensive list of minor works (repair and renovation) needs that exceed the local fiscal capacity.

Minor works projects that exceed annual operating budget capacity can only be done if they are included in an operating or capital levy. There they face more barriers. Debt limits are one. Plus, local districts have disparities in wealth that result in unequal access to revenue (voted debt) to pay for repairs and renovations. Further, local voted debt is contingent upon a super-majority (60%) vote and validation requirements. Again, the local effort required to provide funds for repair and renovation purposes is not equalized by the state because the costs are too small to qualify as "major structural change" under RCW 28A.525.030 and the above state board of education rules.² Without operating budget or levy support the projects await a bond issue (long-term debt financing) that is subject to the exact same financial and electoral barriers.

It has not been demonstrated that the current school financial system is capable of supporting urgent repair and renovation needs (minor works) at the district level. In fact, the Rengrant experience shows quite the opposite—urgent health and safety risks and code deficiencies have gone unaddressed, sometimes for decades. The project needs identified and documented under the Rengrant program are not the problem; they are the result of the problem—a flaw in school finance policy.³ Needed projects simply don't get done. The financial resources required are obviously beyond the fiscal capacity of the local school districts. It is clear that repair and

¹ Washington State uses an area cost allowance (per square foot) to calculate the maximum allowable state share of the project cost. The project cost must be at least 40% of the area cost allowance to qualify for state assistance. If the area cost allowance is \$110.32/SF, then the project must meet or exceed \$44.13/SF. Minor works don't qualify.

² Without equalization, the property tax burden on the patrons of a small, property poor district is greater than the burden on the patrons of a larger, property rich district for the same \$100,000 project. See tax discussion on page three. The financial need is the same, but the tax burden is not. This disparity is exaggerated as project costs rise until they finally reach the level where the building qualifies for state assistance (equalization) under WAC 180-33-035. For FY 2003 that level was \$110.32 x 40% = \$44.13/square foot. The Rengrant projects came in at an average of \$2.53/square foot. State assistance is a distant dream.

³ See Financing School Facilities, A report prepared by ASBO International's Facilities Project Team, Association of School Business Officials International, 1999, 16p.

renovation funds from another source are needed to fund "minor works" for emergency health and safety, fire code compliance, accessibility, and abatement purposes in our public schools.

The potential health and safety and/or code compliance risk in a system the size and age of Washington's common school system is enormous. The system consists of approximately 1,915 schools in 296 school districts containing an estimated 123.75 million square feet of instructional space. There are 43,544 regular and 3,230 handicapped teaching stations. Many thousands of individual buildings, building systems, sub-systems, and components complete the picture. There are another estimated 4,445 portable structures used for instruction.⁴

Age, design, construction quality, and maintenance reinvestment are the major drivers of building condition and repair and renovation needs. Almost 20.2 million square feet (16.3%) of Washington's schools were built before 1950. Another 44.5 million square feet (36%) were built during the 1950s and 1960s. Cumulatively, 89.4 million square feet (72%) of Washington's schools were built before 1980.⁵ The aggregate maintenance reinvestment in the K-12 inventory is only half the minimum recommended level of two percent of the building replacement cost per year. The state supported school modernization program has had a positive effect on the learning environment in aging school facilities, but only supports major modernization—not repairs and renovations (minor works) of the nature, scope, and cost addressed under the Rengrant program.

Federal funds (\$10.35 million) were made available (P.L. 106-554) in 2001 for emergency school repair or renovation projects necessary to ensure the health and safety of students and staff. The federal legislation provided examples of the types of projects that fall into the health and safety category. These include repairing, replacing or installing roofs, electrical wiring, plumbing systems, sewage systems, heating, ventilation, or air conditioning systems. Districts could also use grant funds to bring schools into compliance with fire and safety codes, to make school facilities accessible in order to comply with the Americans with Disabilities Act (ADA) of 1990 or section 504 of the Rehabilitation Act of 1973, and for asbestos abatement or removal.

Districts were asked to follow a rigorous process to determine their emergency repair and renovation needs in the above categories. Step one was to identify schools with the greatest risks using the OSPI/DOH Health and Safety Guide, the School Indoor Air Quality Best Management Practices Manual, and other useful tools made available at the Rengrant program website. Step two was to analyze those buildings using a building condition evaluation process structured specifically for the Rengrant program. Building deficiencies were identified and projects were proposed to mitigate the health and safety risks and code deficiencies. Districts prioritized these projects, estimated their costs, and completed the Rengrant application. All the supporting data (electronic) accompanied the application and are currently housed in the Rengrant database.

The Rengrant applications explained the risks, deficiencies, and projects in narrative form. The descriptions were backed up by data from the building evaluation forms. Districts requested grants to fund a variety of facility risks and challenges. Among them were toxic mold conditions from water intrusion, HVAC and roofing failures, fire alarm and suppression systems that no

⁴ The data in this paragraph were yielded by the SBE inventory project conducted from January to June 2000. See OSPI Bulletin No. 13-00, dated January 31, 2000.

⁵ Ibid

longer worked or were incomplete, and unsafe or inadequate classroom situations due to degraded environmental equipment.

The usual environmental health issues like poor indoor air quality, inadequate temperature control, substandard lighting, and noise were identified and documented too. The all too common cause was the lack of maintenance reinvestment, which itself is a victim of a flawed school finance policy. Recent research is developing a closer association between environmental health issues and academic achievement.⁶ The short and long-term health risk to a vulnerable population (age 5-17) is obvious. There were also many lingering accessibility and asbestos abatement or removal needs. Any one of these issues may result in school closure as demonstrated by recent experience in eastern, central, and western Washington school districts. They may drive community complaints and labor-management disputes as well.

Districts selected their Rengrant projects to mitigate the identified risks. The relationships between the risks and the projects had to be described to the satisfaction of a highly qualified multi-disciplinary state review panel. The most requested "top priority" projects were heating and ventilating repairs and renovations. That was followed closely by fire alarm systems and then asbestos abatement projects. Roofs and accessibility (ADA) projects were next. Project breakdown tables that identify the types and numbers of projects requested are attached.

In summary, 128 of 296 districts (43%) completed the Rengrant process. A total of 218 of an estimated 1,915 school facilities (11.3%) were examined and evaluated. A total of 262 individual buildings were examined comprising over 10.26 million (8.3%) square feet in a K-12 inventory of an estimated 123.75 million total square feet. Almost 10,000 building components and over 20,000 assemblies were evaluated. A total of 587 emergency school repair and renovation projects were submitted for funding. Over \$24.6 million (\$2.40/SF) was requested for 587 projects. All of these data are now housed in the Rengrant database.

Unfortunately, funds were only available to provide grants to 99 of the 128 competing districts. Only about 25% of the 587 projects requested were funded because the review panel refused to make awards beyond the \$100,000 grant limit⁷ in an effort to spread the money as far as possible. The goal was to serve the maximum number of districts, schools, students and staff possible with the available funds. The grant limit and elimination of a local match requirement equalized local access to revenue for repairs and renovations at the \$100,000 level. The bulk of the districts receiving money were in rural and agricultural communities.

In many (25) of those communities the property tax rate needed to raise \$100,000 was over \$1.00 per each \$1,000 of assessed valuation. The average tax rate needed for the 99 Rengrant districts was \$0.91/\$1,000. The median was \$0.44/\$1,000. The lowest rate was \$0.0083/\$1,000. The tax bill for the owner of a \$100,000 home there would be \$0.83. The highest tax rate of any district needed to raise \$100,000 was \$8.41/\$1,000. The tax bill for the owner of a \$100,000 home there would be \$841.00. And the cost of emergency repairs and renovations in most districts is almost

⁶ See Do School Facilities Affect Academic Outcomes? Mark Schneider, National Clearinghouse for Educational Facilities, November 2002, 24p.

⁷ Districts at or below 10,000 students were allowed a grant limit of \$100,000. Districts above 10,000 students generated a higher grant limit. Ten of the 99 grants were for over \$100,000.

always well over \$100,000, which only adds to the tax bill. As stated earlier, among other disadvantages, minor works costs are perceived to be a threat to levy passage for program or instructional needs, and all too often are excluded. It's a major dilemma for school budgeters. It's no wonder that minor works projects and costs pile up. The system seems to work against it.

If this is a valid random sample, and if the projects submitted are truly "emergency" in nature, then the total projected statewide need for emergency repairs and renovations may equal almost \$300 million.⁸ We do not yet know the full scope of the problem with any precision. But we do know that this issue is significant when we review the health and safety and ADA scores yielded by the Rengrant building evaluation tool.

In addition to measuring building condition, the Rengrant building evaluation tool evaluates health and safety conditions that jeopardize occupancy, hinder emergency notification and evacuation, and systems to control the spread of fire. An analysis of those data suggests that school building health and safety is a very serious problem for Washington's public schools. There is at least one major life safety issue, several conditions of concern, or many compromised components in 62% of buildings 16 years of age and older. And the problems only worsen in severity and breadth with age. Building age is also a significant factor in ADA compliance.

The federal Rengrant program filled a unique and much needed niche for capital outlay in Washington's schools by fully funding urgent health and safety and/or code compliance projects. These projects (minor works) normally dwell in "no-man's-land" as they are beyond the fiscal capacity of the local district and are not eligible for state assistance. They are subject to three major barriers: the inability to compete for local operating funds, the inability to gain (or even be considered for) bond or levy support, and the inability to qualify for state financial assistance. You might call this the "triple whammy." School facilities in 99 districts now have a better chance of supporting the academic achievement levels aspired to in the current education reform movement due to the Rengrant program. But there is much more to do.

The Rengrant experience has documented (at the state level) a compelling health, safety, and educational issue that has been building at the local level for some time. It is a new opportunity for government action. Compulsory attendance and equal educational opportunity requirements demand elevation of this issue to the policy level. School children are entitled to safe, healthy, and code compliant facilities. But the current system does not deliver or sustain that in a general and uniform manner. Major education policy players like the state board of education and the superintendent of public instruction will shape the ultimate response to this issue. Health and safety players and other interests will round out the field. There are many options that could be pursued at several different levels.⁹ This dialogue needs to begin in earnest very soon.

This report concludes with the following quotations. The source of the first is unknown. The second is from the Strayer Report in 1946. The Strayer Report was the basis of a major reform effort in Washington's K-12 school system in 1947.

⁸ Computed as follows: Multiply \$2.40/SF x 123.75 million SF = \$297 million.

⁹ See Financing School Facilities, ASBO International, 1999

"The school building is a teaching and learning resource composed of physical space, objects, furniture, and their arrangement. It is order and disorder, light, color, heat, ventilation, and sound forming a complex, intangible presence to its occupants. It bombards pupils with physical and emotional stimuli. It communicates a message of what is expected to happen in that particular place. The school building helps structure the formal and informal relationships between teacher and learner and between learner and learner. It is the shelter - the life support system - that defines the learner's physical existence for a period of time." --Unknown

"The school plant is a concrete, objective expression of the educational and social philosophy of the community in which it stands. An alert, informed observer with a pass key walking around and through empty school buildings on a Saturday morning can get a more complete and reliable picture of the educational philosophy of the professional staff, the board of education, and the community in a few hours than he could by days of searching through records, reports, bulletins, and publications." --Strayer, 1946

Washington State is in the midst of another education reform movement now. School facilities must play their proper role in support of that movement. School facilities that are incapable of doing that will not support the school program in the most efficient and effective manner. And because of Article IX of Washington's unique Constitution, where public education is declared to be the paramount duty of the State, that is an unflattering and unacceptable reflection on the State and undermines its new academic achievement expectations.

60 Maintenance and Operation

This series consists of activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in an efficient working condition. Expenditures identified with this series must be charged to Program 97 Districtwide Support, except:

- Expenditures identifiable with federal programs that should be charged directly or through the use of debit and credit transfer objects.
- Expenditures chargeable to a state program for which approval has been obtained for specific direct expenditures.
- Expenditures chargeable directly to Program 89 Other Community Services (Activities 63, 65, 66, and 68 only).
- Expenditures chargeable directly to Program 99 Pupil Transportation (Activities 62, 63, 64, and 66 only).
- Expenditures for Pupil Management and Safety are chargeable directly to Activity 25.

Activity 61 Supervision

Services of supervisory personnel and their secretarial and clerical assistants.

Activity 62 Grounds Maintenance

Included are expenditures for routine care of grounds, such as raking, hoeing, watering, cutting and protecting lawns, transplanting, trimming, and caring for flower beds. Include all related supplies and materials.

Maintenance includes expenditures of maintaining grounds and equipment. Include repairing or replacing walks, fences, tennis courts, playground surfaces, lawn sprinkling systems, outside flagpoles, driveways, and sewers.

Activity 63 Operation of Buildings

Included are expenditures for custodians and heating engineers who maintain buildings. Include expenditures for all small equipment items and consumable supplies used by operating personnel.

In addition, include rental expenditures for land and buildings for purposes other than pupil transportation. Equipment rentals are charged to the using activity and appropriate program.

Activity 64 Maintenance

Included are expenditures for maintaining buildings and equipment through repair and upkeep. Services include, but are not limited to, repainting, redecorating, resurfacing, refinishing, reshingling, and repairing of structures, foundations,

doors, windows, hardware, gutters, downspouts, window glass, window shades, stage curtains, drapes and built-in equipment such as lockers, cabinets, venetian blinds, swimming pool filtration equipment, soap and towel dispensers, bulletin boards, and door checks.

Include expenditures for moving portable structures and maintenance of service systems, including the repair and replacement of heating systems, electric lighting systems, bells, clocks, intercommunication systems, sewers, fire safety systems, plumbing systems, and elevators.

When the fabrication of equipment and furnishings by school employees is an appreciable expenditure, expenditures should be transferred to the using activity and appropriate program.

Contractual repair and maintenance of equipment, including audio-visual and refrigeration equipment, should be charged to the using activity and the appropriate program. Transfer in-house repair expenditures to the using program/activity by means of debit and credit transfer objects.

Do not include maintenance of buildings and equipment for Program 99 Pupil Transportation.

Activity 65 Utilities

Include expenditures for water, electricity, sewage, gas, coal, wood, oil, sanitary, recycling, basic voice telecommunications services, and other service assessments or charges. Telecommunications expenditures that are part of the instructional program, such as video or data transmission, may be charged directly to the appropriate activity or may be transferred using debit and credit transfer objects of expenditures.

Activity 67 Building and Property Security

Include services designed to protect buildings and other property of the district from unlawful entry, vandalism, and burglary. Include the expenditures for security supervision, security patrols, and intrusion devices. Include maintenance of security devices and telephone line charges as well as monitoring expenditures. Also include expenditures for fire protection services. Charge services related to pupil management and safety to Activity 25.

Activity 68 Insurance

Include provision for property, employee, liability insurance, and fidelity bonds in this activity. Do not include pupil transportation insurance that is charged to Activity 56 Insurance.

Other Helpful State Accounting Manual Definitions

Repairs

Expenditures for **repairs to building structures that do not add to existing facilities** are recorded under the General Fund Activity 64 Maintenance. As a general guide concerning repairs to building structures, if changes of partitions, roof structure, or walls are not involved, the expenditures are recorded under the General Fund Activity 64 Maintenance; if such changes are involved, the expenditures are involved, the expenditures are recorded under the Capital Projects Fund as remodeling.

Renovations

The Capital Projects Fund records **major renovations consisting of the replacement of roofing, floor covering, or service systems when periodic repairs are no longer economical. Replacement is the replacement of a unit of equipment or fixture with another unit or fixture that serves the same purpose in the same way and has approximately the same expected lifetime as the replaced unit when installed.** Normal repairs should be charged to the General Fund Activity 64 Maintenance.

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From: Jean Orvis [mailto:jorvis@seattleacademy.org]
Sent: Monday, September 08, 2008 4:25 PM
To: Bernard, Nancy (DOH)
Cc: jmorrison@wfis.org
Subject: Proposed new DOH rules

Dear Ms. Bernard,

I will be unable to attend the hearing in Olympia on Wednesday regarding the proposed changes in Chapter 246-366A WAC. Our facilities manager, Loyal Hanrahan, will attend in my stead. Attached please find a letter that expresses my views on these proposed changes.

Thank you for your attention,

Jean Orvis

Jean Orvis, Director
Seattle Academy
1201 East Union Street
Seattle, WA 98122
(206) 323-6600
jorvis@seattleacademy.org

September 8, 2008

Dear Ms. Bernard,

As the Director of Seattle Academy, a small college-preparatory independent school serving 590 students in grades 6-12, I am writing you again today to express my concerns about the proposed changes in Chapter 246-366A WAC.

First of all, I do wish to express my appreciation to the DOH for listening to the concerns expressed by schools regarding the earlier draft of the document and for some of the changes made to lighten the onerous nature of the implementation of these new rules. That said, I continue to have serious concerns.

Government officials, policy makers, educators, and leaders in every field of endeavor all face a similar dilemma: how does one avoid jumping on proposals that "look good" and "sound good" and yet run the risk of serious future ramifications? Health and safety issues are, indeed, the equivalent of motherhood and apple pie. How can one successfully challenge *any* effort to improve the health and safety of our children and not sound like Attila The Hun? Yet, as in all things, I believe that improvements that "look good" and "sound good" must be carefully examined to avoid unintended consequences.

I believe that the first unintended consequence of these rules will be a shift in school resources from program and instruction to compliance and inspection. Has any study been completed that scientifically assesses the probability for potential harm to students if these expensive rules are *not* enacted? If one assumes that the average student spends approximately seven hours per day, five days per week, ten months per year, and an average of seven years in a given school, and that the average lifespan is 75 years, then a student will spend approximately 1% of his or her lifetime in that school. However, assuming that same child pursues an education through four years of college, the seven years in that building represent nearly 44% of that child's education.

In his recent book, The Global Achievement Gap: Why Even Our Best Schools Don't Teach the New Survival Skills Our Children Need—and What We Can Do About It, Professor Tony Wagner of the Harvard Graduate School of Education argues that while the conventional view remains true that we have an achievement gap between the education middle class children receive compared to that provided to poor and minority children, a more pernicious gap exists between what even our best suburban, urban, and rural schools are teaching and testing, compared to what all students will need to succeed as learners, workers, and citizens in today's global economy. If we are truly committed to the long-term well being of our children, then we must think very carefully about where every dollar of educational money is spent. Thousands of dollars expended in start-up costs and on annual ongoing operation and maintenance costs are thousands of dollars diverted from program, instruction, and faculty development. The millions of dollars spent in increased construction costs are millions of dollars that are not spent on state-of-the-art science laboratories or technology upgrades.

The "Preliminary Small Business Economic Impact Statement" clearly states that these rules will have a disproportionate impact on small schools. Small private/independent schools serve an increasing percentage of the state's population (about 30% of school-age children in Seattle alone), and in doing so serve the public good by educating students not well served in the public schools.

The "Preliminary Small Business Impact Statement" suggests that as "small businesses," private schools can just raise tuition. Of course, it is easy to raise tuition if you are not the one going to the board or to the parent body; and every up-tick in tuition will force some parent to forgo the education, and if enough do, the school must cut programs and/or faculty and/or go out of business.

While the study addresses the impact on small private schools, it appears that the financial impact on public schools is ignored. In a recent interview, Joel Trachtenberg, President Emeritus of George Washington University, was directly asked about the steps schools must take to prepare our children for college and life in a global economy. He commented that there are many fine public and private schools in this country that are doing a world class job of educating students, but he noted that the vast majority of schools in this nation are woefully under-funded because public education is tied to the tax base. He stated that with an ageing population, it is less likely rather than more likely that new taxes for schools will be enacted. With an ageing population, a declining economy, and ever-increasing demands for each tax dollar, how does one justify to tax payers the diversion of significant funds from direct instruction to increased regulatory requirements, particularly if substantive evidence is lacking regarding the efficacy of those requirements and if enactment of these rules negatively impacts our primary mission, namely educating our students for an increasingly complex world?

I suggest that the DOH further study the necessity of these rules, the inherent trade-offs, and their potential impact on the *overall* welfare of our children. If it is then deemed necessary to implement these rules for the overall health and well being of kids, I suggest that a much stronger case must be made to those who will be forced to pay higher tuitions and to taxpayers who will be asked to fund these changes.

Sincerely,

Jean Orvis
Director
Seattle Academy of Arts and Sciences



Lighthouse Christian School

3008 - 36th St. NW, Gig Harbor, WA 98335

Phone 253-858-5962 • Fax 253-858-5962 • www.lcschool.org

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Department of Health
Olympia, WA
September 8, 2008

To Whom It May Concern:

I am writing to respond to the proposed new Department of Health - School Health and Safety Rules which will be considered at a final public hearing September 10, 2008.

I appreciate very much the committee's desire to provide for the safety of our students. Certainly we share that priority with you. Like you, we are committed to healthy environments for our children, staff and parents.

I believe the regulations are balanced, given the amount of public attention this issue has raised. However, I am very concerned about the costs to private schools and the timing to implement the regulations.

I would encourage consideration of the state's obligation to fund **both** public and private schools on issues of environmental health, as both care for the children of this state. Approval of new regulations must not require private schools to comply without a mandate of public funding as well. Just as public schools will struggle to comply with the regulations and require public funding, so will private schools. Public funds should be available to private schools as well as public schools.

Thank you for your consideration of these thoughts. Private schools serve the students of our state well and the impact to those schools must be weighed carefully.

Sincerely,

Debbie Schindler
Administrator

From: Glenna Green [mailto:greenbns@cleelum.com]
Sent: Monday, September 08, 2008 11:33 PM
To: McLaughlin, Craig D (DOH); Kathy O'Toole; Mel Tonasket; McLaughlin, Craig D (DOH); Mark Cooper; Therien, Ned (DOH); Thelma Simon; Soltman, Mark (DOH); JLittel@NWCarpenters.org; Glenna Green
Subject: Public comments on wac 246.doc/James Green

Please see attachment for my comments on WAC 246.doc and include in all board member packets for the meeting on Wednesday. Thank you, James Green

Public comments on WAC 246-346 rule by JAMES W. GREEN

I have been involved in the process of this rule revision from conception and while I believe that it is very lacking in some vital areas, it does provide and represent a palatable compromise by all parties affected and represented during the process. The one exception, or perhaps oversight, is the statutory authority reference, such as RCW 43.20.050 that was in the old law. This needs to be added back in.

After re-reading the info, comments, testimonials, and such, it seems that a reminder that these are merely minimum standards to protect children in schools that they are required by law to be in! There has intentionally been room left for local control to do more and also accommodations for variances. Again, the key word is minimum standard!! While sympathetic to the funding plights, consider that much of the law is the same as it has been for 30yrs. With exception of clarity, which has been added, one should be able to assume cost neutral on those items as they were in the law for 30 some yrs., a minimum standard, and surely followed!!!! "To protect the children of the state of Washington."

To the legislators comments, I would say that first come the recommendation of the minimum standard law [after all the public comments, panels, meetings, forums, and, other] then as legislators do, they will fund it somehow, as they are quite crafty at coming up with a way for something so critical as protecting the children of WA. With a mere minimum standard, also of note here is the fact that implementation has already been phased in to accommodate the new expense of the law over a period, so the remainder of the law that has only been clarified for interpretation should go into effect immediately, as it is already law. The rest I am sure will be fully funded! Again, as it is for the children and the children come first!!! I am aware there are several other programs, plans, proposals, etc. by several other organizations which are in some phase of realism but none, I believe, is as thorough and inclusive of stakeholders as the SBOH proposal, and it is their statutory duty to make the recommendation, therefore, the law should come first, then the other entities and their programs should conform to the law. This should also hold true for funding. Fund the minimum standard first, then other programs.

Again this draft represents a great compromise by all and I strongly support your SBOH approval with minor changes mentioned above and full funding by legislature which is the next step of the very long process.



September 8, 2008

Distinguished Members of the
Washington State Board of Health
101 Israel Rd SE
Tumwater, WA 98501

Re: Proposed School Health Rule Revision, Chapter 246-366A

Dear Board Members:

My name is Mary Sue Linville, I am the Director of Risk Management for the Washington Schools Risk Management Pool, which is a self-insured property and liability co-op comprised of 68 Public School Districts, 7 Educational Service Offices and excess-insurer of an additional 31 Districts, in Washington State. We insure all sizes of school districts, from the very large to the very small. I've been honored to serve on the School Rule Development Committee since its inception on behalf of the Washington Association of School Business Officials (WASBO).

I cannot speak specifically to the events that have been reported to you that occurred 5, 7 or 10 years ago in the Seattle School District or at Cle Elum, but I can testify to what has happened these past 5 years in the many schools that we insure, what my staff and I see on a daily basis.

The introduction of the K-12 Health and Safety Guide set a new standard of accountability for school operations. Prior to its development and introduction, many school districts did not know where to find information on the "best standards and practices" for school facilities and operations. This information was segmented and resources were unknown or difficult to find.

Since its introduction, school health and safety continues to improve, each year, based on this focused approach. The content of this guidance document form the backbone for training programs that are regularly provided by school property/liability and worker's compensation insurers, WASBO and WAMOA; and consistency of school inspections preformed by school staff, the insurers and local health inspectors. There has been a concentrated effort by our Risk Pool and the other insurers in Washington State to refer to this document as the prime resource for safe school facilities.

WSRMP continues to take a serious look at all claims involving student injuries at school. Our statistics for the 5 school years, starting with 2002 – 2003 and ending with 2006 – 2007* indicate the following facts:

	2002 – 2003	2003 – 2004	2004 – 2005	2005 – 2006	2006 - 2007
# of Dist/ESD	86	84	82	78	76
# of Student FTE**	458,762	461,227	452,271	433,465	428,920
# of Playground Claims	95	97	92	74	53
# of Science Lab Claims	1	5	3	2	1
# of CTE Shop Claims	8	13	12	11	7

*Statistics for 2007 – 2008 are being compiled but not yet available

**Full Time Equivalency

It is important to note that of the playground claims indicated above, the vast majority of these claims are a result of either students making “contact” with each-other or running into playground equipment; or students “slipping, tripping or falling” somewhere on the playground. Only 1 claim in the past 5 years has been attributed to “playground equipment failure” and the student injury was very minor.

These playground statistics are on a consistent decline, each year for the past 5 years; and are 50% fewer each year than those reported annually prior to 1994, when WSRMP first began to teach school districts how to inspect, repair and supervise playgrounds.

90% of the Science Lab claims reflected above can be attributed to improper instruction and/or improper supervision. The only “lab equipment” related claims are a result of breaking of glass pipets. WSRMP has, twice in the past 7 years, focused on science lab safety; providing incentives for our districts to be in compliance with the Department of Labor and Industries science lab regulations. This emphasis has included requiring Chemical Hygiene Officers; current chemical inventories; proper hazardous waste disposal protocols; emergency response plans; regular inspections and elimination of dangerous and/or unstable chemicals.

Since 1999 we have reduced the numbers of claims relating to shop classes by 50%. Again, this is based on the guidance of the K-12 Health and Safety Guide and continued education and inspections. We focused twice in the past 7 years on shop safety; teaching shop teachers the rules and regulations related to machine guarding and housekeeping. We provide inspection worksheets for each “type of shop” and conduct inspections, along with district staff, to assure compliance and that they understand the essentials of safe shops. These inspection worksheets mirror the K-12 Safety & Health Guide.

I firmly believe that we are not in need of new laws, but better education and a support system aimed to help districts know what constitutes best practices; how to implement these practices; and where to go for help when they need resources and education.

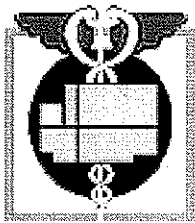
Based on the continued hard work of our school staff; the loss control assistance from their property/liability insurers and the Educational Service Districts that provide self-insured Worker's Compensation loss control support, districts continue to make great improvements in school health and safety. It is measureable.

I recommend serious consideration be given to limiting the addition of new laws; but expanding and updating the K-12 Health and Safety Guide. I also encourage the State Department of Health and the Local Health Departments to work with existing school organizations (WASBO, WAMOA) and insurers in expanding education programs and support of our districts that want to do what is best for students and staff, but need support, help and guidance.

Thank you.

Sincerely,

Mary Sue Linville, ALCM, ARM-P
Director of Risk Management & Operations
Washington Schools Risk Management Pool



Washington State Association of Local Public Health Officials

An Affiliate of
Washington State Association of Counties

September 9, 2008

Treuman Katz, Chair
Washington State Board of Health
P.O. Box 47990
Olympia WA 98504-7990

Dear Mr. Katz:

On behalf of the Washington State Association of Local Public Health Officials (WSALPHO), I am writing about Chapter 246-366A WAC - Primary and Secondary Schools, filed July 23, 2008.

We appreciate the effort the Board, your staff, the Department of Health, and others have spent working on this important issue. Providing a safe and healthy school environment for students in our state is an important public health role. We believe the new rules are an improvement over the current school regulations. If adopted we believe these rules will help protect public health if they can be properly implemented.

The draft rules place significant obligations on local public health jurisdictions. We can only fulfill these obligations if we have sufficient numbers of properly trained and equipped staff; and we can recover the costs associated with the work required by the new rules. Under current economic conditions, few if any health jurisdictions can marshal the resources needed to successfully implement the new rules. We realize it is beyond the authority of the State Board of Health to provide program funding, but we want to make you aware of this very real problem.

We understand that committees from both houses of the state Legislature have asked that you delay action on these rules until they have the opportunity to address their financial impact on schools. We support these requests and will ask these same committees to consider the needs of local public health along with the needs of schools. We ask that the Board consider the needs of local public health as you develop a response to the Legislature's request.

We appreciate that the effective date for the rule is two years after adoption and that many of its requirements are phased in over time. We believe two years is enough time for local health and schools to implement the rules if adequate resources are available. If you delay adoption of the rule, we ask that you adjust the implementation and compliance dates accordingly.

Thank you for considering our concerns. If you have questions or wish to discuss this matter further, please contact Art Starry, WSALPHO Legislative Committee Chair, Thurston County Public Health and Social Services, at (360) 786-5456 or starrya@co.thurston.wa.us.

Sincerely,

Rick Mockler
Chair, Washington State Association of Local Public Health Officials
RM/lp

c Craig McLaughlin
Art Starry