

Substantive policy disagreements

Over the course of five daylong meetings, a panel of stakeholders—the school rule revision team—was asked to suggest revisions to the working draft of the school environmental health and safety rule that would eliminate disagreements based on differing interpretations of the rule’s meaning and intent. In a few instances, suggested policy changes to the rule were included in the recommended edits when they strengthened the rule, there was clear consensus among the stakeholders, and the policy recommendation did not seem to diverge significantly from the policy direction previously provided by the Board and its Environmental Health Committee.

Policy issues that were substantive, those that diverged from the direction provided by Board members, and those around which the stakeholders could not reach agreement were tracked in a list referred to during the meetings as “the Parking Lot.” Participants were urged to articulate their policy recommendations as specifically as possible.

The following document lists the parking lot requests and attempts to summarize the team’s discussion of each request. It does not include some follow-up items we are researching that would not require substantive policy changes.

No.	Section	Request	Discussion
	010	Definitions	
1.	(2)	Develop more specific definition for air contaminants.	School officials requested more predictability by providing a source list or lists in definition in 010. Lists would identify standards or exposure limits. Specific suggestion to consider reference to EPA “Tools for Schools” listing and standards. A related proposal is to include language about dose and consulting national sources, without specific standards language. Alternative approach proposed but agreement not reached.
2.	(20)	Consider “serious hazards” as part of “imminent health hazard” definition.	One of the parent representatives suggested changing the definition of “imminent health hazard” to “imminent or serious” and perhaps including language regarding “substantial probability.” Felt standard was too high, not proactive enough. Referred to L&I distinction for serious and imminent hazards.
	020	Responsibilities-General	
3.	General	Add section about responsibilities of State Board of Health, which should include securing funding.	Requested by school officials.
4.	(1)(a)(vi)	Revise scope of annual report to school board and drop requirement to present to school board in an open meeting.	School officials and local public health expressed concerns about the breadth of the report as originally proposed. Not clear if summary report would meet the intent. WSSDA asked whether Board had authority to mandate school board agenda items. WEA said report could be a simple consent item and encouraged keeping as written. Staff reported back that mandating agenda item may be problematic and proposed alternative language that would allow for more of a summary report. WEA suggested several items they wanted to see included (training, sample of inspection checklist, complaints, list of hazards and deficiencies found, etc) that were in earlier working draft and went beyond inspection dates. WEA still preferred a presentation at public meeting. School officials wanted to have to report only deficiencies not addressed within specific timeframe, rather than all deficiencies unaddressed (even if recently identified).

No.	Section	Request	Discussion
5.	(2)(a)(i)	Change frequency of routine inspections from “at least once each year” to “at least every two years.”	Proposed by school officials and supported by local public health representatives. Discussion focused on local health staffing and whether additional problems were identified one year after inspection. LHJs said inspections could be targeted; also, annual inspections might be more productive during startup but for mature program inspecting every two years might be more meaningful. WEA said teachers object strongly to less than annual inspections
6.	(2)	Make training mandatory for local public health.	School officials expressed concerns about consistent statewide implementation if inspectors did not all have the same training.
030		Site Assessment	
7.	(1)	Delete “approval”; add language about mitigation measures instead.	School officials object to public health being authorized to deny use of property currently used for schools and for property that has already been acquired. WSSDA asked Board to research legal authority to deny property use by school boards, since they are independently elected entities. LHJ, WEA, and parent representative said they would not support request; noted approval is part of existing rule – but existing rule has fewer prescriptive requirements.
8.	(2)	If approval language maintained for new or converted property, remove it for existing school sites (new facilities on same site or additions).	School official expressed strong concerns about approve or deny language/authority when it applies to the expansion or reconstruction of a school on a current school site.
9.	(2)(b)	Reconsider threshold for site review of a proposed addition.	There has been discussion about both alternative thresholds and methodologies. A \$250,000 threshold (the current proposal for additions) would mean adding one classroom. One parent representative felt threshold too high and proposed \$100,000. School officials felt it was too low and proposed percent of square footage. They prefer 40%, in line with OSPI funding threshold, but some discussed lower percentage (20%).
10.	(3)	Require minimum site assessment for all existing sites (e.g., soil tests)	Group initially agreed to a proposal to revise the site assessment language to require Phase 1 ESA for all new sites and health officer discretion for existing sites. WEA and a parent representative later expressed concerns that health officer could waive site assessment. They suggested minimum requirements, including a review of prior use and soil evaluation if suggested by review. WEA asked that soil assessment be required for those counties already identified to have soil contamination problems with lead/arsenic.
040		Plan Review	
11.	(1)(c)	Reconsider threshold for construction review of an addition or alteration.	Same issues as for site assessment except plan reviews cover alterations as well. A \$250,000 threshold for alterations could mean plan review for reroofing a small school. School officials proposed percent of square footage or percent of replacement cost methodology. They prefer 40%, but some discussed lower percentage (20%).
12.	(3)(e)	Require written statements by engineers, perhaps certified checklist.	WEA questioned why engineering documents are not mandatory. School officials said if engineering certification required, plan review would be redundant expense—one or the other, not both. LHJ supported current system, argued for value of direct review of plans.
13.	(4)(e)	Change “Provide written approval or denial of the construction project” to “Provide written recommendations to the permitting agency.”	School officials had similar concerns about approval or denial of plans. Want local public health to coordinate with building agency so schools don’t need to seek multiple approvals. LHJ, parent representative, and WEA said they could not support. Noted approval is in existing rule – but existing rule has fewer prescriptive requirements.

No.	Section	Request	Discussion
	065	General O&M Requirements	
14.	(1)	Define "good condition"	Suggested by parent representative. School officials stated it was difficult to define. Language changes proposed later.
15.	(4)	Require integrated pest management.	WEA requested that IPM language based on SRDC and earlier drafts. Legislative actions discussed. Supported by parent representative.
16.	(7)	<ul style="list-style-type: none"> Strike student scheduling Reword if not struck Following "students" add "and staff" so scheduling with windows apply to staff. 	School officials said this regulated a process (scheduling) not a facility window requirement and should only be in construction section; also asked about evidence of health impacts from daylighting. If struck, would need to revisit language in 060. Group agreed on alternative language if retained. WEA requested requirement be extended to staff.
17.	(8)	Require walk off mats at major entrances.	Alternative language proposed to require for main entrances, corridor entrances, and others as appropriated. WEA and parent representative supported mats at all entrances.
	070	Moisture and Mold	
18.	(4)	Require notices be posted if mold found in building.	Parent representative raised concern about after-hours users and visitors who may not know that mold is present.
19.	(4)	Lower threshold for mandatory notification	Parent representative and WEA suggested mandatory notification threshold of 10 square feet is too high. Threshold is based on EPA mitigation guidelines, which do not specifically address notification. School officials stated 10 square feet not very large.
	095	Heating & Ventilation (O&M)	
20.	(1)	Establish maximum temperature	Suggested by parent representative who said schools can get very hot. Recommended by SRDC.
21.	(2)	Restore language related to CO2 monitoring	Suggested by parent representative and supported by WEA. CO2 testing had been included as an option in second draft. Discretionary language (guidance in rule) was removed in current draft.
	120	Restrooms & Showers (Const.)	
22.	(2)	Consider changing "grades nine and above" to "grades six and above."	WEA made original suggestion. Rule would apply to schools offering PE instruction and (if suggested language accepted) team sports. There was general support for this among participants and discussion about whether to specify middle schools and junior highs, which would have to be defined.
	125	Restrooms & Showers (O&M)	
23.	(1)(c)	Not allow warm-air dryers	Note from parent representative. People do avoid washing hands if only air-dryers present, but paper towels contribute to many other safety risks (e.g.. fires, stuffed toilets) and costs. Idea not supported by participants present.
24.	(1)	Restore language in 060(3)(a) from 2 nd discussion draft regarding number and location of restrooms.	WEA asked about removal of earlier language about "adequate, conveniently located toilet and handwashing facilities are provided for students and employees." Discussion focused around these issues being addressed in the plumbing code. WEA said this is a public health issue and asked that it be included. No additional support.

No.	Section	Request	Discussion
	130	Water Quality—Lead	
25.	(2)(a)	Provide explicit exemption language for mop sinks, hand-washing facilities in restrooms, and hot water outlets.	School officials asked for a specific exemption. Rule calls for testing with cold water flowing through pipes and mop basins would clearly not be included. There was disagreement about bathroom sinks. In small private schools sinks may be only source for refilling water bottles, but local health representative stressed importance of educating students about not using sinks for drinking water. WEA said students may still do it regardless.
26.	(2)(a)	Require testing of all fixtures used for drinking water or cooking.	Suggested by WEA and supported by parent representative. One alternative mentioned was to test previously untested fixtures during follow-up testing required every five years. Group negotiated a recommendation to require testing of all fixtures in all schools within four years. However, a comment heard after the meeting indicates that not all team members support testing all fixtures. The staggered start for different level schools would be retained and 25% representative sampling in first year of required testing would be retained. Follow-up testing would begin in year seven and would be repeated every five years after that. Follow-up testing would be representative samples.
27.	(5)(c)(ii)	Limit the amount of time flushing can be used.	WEA recommended that flushing not be allowed as a long-term solution for drinking water sources such as bubblers and water fountains. School officials agreed but said they may need time to arrange other solutions, such as bringing in bottle water, and would not want to have to shut down an entire school. WEA suggested two days maximum. School officials said that seemed reasonable for their districts but smaller, more remote districts may need some more time.
28.	(6)(a)	Require immediate notification, including posting.	A parent representative stated that five days was too long for notification. Suggested immediate notification be required. There was discussion that immediate notification would not be needed if contaminated sources were removed from service as required by rule. Previous request that notification include posting to reach visitors and other users would apply.
	135	Water Quality—Copper	
29.	General	Do not require testing for copper.	School officials questioned the need for copper testing because of low incidence of copper sensitivity, the presence of observable symptoms, and the reversibility of symptoms. They suggested it was not required based on science and cost-effectiveness. WEA and one of the parent representatives objected to removing it.
30.	(3)	Require faster notification and posting.	See discussion for item 28 above.
	140	Water Quality—Other	
31.	(1)	Require that a local public health decision to test for other contaminants be made at executive or policy making level.	School health officials want to make sure decision to require testing for other contaminants of concern is not left up to a health officer delegee. Suggested either requiring local board of health action or decision by administrator or local health officer, not a designee. Comment heard after the meeting - some school officials want entire section deleted - LHOs can use other existing authority for emergent health threats.

No.	Section	Request	Discussion
No.	150	Playground Construction	
32.	(1)(b)	Remove "If required by the local health officer."	Parents wanted all playground plans to go through health officer review. It is discretionary in the working draft. School officials and local health said review of projects like tether balls were not necessary or desired.
33.	(2)(c)	Change "may" to "will" or "shall."	Note from parent representative. Section intended to give authority to inspect installation but parents present wanted all installations inspected before use. Neither school officials nor local health representatives felt inspections to verify installations were always needed. If inspections mandated, school officials and local health would support language allowing documentation of inspection by Certified Playground Safety Inspector.
	170	Variances	
34.	General	Add more flexible language for nontraditional and unique situations.	Schools propose that if rule unattainable or would require extraordinary measures in an existing nontraditional or unique or special school, then they would need to show all reasonable efforts to achieve intent or mitigate impacts so that environmental health and safety would not be at risk. They would support public notice and public comment being required for such requests. WEA suggest stronger standard than all reasonable efforts, perhaps "exceptional effort" or "all necessary effort." Local public health representative suggested "no greater risk." WEA preferred that requests for variance under these circumstances would need to be approved in advance by the school board, or at the very least require an opportunity for public comment in front of the school board.
35.	General	Add the ability for an exception from requirements for temporary use of facility during an emergency.	Schools want a provision to take into account a situation when a temporary facility might need to be used during an emergency, such as when the regular school is flooded or undergoing emergency repairs.
36.	(1)	Require public notice and public comment for all variance requests.	WEA asked that all variances be published and there be an opportunity for public comment. One parent representative supported the proposal. School officials did not consider this necessary if intent of the rule would be met.
	180/190	Appeals and Complaints	
37.	General	Establish process for appeals beyond local level.	A parent representative suggested rule establish an ombudsperson for school health and safety at state level for when concerns not adequately addressed at local level, and DOH be required to establish a complaint and appeals committee if the ombudsperson does not resolve the issue. Other parent representative suggested not waiting for ombudsperson, since that would take legislative action, and first establish the DOH committee. Staff suggested both would require legislative action.
	190	Complaints	
38.	(1)	Change "may file a complaint with school officials, the local health officer or both" to "...should first file complaint with school officials, and may also file a complaint with the local health officer."	The concern was that too often people go first to the local health officer when they should start with the schools. This was a consensus recommendation. It was placed on this list because staff needed to think about whether this would restrict health officer authority, and concerns about current language regulating general public when rest of the rule addresses public health agencies and schools only.
39.	(2)	Establish timeframes for investigating, correcting conditions, and providing notification.	WEA suggested two days for investigating complaints. School official said complaints prioritized based on threat and it could take a long time in a large district to get to low-level complaints.

40. The following items are related to whether rule language should be specific to students, be nonspecific, should reference all occupants or should reference staff along with students. These suggestions primarily came from the WEA representative with support from one of the parent representatives. These are the ones that participants captured during the discussion but it is not an exhaustive list of where language specific to student health and safety appears in the working draft.

Section	Recommendation	Discussion
060	General Construction	
(2)	Following “students,” add “and staff” so would apply to staff also.	Require sufficient windows that staff can see to the outside.
065	General Operation and Maintenance	
(7)	Following “students” add “and staff” so scheduling with windows apply to staff.	Requirement that students not be regularly scheduled in rooms without windows be extended to staff. Would be moot if subsection struck as requested by schools.
105	Lighting – Operation and Maintenance	
(1)	Replace “any student location” with any “occupiable space” and strike “by student”	Suggested only by WEA. Parent representative who was not present had supported similar suggestions before. Prompted discussion of protecting all occupants, the application of L&I laws, whether rules should be specific to student health or also cover working conditions, and whether it was necessary to avoid redundancy if not in conflict with other rules.
(2)	Remove references to students.	See above.
(3)	Change “students” to “occupants.”	See above.
(4)	Delete “student”	See above.
(5)	Remove references to students.	See above.
190	Complaints	
(2)	Edit so that complaint section not specify that process requires that student (as opposed to staff and student) health and safety.	Delete “of student” in (2) and “student” in 2(a) and (b). Noted without discussion.