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Treuman Katz, Chair
Washington State Board of Health
PO Box 47990
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Dear Mr. Katz:

The process of preparing draft school health rules has been long and arduous, and I commend the Board and its staff and the Department and its staff for perseverance in the goal of protecting public health. I recently reported on the rules' progress to the more than 1,000 delegates attending the Washington Education Association's Representative Assembly. The members and leaders of the WEA support the adopting of new school health rules. We are pleased with the section of the third draft rules requiring annual environmental health inspections of school facilities, the inclusion of requirements regarding operation and maintenance of school facilities, and most of the mandates regarding moisture control, mold prevention and remediation.

Unfortunately, the current language of the third draft seems to deliberately retreat from allowing school staff to use the rules' complaint procedure to raise concerns about the impact of unhealthy school environments on employee health. Consider the third draft language regarding a complaint procedure:

WAC 246-366A-190 Complaints (1) A person who believes that a school facility does not comply with these rules, such that health or safety of students is in jeopardy, may file a complaint with school officials, the local health officer, or both.

Compare that with the second draft language concerning complaints:

WAC 246-366-170 Complaints (1) A person who believes that a school facility does not comply with these rules or that school officials have not fully met their responsibility to ensure that their school complies with these rules, may file a complaint with the principal, the local health officer, or both.

Quite obviously, the third draft language limits the complaint procedure only to concerns that student health has been adversely affected by the school environment.

Some have said that the Department of Labor and Industries must be the sole remedy of employees who complain about unhealthy working conditions. However, as representatives of that Department have testified before this Board, that Department has no rules relating to matters regulated by the proposed school health rules, such as mold prevention and remediation or the operation and maintenance of ventilations systems in non-industrial facilities.

The existing school rules, WAC Chapter 246-366, have protected staff health for forty years. While the existing rules do not include a complaint procedure, the exemption section of WAC Chapter 246-366 explicitly covers school employees:

WAC 246-366-150 Exemption. The board of health may, at its discretion, exempt a school from complying with parts of these regulations when it has been found after thorough investigation and consideration that such exemption may be made in an individual case without placing the **health or safety of the students or staff of the school in danger** and that strict enforcement of the regulation would create an undue hardship upon the school.

There are other examples of explicit protection of staff health in the existing school health rules as well as in the second draft of proposed rules. On behalf of WEA's 81,000 members who work in school facilities, the WEA Indoor Environmental Quality work team strongly objects to the third draft's retreat from explicit protection of staff health.

This retreat is inexplicable given the fact that since at least 1998, school employees have spoken painfully and eloquently to the Board about how their health has been severely damaged by unhealthy school environments. As was set forth in the Rules Revision Briefing Paper, Introduction and Purpose, Section 001, distributed by Board staff:

According to the School Health Policies and Programs Study (SHPPS) 2006: *A child typically spends about 1300 hours in a school building each year, and teachers and other staff are there even longer.... Many school buildings are in poor condition and present environmental conditions that inhibit learning and pose unnecessary, increased health risks to students and staff.... Poor indoor air quality (IAQ), diesel exhaust emitted from school buses, hazardous materials, pesticides, contaminated drinking water, and lead are environmental hazards that sometimes are found in schools and can adversely affect the health, attendance, and academic success of students, as well as the health of teachers and other staff.*¹

As has been illustrated by the testimony of individual teachers before the Board, some school employees have been savagely injured because they worked for many, many years in an

¹ Available at http://www.ashaweb.org/journal_schoolhealth.html#shpps

unhealthy school environment. Because employees spend more years than students in the same classroom or building, sometimes the school environment can be more damaging to employees.

Nor is there any doubt that the Board has authority to regulate public health in the work place. The legislature explicitly directed the Board to adopt "rules controlling public health related to environmental conditions in all types of public facilities including but not limited to ...schools...and in places of work." RCW 43.20.050 Subsequently, when adopting the Washington State Industrial Safety and Health Act, (WISHA), the legislature declined to deprive the Board of its duty to regulate public health at work sites, while taking notice that state agencies other than the Department of Labor and Industries have regulatory authority over the health and safety of employees in the work place. RCW 49.17.270

For these reasons, we recommend that the final language of the school health rules replace the third draft's language concerning complaints with that of the second draft. We also recommend that the final rules contain explicit mention of school staff, as set forth in various provisions of the current rules as well as in the second draft language.

Thank you for considering the thoughts expressed in this letter.



Jill Van Glubt

Chairperson
WEA Indoor Environmental Quality Work Team

cc: Mary Lindquist, President, Washington Education Association