



**Testimony of the New York City Department of Education
on Introduction No. 126
Before the New York City Council Committee on Education**

April 24, 2014

Good afternoon, Chair Dromm and all the members of the Education Committee here today. My name is John Shea, Chief Executive Officer of the New York City Department of Education's (DOE) Division of School Facilities (DSF). I am joined by Ross Holden, Executive Vice President & General Counsel at the New York City School Construction Authority (SCA). Thank you for the opportunity to discuss Intro No. 126, which requires the reporting of environmental data regarding schools.

The Department is committed to providing a healthy and environmentally safe atmosphere for our students and staff. Both the DSF and SCA adhere to the highest environmental standards in the maintenance and construction of our school buildings. DSF is responsible for the daily maintenance of our schools, and the SCA performs Capital Improvement Projects (CIPs), other construction projects and new school construction. With over 1200 school buildings, we conduct thousands of routine environmental sampling, which is normal practice in modern-day construction projects. Specifically, these inspections are performed in compliance with existing laws, whether in the course of performing repairs, CIPs or in response to concerns raised by members of the school community or occasionally at the request of a regulatory agency.

The overwhelming majority of environmental tests and inspections we conduct are for asbestos, lead, mold and polychlorinated biphenyl (PCBs), in part so that we know the manner in which the material should be handled during construction and disposed of thereafter. As you are aware, these substances are subject to a strict regulatory framework. DOE has longstanding protocols to comply with all legally mandated City, State and federal environmental standards, as well as, notice requirements and reporting to regulatory agencies.

I would like to highlight the scope of this work and the protocols in place for the most common environmental tests and inspections performed in our school buildings and on new school sites. It is important to note again that environmental testing is a regular component of building construction work and the simple fact that a test is performed does not mean there is any cause for concern.

Pursuant to the Asbestos Hazard Emergency Response Act (AHERA), DSF conducts system-wide asbestos inspections every three years. This includes the annual testing of approximately 25,000 samples to determine the asbestos content. The resulting report and management plan are provided to the school administration and notification letters are sent to the principal, the United Federation of Teachers (UFT), and parent association. In addition to inspections required by AHERA, DSF and SCA perform thousands of asbestos surveys related to capital improvement projects and repairs. At minimum, these inspections include visual inspection of all work areas, as well as a review of the AHERA documents. In certain cases, additional bulk sampling is performed to determine the presence of asbestos containing materials (ACM).



During the course of a project, as well as at the conclusion of any work, air monitoring is performed and clearance letters are provided to the school administration authorizing re-occupancy of any affected areas.

DOE's policies and procedures related to lead paint are based on the U.S. Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) requirements. In order to perform the most comprehensive testing, we assume that all interior painted surfaces are coated with lead-based paint. Therefore, all work that disturbs painted surfaces must comply with EPA and OSHA lead-based paint requirements. We frequently perform lead surveys for CIPs and wipe sampling is conducted at the end of any renovation or construction project. Additionally, the NYC Department of Health and Mental Hygiene (DOHMH) requires annual lead testing of all classrooms and associated bathrooms occupied by children under age six.

In the event that test results exceed an allowable limit for ACM or lead, remediation or abatement work is performed. Resampling is conducted until the area has been deemed safe and a clearance letter can be issued for re-occupancy. These letters are provided to the school principal or building manager.

To assess visible mold growth, in response to observations of discoloration or moisture made by our custodial engineers or other members of the school community, a comprehensive field survey of the suspected area is conducted. Special equipment is used to view spaces in ductwork or behind walls, as well as to measure moisture in building materials that may encourage mold growth. Using the information gathered during the field survey, remedial measures are recommended for immediate implementation. These recommendations typically include thorough cleanup, drying, and/or removal of water damaged material. In all instances, any source of water penetration/leakage is fully investigated and remediated. Upon satisfactory completion of the remediation work and final inspection, a re-occupancy letter is provided to the school administration, custodial engineer and UFT.

As you know, we've made parent and community engagement a core element of our PCB lighting replacement program. Throughout the pilot program and in connection with our lighting replacements, we've met with individual school communities, elected officials, and other concerned parties to discuss this issue, sending letters to be shared with parents on a daily basis. We have also implemented a groundbreaking pilot study, including extensive community outreach, concerning PCBs in the school environment under the supervision of EPA. The extensive data collected in this study has significantly contributed to the national understanding of PCBs.

Our work on PCBs involves an extensive notification and school outreach program. Each time a visible leak or historic stain from a lighting ballast in a school building is observed, we notify the principal(s) of the affected school(s) and provide a letter to backpack home describing whether or not that ballast contained PCBs; the reason we investigated the ballast; and what our findings were. In many cases, families receive more than one letter about the same investigation, depending on the findings. In addition, we provide annual letters to schools to communicate the



expected timing of their lighting replacement project. We advise school communities when work will commence and inform them when building-wide lighting replacements are completed in their building.

We have also created a webpage exclusively devoted to regular status reports for PCBs. This page has been updated monthly since its launch in February 2011. Among other useful information provided is a list of all buildings with confirmed PCB ballast leaks and all buildings in which work has been completed. In addition, we worked with the Council to codify these notifications and other reporting requirements.

In terms of caulk, SCA has developed and implemented stringent dust control practices to minimize the potential exposure to PCB containing dust. These practices have been extensively reviewed by EPA. All caulks are sampled and tested for PCBs if it might be disturbed during renovation and construction. After completion of a project that involves the disturbance of exterior PCB caulking material, all soil adjacent to the school building is sampled to test for the presence of PCBs, and remediated if required.

DSF and SCA perform hundreds of other environmental tests and inspections, including surveys of school water systems for lead and other contaminants, as well as tests of indoor air quality, soil, soil vapor, ambient air, and ground water, to name a few. If a site is currently in use as a school facility and environmental testing indicates an issue with indoor air quality, the test results are reviewed, and corrective measures are formulated and implemented to address the issue. Additional sampling would be performed, if corrective measures are taken, and the results are shared with the school community and the public.

In the case of P.S. 133, located in Community School District (CSD) 13, SCA participated in a number of community meetings to discuss the progress of the new construction, testing results of the soil and air monitoring data, and the proposed plans for remediation. For the Grand Street Campus also in CSD 13 (which houses three high schools), testing was conducted several times to determine if an off-site source of contamination was affecting the indoor air quality of the school. These results were not only shared with New York State Department of Health (NYSDOH) but also sent by backpack letter to parents and staff, and disseminated to the public via SCA's website.

Numerous investigations and tests are associated with underground and above ground storage tanks. The latter requires that New York State Department of Environmental Conservation (NYSDEC) be notified when we become aware of a petroleum spill or discharge. Regulatory involvement, including NYC Office of Environmental Remediation, NYSDEC and NYSDOH may also be required based on the location of the property, and the nature and extent of contamination that is found during the investigation.

Certified professionals perform all environmental work and all work performed in occupied school buildings takes place after school hours. For major construction projects, a pre-construction meeting is held at the school with SCA, the contractors, custodial staff and principal. DOE also works closely with the UFT's Environmental Health and Safety Unit.



For example, for CIPs and smaller construction projects, a UFT Protocol meeting is held that includes SCA, UFT representatives, the principal, custodian engineer, and parent association.

In addition to environmental testing and inspections of existing schools, SCA also tests new school sites. As you know, SCA acquires property for new school construction and additions, and leases facilities that are suitable for new schools. Since 2002, SCA has conducted environmental due diligence for leased space.

SCA adheres to the nationally recognized standards set forth and established by the American Society of Testing and Materials (ASTM). These standards outline a two phase regulatory process that includes a site inspection; a review of historical records and databases to determine past usage of the property; a sampling of environmental media such as soil; an evaluation of the collected data relative to the site's intended use as a school; and the identification of mitigation or remedial measures required to address environmental issues.

For property acquisitions, the results of SCA's environmental due diligence are included in NYS Environmental Quality Review, or SEQR, which is submitted to the Council as part of the site plan review and approval process. For lease renewals, if testing indicates levels that exceed the maximum allowable under NYSDOH air guideline values and is suggestive of soil vapor intrusion, we provide public notice pursuant to our established protocol, which is posted on SCA's website.

With respect to the proposed legislation, we share the Council's interest in ensuring that our school communities have useful information regarding the environmental condition of our schools. We do, however, have concerns regarding the reporting requirements in Intro 126.

The broad requirement to provide written notification to parents and all employees of each public school that has been subject to any testing or inspection for contaminants, hazardous substances, mold or pollutants within seven days is simply impracticable given the sheer volume of testing and inspections performed in our school buildings on a regular basis.

Each year, SCA and DSF perform over 30,000 environmental tests and inspections in our schools. In order to comply with the proposed legislation, we would need to create a new centrally-based office to review, interpret and contextualize the results in a way that would be meaningful to parents and employees.

We also question the value of providing school communities with test results that are within guidance values. Sending widespread mailings of routine environmental sampling may cause some parents to have unwarranted anxieties about the significance of testing results. Over-reporting on routine sampling also may overwhelm parents with information so that they may not be able to distinguish between an important notification regarding their school and a notification of routine sampling. We are also concerned that some parents may even seek to withhold their child from school based on a misunderstanding of the notice. It is essential that DOE retain a substantial level of discretion to work with individual school communities on such risk



communication efforts in order for these efforts to be tailored to the individual school community and the specific circumstances at hand.

Similarly, the cumulative detailed data collection required for the biannual report would be a significant undertaking given the amount of testing and inspections performed.

We would also like to note that cost alone to mail notices to parents and staff would be prohibitive.

The safety and health of our students and staff is paramount. We will continue to work with school communities to ensure that they are informed about our work and its progress. We look forward to working with the Council on this important issue.

With that, I am happy to answer your questions.



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**Testimony of Mark Ladov,
New York Lawyers for the Public Interest,
Before the Education Committee of the New York City Council
Hearing on Intro 126 (Requiring the Reporting of Environmental Data Regarding Schools)
April 24, 2014**

Thank you Chairman Dromm, and the members of the Education Committee, for taking up this legislation, and for giving New York Lawyers for the Public Interest the opportunity to testify in support of improving public reporting on environmental data in our schools.

NYLPI has been working for many years with parents, particularly in low-income neighborhoods and communities of color, to fight for the environmental health and safety of our schools. We have worked to ensure that schools (such as the Mott Haven School Campus) built on contaminated “brownfield” properties are safe enough for our children before they open their doors to students and staff. Most recently, we represented parents around New York City in litigation that has led the City to accelerate its timetable for eliminating light fixtures that can leak toxic PCBs into our classrooms.

In this work, NYLPI repeatedly receives calls from parents and community members who have legitimate concerns about the environmental health and safety of their schools but are unable to obtain copies of the relevant reports and information that could answer their questions. We have also heard from parents – like the parents from PS 51 who are present today – who learned about environmental hazards in their schools but only after months of delay after they were uncovered.

The New York State Board of Regents has declared that “Every child, parent, and school employee has a ‘right to know’ about environmental health issues and hazards in their school environment.” Yet, in practice, we have found that it is often difficult for parents and school communities to learn about environmental health and safety in their schools.

Intro 126 would help address the concerns of these parents by ensuring that the Department of Education (DOE) shares all of its investigations into the environmental health and safety of our schools. Specifically, the bill would require:

- **PROMPT NOTIFICATION TO PARENTS AND STAFF OF ENVIRONMENTAL TEST RESULTS.** Intro 126 requires DOE to send parents and staff the results of any environmental inspection or environmental site assessment within seven days of receiving those results (or within seven days of the end of a scheduled school vacation). This will ensure that the disturbing

situation at the Bronx New School (where parents and school employees were kept in the dark about unsafe contamination levels for over six months, and only notified after their school was shut down during summer vacation) never happens again.

- **REGULAR REPORTING TO THE CITY COUNCIL AND THE PUBLIC.** The legislation requires DOE prepare a biannual report summarizing the test results of every environmental inspection and site assessment; describing plans to mitigate environmental risks; detailing actions taken to protect students from environmental hazards; and updating the public on progress made to improve air quality in public schools, including testing related to asbestos, mold and school renovations.
- **ON-LINE POSTING OF ALL SCHOOL ENVIRONMENTAL INSPECTIONS.** DOE would be required to publish to its website all of its environmental inspections and site assessments for New York City public schools. DOE must post documents within seven days of receiving them, or at least 30 days before entering into a lease agreement for prospective leased school sites.

This improved transparency will have negligible fiscal impact. Intro 126 does not require the DOE or School Construction Authority to conduct any new environmental tests. Nor will it slow down much-needed school construction activity. It would simply require the DOE to add environmental testing results to the school facilities information that it already shares with the public for every school in the City.

Some of the schools that have contacted NYLPI over the years are represented by parents attending today's hearing. They include:

- **PS 51 (Bronx New School)**, where the Department of Education discovered unsafe levels of a known carcinogen (trichloroethylene), but failed to inform parents or school staff for over six months. An independent assessment by the State Department of Health confirmed that the building was unsafe for occupancy and then-Schools Chancellor Walcott later apologized to parents for keeping them in the dark. *Intro. 126 will prevent circumstances like this by requiring the DOE to share results of environmental tests with parents within seven days of their completion, so that parents can participate in making informed decisions about their school's environmental health.*
- **Mott Haven School Campus in the Bronx**, where community members faced repeated roadblocks when they asked for clear information about the legacy of contamination at the former railyard site that was being used for the City's largest school construction project. Teachers ultimately had to pool their money together and order the reports from Albany, so that they could have them independently reviewed. That independent review led to successful community engagement, and improvements to the City's cleanup plans of the Mott Haven site. *Intro. 126 will ensure that environmental review documents like these are easily accessible on the DOE's website.*

- **Soundview Educational Campus in the Bronx**, where the School Construction Authority leased a building belonging to a former electronics manufacturer without any community input, despite unsafe levels of arsenic, lead, mercury and other toxic heavy metals at the site. Due to the “leasing loophole” in New York State law, the SCA avoids a public hearing or environmental review when it leases property rather than constructing a new building. As a result, community members had no access to environmental assessments during the school construction process, and later had difficulty getting information they were promised from the SCA. *Intro. 126 will require the City to publish environmental assessments of prospective school sites, including potential leased sites that currently escape public scrutiny.*
- **Manhattan Center for Science & Math**, where parents first learned about contamination underneath the school and on neighboring property from a local Fox News investigative report, which disclosed that the site had housed a polluting power plant until the 1930s. The MCSM Parents Association advocated successfully with the DOE and Con Edison (which was liable for the contamination) to perform a comprehensive environmental assessment of the school once this danger was uncovered. *Intro. 126 will make sure that community members learn about similar environmental hazards at the same time as the DOE.*

In addition to making it easier for parents to get prompt and comprehensive information about their school’s environmental health in situations like these, Intro 126 would address day to day environmental concerns that can arise in aging school buildings in need of upkeep and repair.

For example, research has shown the value of improving schools’ indoor air quality by eliminating asthma triggers like mold and pests; improving air and oxygen flow; and ensuring proper climate control. These environmental improvements can improve students’ health, attendance and learning. Intro 126 will give the public a better understanding of how these issues are being addressed in New York City schools, and how we can work together to make even greater improvements in our children’s health and education.

The problem of school trailers (or TCUs) is another issue this bill will help address. NYLPI has been speaking with parents around the City – particularly in low-income communities of color like Washington Heights in Manhattan and Corona in Queens – about their frustrations over the persistence of “temporary” school trailers. Parents and staff complain that the TCUs are in poor condition, and sometimes need to be cleaned of mold on a yearly basis. Parents have told us that their children with asthma are missing school because of the mold, weather exposure, and other problems in these trailers.

Right now, because of the DOE’s annual report to the Council on TCUs, we know where the City’s school trailers are. But without the information this bill would provide, we don’t have clear information about how the City has responded to complaints about mold, air quality and environmental conditions in the trailers. Intro 126 will ensure public access to all of the City’s evaluations, and will allow us to better assess the work being done to protect student health and safety in these environments.

For these reasons, NYLPI supports the enactment of Intro 126, with the addition of amendments that are consistent with the bill's core aims and would strengthen this legislation even further. Specifically, NYLPI, as well as the parents and advocates with whom we work, recommend that the bill be amended as follows:

- 1) Expand the audience that must be notified about environmental testing by:
 - a. Requiring the DOE to notify former parents, students and employees when their exposure to unacceptable environmental hazards is discovered.
 - b. Giving after-school programs and other outside parties notice of the availability of environmental test results in any contract or written agreement with a school.
- 2) Expanding the City Council's oversight of school environmental health by requiring the DOE to:
 - a. Report *annually* (rather than bi-annually) to the City Council on its environmental testing results.
 - b. Notify local Councilmembers and Community Board of environmental test results for proposed school sites.
- 3) Improving the transparency of school leasing decisions by requiring the DOE to:
 - a. Publish a list of all leased school sites, along with environmental tests for those sites, on its website within six months of the bill's passage. (The School Construction Authority has already published a partial list of environmental test results for leased schools on its website.)
 - b. Notify local Councilmembers and Community Board of environmental test results at least 30 days before signing a new school lease.
- 4) Ensuring that parents and staff get prompt and complete notice of environmental test results by:
 - a. Allowing parents to opt for e-mail notification (rather than US postal mail).
 - b. Requiring that a copy of each inspection or assessment report be maintained at the school evaluated, as well as on the DOE's website.
- 5) NYLPI is also proposing some technical amendments to the bill's definitions, including to clarify that:
 - a. The reporting requirements cover existing and prospective public schools, whether the property is owned or leased by the City.
 - b. The reporting requirements cover reports prepared by any contractor or subcontractor in the course of their work in or at a public school.



MEMO OF S U P P O R T

FOR THE RECORD

24 April 2014

Int. No. 126: Department of Education Reporting Environmental Data Regarding Schools

The United Federation of Teachers supports Int. No. 126, with the changes listed below, that requires the Department of Education to report environmental data regarding schools. This legislation would significantly improve the public's right to know about the environmental conditions of our City's public school, by requiring the Department of Education to share the results of any type environmental inspection or environmental site assessment with parents, school employees, and, biannually, the City Council.

The United Federation of Teachers (UFT) is fully committed to a safe working and learning environment, one that is free of environmental hazards for all teachers, staff, and students. As part of this commitment we have a robust Health and Safety Department and employ a number of Industrial Hygienists. We are proud of the work that we do in partnership with the broader school community and we count our joint efforts to rid the City's public schools of dangerous light fixtures containing PCBs as one of the most important school environmental health victories of the last decade. Int. No. 126 is an important next step in the movement to improve the environmental conditions of our City's public schools.

The UFT applauds Council Member Cabrera for introducing this legislation. Our experience with PS 51X in his district where environmental hazards were detected at the school in January 2011 but not communicated to the school community until August of that year shows the need to tighten the Department of Education's notice requirement. The UFT believes that Int. No. 126 does just that.

In order to further clarify and strengthen this proposed legislation, we recommend the following modifications:

1. Chapter 2, Section 8: We believe that the definition of "Public Schools" should be modified to include any site under consideration by the Department of Education for siting of a public school. This is essential so that the environmental conditions of a potential school site can be taken into consideration prior to the construction or leasing of a new site.

(over)

2. Chapter 2, Section 8.B: We believe that the following should be added to the first sentence, “whose results are over the legally accepted exposure limits.”
3. Add a new Chapter 2, Section C, (renumbering the current Section C as D, and all subsequent sections accordingly) to read: “After completing any Phase I or Phase II Site Assessment for a new or leased site the Department shall conduct a public information session with the local Community Planning Board where the results will be explained and questions from the public will be addressed. Notice of such meeting shall be given to all Department of Education certified worker representative organizations and local elected officials.”

For more information please contact Jeremy A. Hoffman, Senior Legislative Representative at 212-510-6346.

Testimony to the NY City Council Education Committee
Intro 126 School Toxins Disclosure Bill
April 24th, 2014

Nicole Forbes

Parent Leader, PS 51 Parents United - Northwest Bronx Community & Clergy Coalition

Hello, my name is Nicole Forbes and I am an active community leader of the PS 51 Parents United group, an affiliate of The Northwest Bronx Community & Clergy Coalition. I am a constituent of Councilmen Fernando Cabrera and I would like to thank him for his leadership on the reintroduction of the School Toxins Disclosure bill. I am filled with so much joy to see this bill introduced to the City Council given the struggle we as a parent body had to endure to give rise to this bill. In January of 2011 The Bronx New School (PS 51) underwent an air quality review by the SCA as a routine part of renewing the lease. A known carcinogen called TCE (Trichloroethylene), was found in the building at levels as high as 10,000 times the New York State standard. The building was tested twice and the DOE had the audacity not to inform parents of the findings. This information was withheld from the school as well as the parents until August of 2011.

As a parent I found out about this information by word of mouth from another parent who discovered this information in our newspaper. Our children were in that building each and every day learning in this environment, my child struggles with asthma and my nephew suffered with headaches each week. Parents were not notified until we heard by word of mouth that the school would not be reopened due to these findings. Through PS 51 Parents United, the rise of this bill with the wonderful support of the New York Lawyers for the Public Interest and the Office of Councilmen Cabrera will help to prevent any more occurrences like this in our public schools. We are prepared to continue the work we have started to see this bill through to the end. We look forward to the opportunity to continue to be a central part of the future of this bill as we have amendments we believe will make the bill even stronger such as:

- Allowing parents to opt for electronic notification.
- Alerting after-school programs and other outside organizations of the availability of environmental testing and assessment reports in any contract or written agreement for the use of a public school site.
- Requiring DOE to link to each school's environmental testing reports on the DOE webpage for that school.

As parents we send our children to school trusting that the environments are safe and we are notified immediately if anything arises that will put our children's health at risk. This bill allows us to hold the DOE accountable for communicating to us in a timely manner about something so central as our children's health. Thank you.

MEMO OF SUPPORT
Bronx Committee for Toxic Free Schools
Healthy Schools Network
New York Lawyers for the Public Interest
Northwest Bronx Community and Clergy Coalition
Partnership for Student Advocacy
PS 51 Parents United
Soundview (Bronx) Concerned Residents Organization

Contact: Mark Ladov (mladov@nylpi.org) or Justin Wood (jwood@nylpi.org), 212-244-4664

Intro 126: Requiring the Reporting of Environmental Data Regarding Schools

Overview: Intro 126 will improve environmental health in New York City public schools by requiring the Department of Education (DOE) to share all environmental inspection results promptly with the public. It will improve Council oversight by requiring the DOE to report regularly on its efforts to test and improve school environmental health. It will also require the DOE to publish environmental site assessments of proposed lease sites, which currently lack public review and oversight.

Statement in Support: The New York State Board of Regents has declared that “Every child, parent, and school employee has a ‘right to know’ about environmental health issues and hazards in their school environment.” Yet, New York City parents and community members often have little to no information about such issues.

For example, after the DOE discovered unsafe chemical levels in the air at the Bronx New School (PS 51X), it waited over six months to inform parents and staff. Similarly, community members with concerns about schools built on polluted “brownfields” have found it difficult to get information about environmental risks and cleanup plans. Parents worried about environmental risks to their children – such as the air quality in outdated school trailers – can lack information about whether the DOE has even evaluated these risks.

Intro 126 will address these and other problems by requiring the DOE to share all of its environmental test results with school communities, including by posting any new report to the DOE’s website within seven days. This improved transparency will have negligible fiscal impact - Intro 126 does not require the DOE or School Construction Authority to conduct any new environmental tests. Nor will it slow down much-needed school construction activity. But it would require the DOE to add environmental testing results to the school facilities information that it already shares with the public for every school in the City.

For these reasons, our organizations support Intro 126 with a few amendments. These proposed amendments would further strengthen the bill, including by notifying local Councilmembers when assessments of proposed school sites become available; requiring schools to maintain environmental reports on-site; and notifying a school’s current and former students and employees – in clear and understandable language – when a serious risk of hazardous exposure is discovered.



Council of School Supervisors and Administrators, New York City
Local 1: American Federation of School Administrators, AFL-CIO

FOR THE RECORD

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New York City Council Education Committee
Hon. Daniel Dromm - Chair
April 24, 2014

MEMORANDUM OF SUPPORT- Int. No. 126- In relation to requiring the reporting of environmental data regarding schools.

The Council of School Supervisors and Administrators (CSA), which represents some 15,000 members, strongly supports this bill because it not only acknowledges the existing environmental hazards that all schools face, but, more importantly, creates protocols that are transparent and proactive in mitigating any possible dangers to students or staff.

Given the transparent language of this bill, the contaminants that contain hazardous substances including mold pollutants, asbestos in the air and other environmental hazards, will be closely monitored in terms of environmental inspections and site assessments and will set limits for "maximum contaminant levels."

Under this bill, the DOE will be required to notify parents, staff and students of the results of these inspections.

This bill will go a long way in creating an air quality and environment free of hazards that can be harmful over time, causing illness and even raising the possibility of death. We accept the universal norm that the health and safety of our students and staff is non-negotiable and must always be a priority.

We applaud the Council for being proactive and taking the necessary steps to promote transparency through biannual reporting of critical environmental data.



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TESTIMONY TO
NEW YORK CITY COUNCIL
EDUCATION COMMITTEE

RE: Int. No. 126 - In relation to requiring the reporting of school
environmental data.

Thursday, April 24, 2014 at 1:00 p.m.

by

Claire L. Barnett, MBA, Executive Director, Healthy Schools Network

Chairman Dromm, and other distinguished members of the New York City Council Committee on Education:

Good afternoon, and thank you for the opportunity to testify.

My name is Claire Barnett. I am founder and executive director of Healthy Schools Network, Inc., a not for profit research, education, and technical assistance organization founded 19 years ago and based in Albany, NY. We have advanced City, state, and national policy reforms for greener and healthier school facilities for all children, and create new environmental public health services for children at risk or with suspected exposures in schools. One of our very first successes was securing \$125 million in state's 1996 Environmental Quality Bond Act to help replace coal-fired boilers in New York City and Buffalo schools with less-polluting and more efficient systems. We also championed statewide laws that require all schools to conduct building inspections, to protect occupants in schools under renovation, to eliminate elemental mercury, to practice less-toxic pest control methods, and to use third-party certified green cleaning products – proven cost-savers that help reduce contaminants of indoor air. In New York City, we also championed the 2005 Green Build Act which led the School Construction Authority to publish a Green Guide (2007) for the design and construction or major renovation of public schools.

I am here today to comment on Intro 126. First, we support the testimony of New York Lawyers for the Public Interest's comments and look forward to hearing the comments of others. Second, we would like to offer our own perspectives on how to advance transparency that will better protect school children, who are more vulnerable to environmental hazards than the adults around them (WHO, EPA, NIEHS, ATSDR), and who outnumber adult workers in schools by a wide margin. There are four topics I will address:

1. Intro 126 defines its target for data reporting as “contaminants” uncovered in environmental site assessments. Comment: when SCA and or the Division of Facilities conducts a school site assessment they may indeed test for and find specific contaminants, but they will also observe and write

up other conditions that are impacting occupant health and safety, for example, the misuse of pesticides, chemical mismanagement, or the presence of hazardous cleaning and disinfecting products instead of green products. In the interest of children's health protection and the protection of personnel, it will be more valuable for this bill to require posting the results of any site inspection, not just records and site inspections for specific contaminants.

2. Intro 126 also identifies which entities create data reports, the SCA and the Division of Facilities. Comment: other entities may also create reports that are provided to the Department of Education. For example, NIOSH may conduct a Health Hazard Evaluation (HHE), a public occupational health clinic or the NYC Department of Health and Mental Hygiene might have reason to do site assessments, as might the NYC Dept of Environmental Protection. Ambulance runs to evacuate occupants from schools are not as rare as they should be; pediatric asthma hospitalizations can triple on every return to school because schools are filled with asthma triggers. All agencies generating requests for school environmental assessments or conducting assessments could well be part of this bill.
3. Intro 126 requires the department to notify parents and community after receiving the results of assessments and providing a copy of the results. Comment: greater access to information in this case will not be a burden to the department, but delays in completing reports could deny valuable information. We therefore recommend that Intro 126 begin by notifying parents and community of upcoming assessments, then follow through with the notification of final results.
4. Intro 126 keeps all records within the education silo, that is, from the department to local schools. Comment: knowing how difficult it is to reach parents and communities, we strongly recommend that Intro 125 also distribute existing records directly to Education Councils and to CPAC.

Finally, while not the subject of this bill, we also want you to know that we believe that the state and city public health and environment agencies need to be more helpful to the education agencies. Site assessments and reports are important and provide transparency and accountability.

But preventing problems and grappling with new, complex threats, requires different actions.

For example, it is well documented that children's health, learning, and behavior – *we mean test scores* – can be adversely impacted by poor **environmental conditions** of their schools: examples, high CO2 levels, high CO levels, noise, poor indoor air quality (IAQ), molds, chemical odors and residues, dusts and fumes, toxic dry erase markers, and of course, PCBs, lead, asbestos and mercury.

To help PK-12 schools stay on top of these facility and environmental health issues for which no Superintendent, no Building Principal, and no board of education are required to have background training, we are recommending that New York State convene a permanent public-private state advisory council, led by the education, health, and environment agencies, and including key children's key child health advocacy, civil rights and justice groups, and selected education constituency groups, to learn about and to address both legacy and emerging issues affecting facilities, and to help schools do more to reduce exposures in indoor environments. We also believe that city and state health agencies have too long ignored children at risk or with suspected exposures in schools. They need to track and report what happens to children compelled to attend and take tests in compromised indoor environments.

New York City might adopt a similar mechanism.

Thank you. I am happy to answer any questions.



HEALTHY SCHOOLS NETWORK

2013
END OF YEAR NEWS

... for children ... health ... environment ... education ... communities ... since 1995 ...

CLIMATE CHAOS: KIDS AND SCHOOLS

The Global Climate. Extreme weather events have damaged school buildings: collapsed roofs, melted playgrounds, destroyed classrooms, killed school children. Superstorm Sandy. Katrina. Snow storms. Tornadoes. Wildfires. Most schools are not in good shape to begin with.

The Education Climate. Like extreme weather, extreme violence in schools has injured, killed, and traumatized children. Bullying. Cyberbullying. The Newtown massacre.

The Political Climate. The caustic climate has taken money from discretionary programs that assist states and schools. CDC decimated its school health program and slashed lead and asthma prevention efforts. EPA zeroed out budgets for school indoor air and chemical management, then cut funds for safer pest control and asbestos enforcement. Education has no more grants for school emergency planning.

Amid this chaos, Healthy Schools Network sticks to

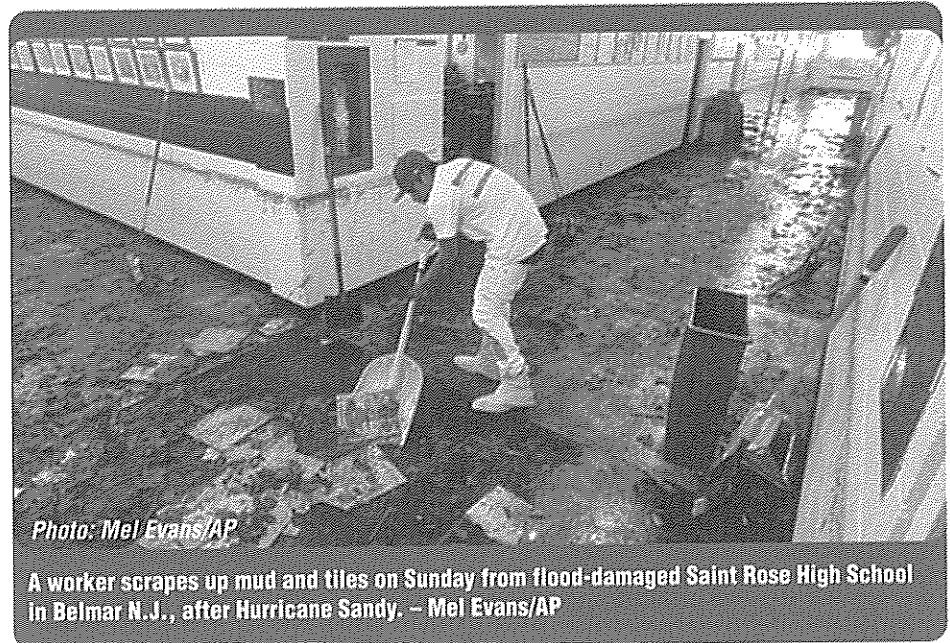


Photo: Mel Evans/AP

A worker scrapes up mud and tiles on Sunday from flood-damaged Saint Rose High School in Belmar N.J., after Hurricane Sandy. – Mel Evans/AP

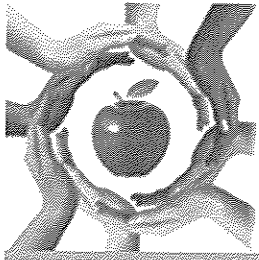


the basics: *Every child needs a clean and healthy school.* We want federal and state agencies to stick to the basics, too: we need a coordinated interagency plan for schools, centered on health outcomes for children, and including help for children at risk or with suspected environmental exposures.

**STICK TO THE BASICS:
PUT CHILDREN FIRST!**

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Coalition *for* Healthier Schools

*...providing the national platform and
the forum for environmental health at school, since 2001...*

Coordinated by Health Schools Network

A wonderful year — if you ignore the sequester and the shutdown!

Climate Survey

www.surveymonkey.com/s/2QBGYC2.


1. Have your local schools cut back on school facility repairs or maintenance, or custodial or cleaning staff?
2. How would you rate the Indoor Air/Environmental Quality in your local schools?
3. Have your local schools lost more school days than they expected or budgeted to lose for the academic year due to severe weather events – for example, tornadoes/highwinds, flooding, hurricanes, electrical storms/power outages, earthquakes, wildfires, snow or ice storms, or extreme heat waves?
4. Have your local school buildings and/or grounds been damaged by severe weather events?
5. Have your local schools been used as community shelters before, during, or after severe weather events?

The Coalition ramped up participation in 2013's National Healthy Schools Day (more than 50 events with more than 30 partners) and urged Congress, federal agencies, and the White House to reinvest in programs for kids' environmental health. The President's budget request for FY 14, still not in place, could fund prevention programs to help kids breathe clean air in schools.

Seeing more and more chaotic weather events, the Network researched a new presentation for the Coalition, "Climate Chaos, Kids, and Schools." It's a tough topic. Sealing up buildings to save energy damages indoor air quality; so does reducing ventilation. Adding more air conditioners is expensive and, in hot, humid areas, the A/C needs to be on year round and maintained so it doesn't spew mold spores. Insulation can be a good thing, but not if it comes with hazardous chemical offgassing. To navigate, schools need new technical guidance, training, and implementation grants.

What You Can Do: Grassroots Survey

You can help. Take the Coalition's Climate Survey online and tell us about your local schools.



NATIONAL HEALTHY SCHOOLS DAY 2014—new date!

Join us for National Healthy Schools Day on *April 8, 2014*. That's the second day of National Public Health Week, sponsored by the American Public Health Association. We're thrilled to be joining forces with APHA. Our environmental health call to action resonates with its 25,000+ public health professional members. We are most grateful to APHA and its state affiliate office for the warm welcome and look forward to continuing our partnerships with EPA and CDC as well.

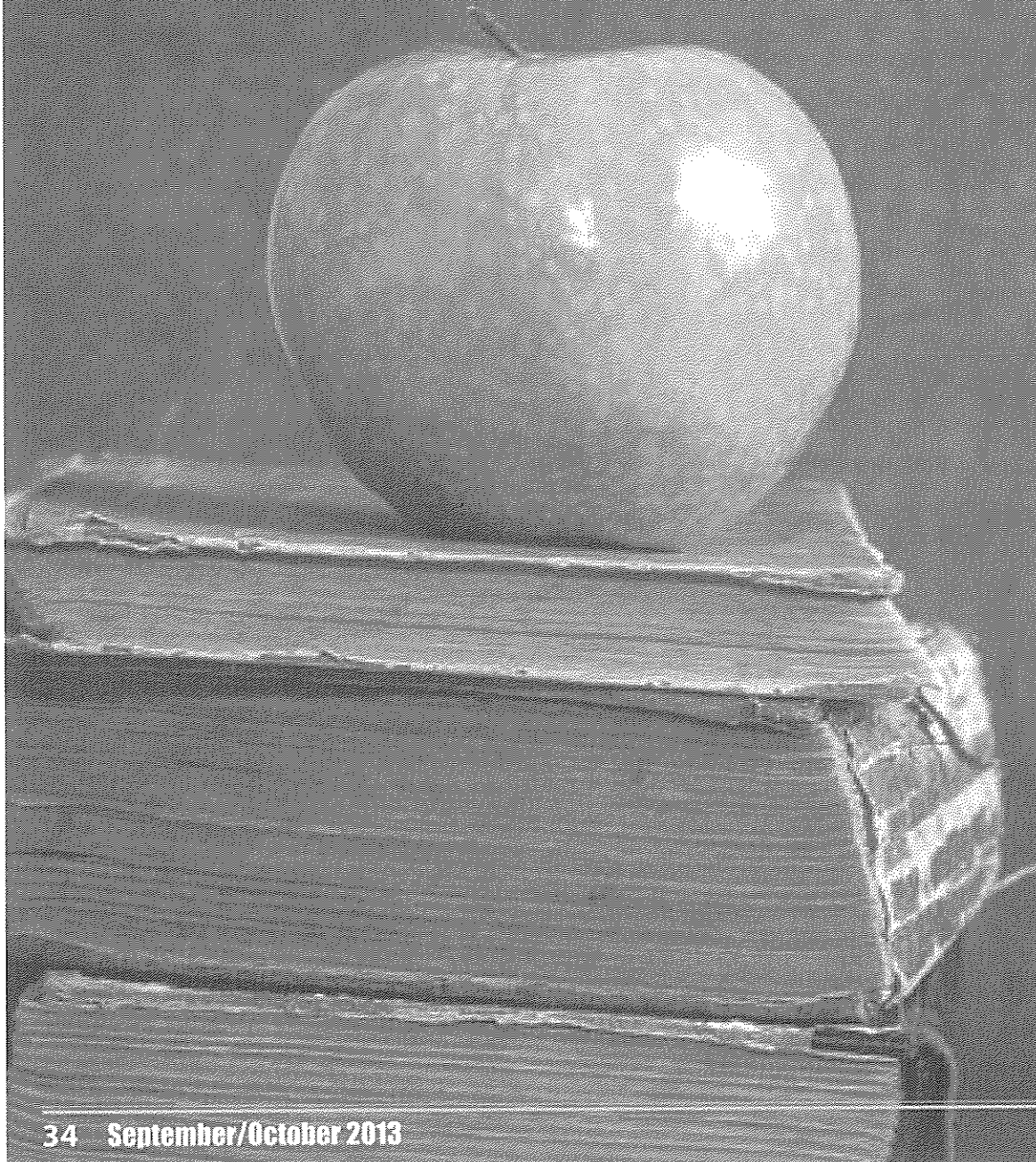
DONATE NOW. Your support allows us to coordinate National Healthy Schools Day annually.

IAQ & Schools

Healthy Indoors[™]

Connecting Consumers and Professionals to Better Indoor Environments

SCHOOL DAZE



Is the Air Quality in Our Schools Affecting the Quality of Our Education?

There was a time when it seemed we were able to find plenty of money to spend on educating our kids and ensuring that the infrastructure of our public schools provided them with the best opportunities to learn.

"A lot of things are really basic--A little bit of fresh air and sunshine inside is what kids need," said Mrs. Claire Barnett, Executive Director and founder of the Healthy Schools Network in a recent interview with Healthy Indoors. "It should be pretty simple to do but we've learned it's actually remarkably difficult to do".

She originally became involved with indoor air quality (IAQ) and safety issues back in 1995 as a parent who was very concerned about schools' environmental impacts on children. And so Claire established the Healthy Schools Network over 18 years ago in Albany, NY.

In the beginning, she served on an advisory committee for the New York State Board of Regents to help craft its Environmental Quality of Schools report, which was a multi-agency approach to look at factors that affect school environments, and

has since become a model for many other states. Topics discussed included: Sites, design, construction, products, Right-To-Know, pest management, and EMFs (electromagnetic fields), along with other considerations on ways to better achieve healthy

“A lot of things are really basic--A little bit of fresh air and sunshine inside is what kids need.”

school environments.

Claire then convened a statewide coalition of more than two dozen non-government agencies (NGOs) to advocate for the report. That coalition was the Healthy Schools Network, which later incorporated in 1998 with a board of national advisors to facilitate national goals and outreach.

That initial landmark report was the precursor to New York

State Education Department's CRR155, also known as RES-CUE, which has served as the Health and Safety Requirements for Public Schools in New York since enacted in 1999. (You can read that regulation at: http://www.p12.nysed.gov/facplan/Laws_Regs/8NYCRR155.htm).

The CRR155 regulation implements much of the EPA's Tools for Schools voluntary guidance program in NYS by having schools create Health & Safety Committees, perform building walkthroughs to make environmental assessments, develop procedures for uniformly handling occupant complaints, and take the necessary measures to protect building occupants during construction and renovation projects.

WANT TO LEARN MORE?

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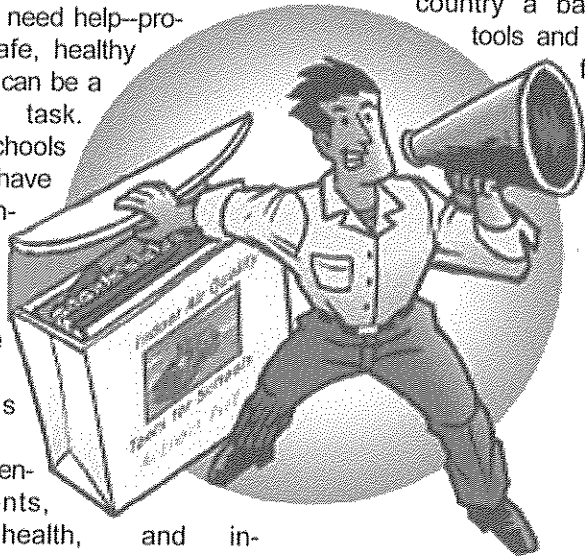
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School Daze

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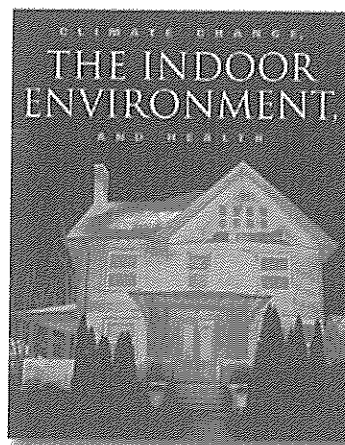
What will it take to ensure our children have a good learning environment? Our schools need help—providing safe, healthy facilities can be a daunting task. Many schools don't have the in-house expertise to tackle tough issues like indoor environments, kid's health, and integrated pest management, so schools can often benefit from working with health, environ-



school environments. Back in the late 1990s, the EPA's Indoor Environments Division launched its IAQ Tools for Schools program, to offer administrators around the country a basic set of tools and information for creating a school district's indoor

have on the indoor environment and the resulting health effects. Claire Barnett points to a section in that report citing that human cognitive functions may diminish in environments where the carbon dioxide (CO2) levels exceed 1000 ppm (parts per million), a level well below what would generally be considered to pose any clinical health risks. That finding is extraordinary, as many of the classrooms in our schools have CO2 levels that at times may

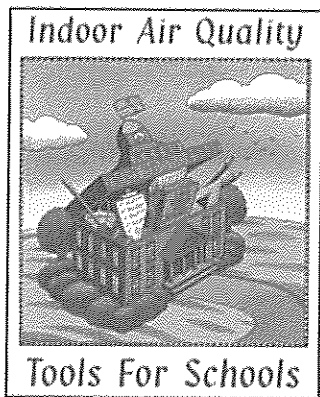
exceed 2000 ppm or more. Inattention, low test scores and learning deficiencies may be due (in part) to poorly



air quality action plan. While far from an out-of-the-box answer, don't let some of its dated graphics discourage you. Tools for Schools is still an excellent starting point for implementing an IAQ program.

EPA commissioned the Institute of Medicine (IOM) to create its 2011 report: Climate Change, the Indoor Environment, and Health. According to the IOM, the report addresses the impacts that climate change may

ventilated spaces. You can see the entire report by clicking on the cover image link. "If you don't have a healthy environment, you can't have attendance, test scores, or productivity," according to Claire. "They're not factories...Everything about schools is about people—mostly women and children, who are subsets of



Download **Tools for Schools** now <http://www.epa.gov/iaq/schools/actionkit.html>

ment, and energy agencies.

Claire cites the U.S. Environmental Protection Agency (EPA), and in particular, their Indoor Environments Division and Office of Children's Health Protection, as resources to help schools get on the right track. The latter has created Federal-State Partnership Grants to develop inter-agency plans for healthy

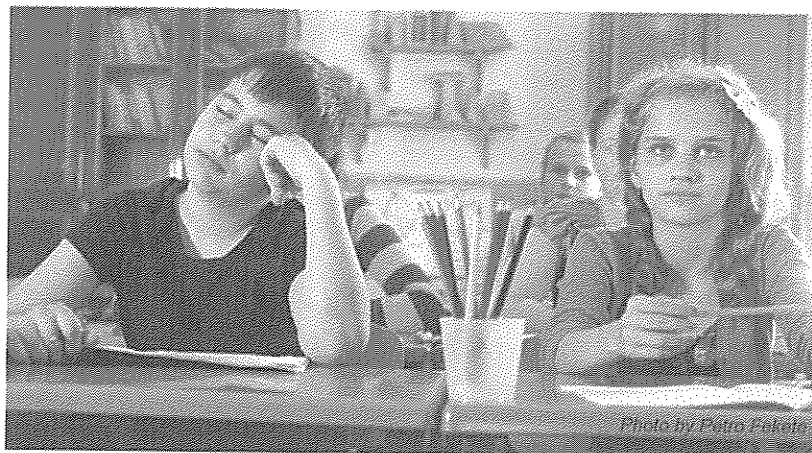


Photo by Photo Felted



Claire Barnett
Healthy Schools Network

our general population that are highly vulnerable to environmental hazards."

Perhaps it's time for us to start giving at least as much attention to the indoor environments of our schools as we give to the design of their architectural aesthetics and their athletic facilities. After all, aren't the health and well being of our children worth that effort?



Claire Barnett is founder and Executive Director of the **Healthy Schools Network**, a national 501c3 not for profit environmental health research, education, and advocacy organization, and the Coordinator of the **National Coalition for Healthier Schools**

Check out Claire's blog on the Huffington Post:

<http://www.huffingtonpost.com/claire-l-barnett/>

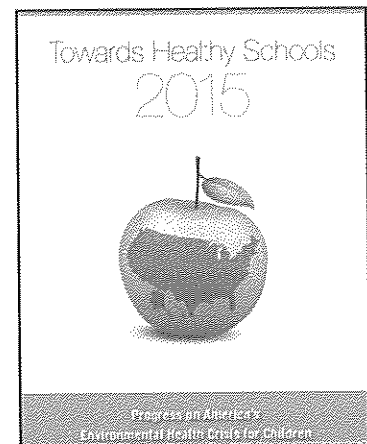
So, what do YOU think about the state of our schools? Let us know! Join our LinkedIn discussion and share your thoughts by clicking the "Link" button below.



<http://linkd.in/1gFY8Ht>

Earlier this year, the **Healthy Schools Network** released "**Towards Healthy Schools 2015**", an 83-page publication which discusses what HSN describes as, "Progress on America's Environmental Health Crisis for Children."

You can read or download the full document by clicking on the cover photo at the right.



Healthy Schools Network: Moving Policy, Honoring Heroes

The Huffington Post

The Network's executive is now a guest blogger for *The Huffington Post*: see her blogs at <http://www.huffingtonpost.com/claire-l-barnett/>

- **One Year Later—Superstorm Sandy: Climate Chaos, Kids, and Schools** details the effects on schools and kids from 9/11 forward (Oct 29).
- **Co-opting Children's Health: How the Shutdown Stopped Free Help for Schools and Parents** outlines the elimination of federal assistance during the shutdown (Oct 17).
- **Are Our School Buildings Harming Our Students?**, coauthored with Tolle Graham, Massachusetts Coalition for Safety and Health, started the school year (Aug 27).



Leaders in environmental and occupational health gather at APHA's annual meeting in Boston in November, following a policy panel "Healthy learning places for children – achieving justice and equity". The panel was moderated by Eileen Storey, MD, MPH, Professor Emeritus, University of Connecticut School of Medicine (also, NIOSH), and underscored gaps in children's health services. Presenters were Jackie Mosby, MPH, Acting Director, US EPA, Office of Children's Health, Jerome Paulson, MD, Mid-Atlantic Center for Children's Health and the Environment, and Barnett. (L-R): Paulson; Mary Beth Smuts, US EPA/Region 1; Madeline Scammell, DSc, Boston University; Ruth Etzel, MD, founding editor of *Pediatric Environmental Health*; Storey; Mosby; Barnett.

Healthy Schools Network – New York 2014

Our New York Program has a full agenda for 2014. This includes active participation in the US EPA-funded New York State Sustainable School Environmental Health project at the state health department, a bill to make the NY Collaborative for High Performance Schools (NY-CHPS) statewide policy, and a big push on green purchasing to bring healthy products into classrooms.

The Network is an active steering committee member in the state's Sustainable Schools project which includes the health, education, environment agencies and many educational associations and schools. Our primary role has been to remind the agencies that

success means measuring children's health outcomes, and there are currently no state mechanisms to do that. We are also promoting the creation of a permanent state advisory body on healthy kids and healthy schools.

NY-CHPS is a voluntary protocol for high performance buildings and occupants, and part of the New York City public school system since 2005. Nationally, CHPS is headquartered in Sacramento, California. We support the Green Schools New York Act, A.3676/S.5113, introduced by Assemblywoman Donna Lupardo and Senator George Latimer.



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NETWORK – Honoring Healthy Schools Heroes

Bill Walsh, Founder and Executive Director, Healthy Building Network. Walsh has mixed research, technical assistance, and advocacy in his quest to make construction materials healthier. He has led fights against arsenic-treated wood and PVC plastics, and led the development of The Pharos Project, a tool for evaluating building materials.

Arthur B. Weissman, Ph.D. President and CEO, Green Seal. Weissman is a key driver for a greener, more sustainable economy. He has led Green Seal for 20 years, and recently directed the launch of a web portal to make it easier for schools to find certified green products.



At the June 2013 Awards Reception held at the American Public Health Association, in Washington, DC, (L-R): Network Board Member David Carpenter, MD; Walsh; Weissman; 2007 Hero Tolle Graham; Network Board President John Shaw; and Network founder Claire Barnett.

John McKinney, Connecticut State Senator, Hartford, CT, pictured in our spring 2013 newsletter, was honored in April.

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in favor in opposition

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Name: Helene Hartman-Kutnowsky

Address: 3224 Grand Concourse

I represent: Comm Bd 7 Bronx, P.S. 51 Parents United

Address: 229 A - East 204th St Bx, NY 10458

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Name: Nicole Forbes

Address: 2719 Sedgwick Ave^{3E}, Bx, NY 10468

I represent: P.S. 51 Parents United (NWCCC)

Address: 103 E 196 Street, Bx, NY 10468

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I represent: SCA

Address: 30-30 Thomson Ave

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Name: John O'Connell

Address: Vice President, Environmental +

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Address: 30-30 Thomson Ave. LIC, NY 11101

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Name: Ross Hilden

Address: Senior Vice President, und.

I represent: General Counsel SCA

Address: _____

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Name: John Shea

Address: Vice CEO, Division of School

I represent: Facilities, DOE

Address: _____

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Name: CLAIRE L BARNETT

Address: 7

I represent: HEALTHY SCHOOLS NETWORK

Address: 773 MADISON AVE ALBANY NY 12208

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Name: Mark Lador

Address: _____

I represent: New York Lawyers for the Public Interest

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Name: MARY MCKINNEY

Address: SOUNDVIEW, BRONX

I represent: CONCERNED RESIDENTS ORG

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