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ABSTRACT

The hearing reported in this document examined issues dealing with environmental lead hazards in schools and day care centers and the threat that lead poses to children's health, with a special focus on problems in New York City (NYC) public schools. Following an account of the opening remarks by Representatives on the committee and subcommittee, the hearing report contains accounts from the subcommittee of the disregard for lead hazards by schools and child care facilities, and of the lead hazard in the NYC public schools, including two documents, generated by the NYC Board of Education and the Chancellor's office, on the extent of the city's problem. Testimony was offered by the director of environmental protection issues for the General Accounting Office; the chairman of the American Academy of Pediatrics; the chief of the division of school facilities, NYC Board of Education; a member of Parents Against Lead in Schools; a professor of pediatrics at Montefiore Medical Center; and the chairperson of the New York Coalition to End Lead Poisoning. A written statement from the National School Boards Association is also included. (MDM)

HAZARDS OF LEAD IN SCHOOLS AND DAY CARE FACILITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

SEPTEMBER 15, 1993

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HAZARDS OF LEAD IN SCHOOLS AND DAY CARE FACILITIES

WEDNESDAY, SEPTEMBER 15, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 2322, Rayburn House Office Building, Hon. Henry A. Waxman (chairman) presiding.

Mr. WAXMAN. The meeting of the subcommittee will come to order. Today we consider an environmental threat hidden in many schools and day care centers: lead. Lead poisoning is widely regarded as the most serious environmental threat facing young children in America.

Even low levels of exposure can cause subtle brain damage and reduce a young child's IQ. But despite the magnitude of the health impact, schools and day care centers have largely ignored the hazard. A new report by the General Accounting Office, which is being released today, finds that only 9 out of 57 school districts surveyed inspect for lead paint hazards and only 3 inspect for lead-contaminated soils.

Even worse, only 2 out of the 16 States surveyed by the GAO routinely inspect for lead paint hazards in child care facilities where the children are younger and especially vulnerable. This ignorance is certainly not bliss. We do not know the true dimensions of the threat to our children's health, but we have more than enough evidence to conclude that lead hazards in day care centers and schools are a serious environmental problem.

For example, the subcommittee's investigation into lead hazards in schools in New York City finds that 16 percent of New York City classrooms, nearly 1 out of every 6, appear to contain lead hazards. Likewise, information from South Carolina which has the Nation's best data on day care hazards, indicates that 18 percent of the day care centers in the State—nearly 1 out of every 5—were found to have lead hazards upon inspection.

The National Education Association says these reports are a wake-up call to Congress to enact legislation protecting our Nation's children from lead hazards in schools and day care centers. The National PTA and the American Academy of Pediatrics agree, and so do I. We urgently need Federal legislation addressing lead and other environmental hazards in schools and day care centers.

Before proceeding, I want to say a special word to the parents of children in New York City. Our investigation shows an appalling

lack of concern by the Division of the School Facilities of the Board of Education. The Division has known about the existence of thousands of lead hazards for months, but apparently decided to say and do nothing.

Our investigation also shows that new measures are urgently needed to assess, contain, and ultimately abate widespread lead hazards in New York City schools. Lead threats are the most serious of all environmental hazards facing the school system. They should be eliminated, not ignored.

But I do not believe parents should panic or overreact. The first order of business is simple. Honest disclosure by the Board of Education. Secrecy breeds fear and distrust. Openness builds desperately needed trust. I am hopeful that the new chancellor understands this, and I am sure that Mayor Dinkins, who unfortunately has no jurisdiction over the school system, will do what he can to promote better public understanding of the hazards of lead.

Lead can be a frightening hazard, but the fact is, once hazards are identified and disclosed, they can be addressed sensibly. There are often simple and inexpensive steps that can be taken on an interim basis allowing children to return to school, while the longer process of prioritizing and permanently abating lead hazards continues.

Ultimately what is needed is neither panic nor neglect, but a simple, firm commitment to investigate, disclose, and correct lead hazards.

I want to ask unanimous consent that all members who wish to insert an opening statement in the record at this point be permitted to do so, and that will be the order.

[Testimony resumes on p. 33.]

[The following statements and subcommittee reports were submitted:]

OPENING STATEMENT OF HON. CARLOS J. MOORHEAD

Thank you, Mr. Chairman. I want to join in commending you for your interest in the important issue of lead contamination in schools and day care facilities.

There can be no question that this is an important problem. The Department of Housing and Urban Development has reported that there are about 57 million homes with lead paint and 20 million homes with lead hazards. Since there are about 100 million homes in the United States, this means that 1 out of every 5 homes contains a lead hazard at this time. The reports we will hear this morning from New York City and South Carolina are consistent with these estimates. We have a large problem.

It is also clear, however, that we cannot abate all of these buildings in the short-term. In fact, we don't even know the best techniques for doing so without making the problem worse. There are also unanswered questions that could help us set priorities. We do not know, for example, whether soil abatement would make much difference in blood-lead levels or whether lead-paint hazards pose any serious risk for children in grades above kindergarten. The Centers for Disease Control states that day care facilities are a much greater priority and that schools are not a likely source of risk for the actual ingestion of lead paint and dust because of the age of the children.

In addition to the high costs of abatement, poor handling of the issue can result in the type of hysteria seen at P.S. 3 as reported in the New York Times article of September 19, 1992. That's why the provisions of the Residential Lead-Based Paint Hazard Reduction Act are so important. The act addresses the problem by requiring EPA to define lead hazards in paint, dust and soil, to train and certify those who inspect and abate such hazards, and to provide a program for public information and edu ation.

As we continue to address this topic, we must understand the need to set priorities. If we are going to pursue further legislation, let's make sure we get the priority age group.

Let's also set out the right approach. The program for inspecting day care centers in South Carolina seems like a good one. I am interested to find out more about it. As I stated last year, I am very uncomfortable with an approach that would make in-home day care providers liable for Federal penalties of $10,000 per day under the Toxic Substances Control Act. States inspect day care facilities for many reasons. They should add lead hazards to their lists.

I look forward to hearing from today's witnesses. I hope we can hear from EPA, the National School Board Associations, organizations representing day care providers, and representatives of State programs before we take any further legislative action. I am pleased to continue to work with the chairman on this important topic.

OPENING STATEMENT OF HON. THOMAS J. BLILEY, JR.

Thank you, Mr. Chairman. Mr. Chairman, I want to begin by commending you for your interest and involvement in the issue of lead contamination. Last year, President Bush signed into law landmark legislation on lead contamination, the Residential Lead-Based Paint Hazard Reduction Act of 1992. The work of this subcommittee was instrumental in setting the stage for the passage of that legislation.

As broad and significant as last year's legislation was, one of the things it did not directly address was lead contamination in schools and day care facilities. So I think it is appropriate for us to be looking at that topic this morning.

I am concerned, however, that because of the way this hearing is organized, we will not be getting much helpful information. We know that lead is a hazardous substance, especially for younger children. We also know that not many schools and day care facilities are testing for lead hazards—we don't need a GAO report to tell us that.

What we really don't know at this point is how best to deal with lead hazards in schools and day care facilities and why these facilities haven't been testing. Is it because they don't understand the risks? Or that the Federal Government has not yet established safe standards and testing protocols? Or is it because schools and day care facilities can't afford to do the testing?

These are all important questions. Unfortunately, few of the witnesses at today's hearing are prepared to answer these questions. Observers should be struck by the conspicuous absence of EPA or any other Federal agency. EPA, at least, could tell us how long it will be before the Federal Government develops standards and testing protocols to help schools and day care facilities test for lead contamination.

At my request, the subcommittee invited EPA to testify but EPA declined, saying it was too busy. I must say that I find that response both surprising and alarming, because much of what the Agency is working on has to do with what we will discuss this morning, and its input no doubt would have been very valuable to our discussions.

I am also troubled that the Centers for Disease Control was not invited to testify at this morning's hearing. The CDC has been very involved in efforts to minimize lead hazards for children. In fact, during the debate last year, CDC commented that children in day care facilities, because they are younger and behave differently, are likely to face greater risks from lead contamination than older children in schools. The CDC said we should set priorities to deal with the most significant risks first. I hope that before we are called upon to consider specific legislation we will have an opportunity to hear from the CDC.

I also am concerned about the emphasis that this hearing gives to the controversy that developed more than a year ago at the P.S. 3 elementary school in New York City. I only know of this situation from what I read in the New York Times story from September 19, 1992, but if that story is at all accurate, we should be doing everything we can to avoid that kind of situation from developing again. Mr. Chairman, I ask unanimous consent that the September 19, 1992, New York Times story about the situation at P.S. 3 be placed in the record of this hearing at an appropriate place.

Mr. Chairman, what seemed to happen at P.S. 3 was that without clear standards and testing guidelines from either the State or the Federal Government, the so-called "Experts" got into disagreements that confused and alarmed parents who were rightly concerned about the safety of their children. As the story points out, there were a number of individuals involved in that situation who believed that the situation was blown out of proportion and that the money spent to deal with the

alleged lead contamination was not money well spent. I wish some of those individuals could be at the hearing this morning.

One of my biggest concerns with our approach to environmental hazards in schools is that we are not only failing to accurately characterize the risks of a particular contaminant, but that we are also failing to set priorities for dealing with the most serious risks first.

To that end, Mr. Chairman, I have joined with several of my colleagues this morning to ask the Office of Technology Assessment to prepare a background paper that would help us understand better the risks to children in schools, how those risks compare, and how best to deal with the most serious risks first. I understand that this is not a simple issue and that this paper will not provide any easy answers to dealing with risks to children in schools. But it will at least help us to understand what the most serious risks are, and how school systems and the Federal Government should be allocating resources to deal most effectively with these risks. I hope this report can be prepared fairly quickly so that it can be available to us for the work we do on this subcommittee.

Mr. Chairman, I want to commend you again for organizing this hearing and I look forward to the testimony of the witnesses.

STATEMENT OF HON. GARY A. FRANKS

I would like to thank the chairman for holding today's hearing on the hazards of lead in day care facilities and schools. I look forward to hearing the testimony being presented today.

Safeguarding the health of our children is a paramount concern for all American families. Our children are the future and to provide for them is to ensure our future. With this goal in mind, I will say that legislation which intends to address the hazards of lead exposure should be a major concern to this subcommittee as well as this Congress.

However, this legislation must not result in adverse consequences for the day care industry. We must avoid burdensome regulations which only serve to hinder the workings of our school systems or the industries charged with regulating or maintaining our exposure.

Once again, I would like to thank Mr. Waxman for convening this hearing and look forward to reviewing the results of these efforts.

OPENING STATEMENT OF HON. EDOLPHUS TOWNS

Today this subcommittee continues to highlight the pervasive threat of lead-poisoning. Anyone who doubts how pervasive this threat is should examine the subcommittee's hearings over the last several years. Lead-poisoning is the greatest environmental health threat facing young children.

Mr. Chairman, I want to congratulate you for your continuing efforts to combat lead-poisoning in America's children. I hope the testimony we hear today will cause the school board in New York City—and school-boards across the country—to address this most serious problem.

This subcommittee and the General Accounting Office have uncovered particularly troubling actions by New York City's Board of Education. As a parent whose children attended the City's public schools, I am aware of how painful and frustrating this situation must be for parents of current school children. I am relieved that they have found an audience before this subcommittee today.

However, in the current political climate in New York, I am concerned that these revelations will be misused to smear New York City's mayor. He has already had to step forward and intervene over the asbestos problem in our schools, and has taken criticism for actions by a school board he does not control. The public schools in New York City are run by the Board of Education, an independent agency outside the jurisdiction of the Mayor of New York City. In the heat of a political race, these distinctions are sometimes overlooked.

I look forward to hearing today's testimony, and hearing more about what we in Congress can do to protect our children from the pervasive threat. But all our work is worth very little unless there is money to remove lead safely, away from the environment of the children it poisons. State and local governments, like the Federal Government, are faced with doing more with fewer dollars. We must find a way to provide the funds necessary to eradicate this threat.

I am encouraged to note that both the chairman and I are original co-sponsors of H.R. 2479, the Lead-Based Paint Hazard Abatement Trust Fund Act of 1993, introduced by our colleague, the Honorable Ben Cardin. In the other body, Senator

Bradley has also introduced legislation to create a lead trust fund. This work, to create trust funds for lead removal, are a necessary compliment to the work of this subcommittee, and I urge my colleagues to consider these proposals as we hear today about the threat in day care facilities and schools.

Mr. Chairman, again my compliments to you for continuing to bring this issue before us.

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Embargoed until September 15, 1993

CHILD-CARE FACILITIES AND SCHOOLS IGNORE LEAD HAZARDS NATIONWIDE

Recently, much attention has been devoted to the problem of lead poisoning. In 1991, the federal Centers for Disease Control and Prevention called lead poisoning "the most common and societally devastating environmental disease of young children," and the Environmental Protection Agency estimated that millions of children under age six are exposed to enough lead in old paint, contaminated dust and soil, and drinking water to impair their mental development. In 1992, Congress responded by passing new federal legislation.

Most of this attention, however, has addressed the problem of lead hazards in homes. There has been relatively little attention given to lead hazards in the other environment where children spend large parts of their day -- child-care facilities and schools.

To address this issue, the Health and the Environment Subcommittee asked the Comptroller General of the Gener . Accounting Office (GAO) to assess the extent of lead hazards in child-care facilities and schools and the steps being taken to eliminate these hazards. The GAO report, to be released at a Subcommittee hearing on September 15, 1993, reaches an alarming conclusion: many child-care facilities and schools are taking little or no action to protect children from lead hazards in paint and soil.

Major findings from the GAO report include the following:

* 7 of 16 states surveyed by GAO conduct no inspections of child-care facilities for lead hazards.

* Only 2 of the 16 states routinely inspect some child-care facilities for lead paint, the leading source of lead exposure. Only 1 of the 16 states inspects any child-care facilities for lead-contaminated soil, the second leading source of lead exposure.

* Out of 57 school districts in 10 states examined by GAO, only 9 districts inspect any schools for lead paint.

* Even fewer school districts (3 of 57) inspect any schools for lead-contaminated soil.

Incidence of Lead Hazards in Child-Care Facilities and Schools

Hard data on the incidence of lead hazards in child-care facilities and schools is limited, but there are compelling reasons for concern.

The Subcommittee's investigation into lead hazards in schools in New York City reveals that 16% of New York City classrooms -- nearly one out of every six -- appear to contain an immediate lead hazard. (This investigation is summarized in a separate fact sheet.)

Data from South Carolina, which may have the best records on lead hazards in child-care facilities in the nation, show that lead hazards in child-care facilities are similarly widespread. In South Carolina, out of 3,206 child-care facilities and foster homes inspected by the state over the last six years, 556 (18%) had lead hazards. In the case of one child-care center with lead hazards in Charleston, S.C., over 40% of the children in the center were found to have toxic levels of lead in their blood.

The most widespread source of lead is paint manufactured before 1978, when a federal ban on lead in paint took effect. Nearly 90% of all schools were built before 1960 and so potentially contain lead paint. Over 50% of schools were built before 1960, when use of heavily leaded paint was most widespread. As this old paint deteriorates or is disturbed, it sheds toxic lead dust, which children contact and swallow.

Many play areas at child-care facilities and schools may also contain lead-contaminated soil. Soils within 25 yards of major roads frequently have lead levels that exceed EPA guidelines for hazardous waste cleanup, due to the fallout from decades of use of leaded gasoline. Yet many child-care facilities and schools are located near just such roads. Lead hazards in play areas can also be caused by deteriorated lead paint that falls from building exteriors.

A third common lead hazard in child-care facilities and schools is drinking water that is contaminated by lead leaching from old lead pipes or lead solder. The GAO report finds that 15% of the schools that tested drinking water -- nearly one out of every six -- found hazardous levels of lead.

The Response of Child-Care Facilities and Schools

Despite the potential risks to children, the GAO report concludes:

> The combined efforts of federal, state, and local activities that address lead hazards in child care facilities and schools are limited in scope and do not provide a comprehensive approach for defining and

alleviating the problem. (Emphasis added)

As part of its investigation for the Subcommittee, GAO contacted child-care licensing agencies in 16 states (California, Florida, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and Wisconsin). GAO's investigation shows that minimal efforts are being undertaken by federal, state, and local governments to insure that child-care facilities are free of lead hazards. Specifically, GAO reached the following conclusions:

* None of the 16 states could provide data on the results of inspections of child-care facilities.

* 7 of the states (California, Florida, Kentucky, Michigan, New York, Pennsylvania, and Virginia) conduct no inspections of child-care facilities to detect lead hazards.

* 7 of the states (California, Indiana, Kentucky, Michigan, North Carolina, Pennsylvania, and Texas) have no laws requiring child-care facilities to be free of lead hazards.

* Only 1 of the states (Illinois) inspects any child-care facilities for lead-contaminated soil.

* Only 2 of the states (North Carolina and Minnesota) routinely inspect some child-care facilities for lead paint.

GAO also investigated the efforts of 57 school districts in 10 states (California, Florida, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas). These 57 school districts manage over 4,000 schools attended by 3.4 million children. As with child-care facilities, a pattern of neglect of lead hazards is revealed by the GAO report:

* None of the 10 states have an inspection program or inspection requirement to insure that schools are free of lead hazards.

* Only 9 of the 57 school districts test any schools for lead paint.

* Only 3 of the 57 school districts test any schools for lead-contaminated soil.

GAO found that most schools, if they inspect for lead hazards at all, investigate only one type of lead hazard: contaminated drinking water, which is often a less important source of lead exposure after paint and soil. The 1988 Lead

Contamination and Control Act promoted testing for lead hazards in school drinking water. As a result of this law, numerous schools have tested for drinking water contamination. In fact, in 33 of the school districts surveyed by GAO, all schools have been tested for contaminated drinking water. A large number of the schools tested (15%) had lead levels in drinking water above federal guidelines.

Even in the case of drinking water, however, many schools have not been tested for lead hazards. According to the GAO report, 7 school districts have done no testing. In an additional 8 school districts, fewer than half of tha schools have been tested.

Health Effects of Lead

Virtually every system in a child's body can be adversely affected by lead. Lead exposure can shorten physical stature, impair kidney development, and alter red blood cell metabolism and vitamin D synthesis. Lead is also a probable human carcinogen.

The most significant impacts, however, are the effects on the development of the central nervous system, particularly in children under age six. Low levels of lead exposure can reduce intelligence; impair perception, hearing, and speech; and cause behavioral disorders like hyperactivity. Compared to their peers, lead-poisoned children have lower IQs, shorter attention spans, and much higher school dropout rates.

ONE HUNDRED THIRD CONGRESS

HENRY A. WAXMAN, CALIFORNIA, CHAIRMAN

U.S. HOUSE OF REPRESENTATIVES
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LEAD HAZARDS IN NEW YORK CITY SCHOOLS

While New York City schools remain closed to correct asbestos hazards, a more serious and immediate environmental threat in the schools -- lead contamination -- is going unaddressed.

An investigation by the Health and the Environment Subcommittee, based in part on a report by the Chancellor's Task Force on Lead Hazard Reduction, reveals that lead hazards appear to be present in one out of every six classrooms in New York City.

During the 1991-92 school year, over 6,000 classrooms in New York City schools had damaged walls, and over 7,000 classrooms had damaged ceilings. Under the standards set by the Chancellor's Task Force, the conditions in each of these classrooms is an immediate lead hazard.

The Subcommittee investigation also reveals that the Division of School Facilities of the New York City Board of Education has not implemented the recommendations of the Chancellor's Task Force to protect school children from lead exposure. For example, despite the Task Force's express recommendations, the Division of Facilities is neither investigating nor repairing rooms identified as having hazardous paint conditions. Instead, the Division of School Facilities has kept the report of the Chancellor's Task Force confidential.

The New York City Board of Education, which runs the public schools in New York City, is an independent agency that does not come under the jurisdiction of the Mayor of New York City.

Conclusions of the Chancellor's Task Force

In September 1992, after an outpouring of public concern over lead hazards in P.S. 3 in Greenwich Village, the Chancellor of the New York City Board of Education established the Chancellor's Task Force on Lead Hazard Reduction. The Task Force members included medical and public health experts, experts in occupational safety, and representatives from city agencies and the Board of Education.

On June 16, 1993, the Chancellor's Task Force completed

its draft report. The Task Force concluded:

* Despite the fact that New York City banned the use of lead in residential paint in 1960, the New York City Board of Education continued to apply "industrial grade" lead paint in classrooms until 1980 -- 20 years after the ban on residential use.

* Because of the use of industrial grade lead paint until 1980, all walls and ceilings in schools built before 1980 should be assumed to contain lead paint.

* Intact lead paint is not a hazardous condition. However, damaged lead paint on classroom walls or ceilings is a hazardous condition. Specifically, any classroom with a damage rating of 2 or higher on a painted wall or ceiling in the annual "School Scorecard Report" should be considered a lead hazard.

In addition, the Chancellor's Task Force recommended specific actions to be taken in New York City schools to protect children from lead hazards. Important elements of the recommendations include the following:

* If a lead hazard is present in a classroom, the room should be inspected, a full assessment of paint and dust conditions made, and the affected areas repaired and cleaned.

* If an area that requires abatement cannot be immediately abated, the area should be sealed off from building occupants.

* All radiators in pre-kindergarten and kindergarten rooms should be inspected for damaged paint.

Incidence of Lead Hazards in New York City Schools

Virtually all public schools in New York City were built before 1980. In 1992, 986 public schools operated in the City. Of these 960 schools (97%), including 628 elementary schools, were built before 1980. Under the approach of the Chancellor's Task Force, each of the schools built before 1980 should be assumed to contain lead paint. 702 public schools (71%) were built before 1960, when the use of heavily leaded paint was especially widespread.

According to the Chancellor's Task Force, intact lead paint is not an immediate lead hazard, but damaged lead paint is. To determine the extent of actual lead hazards in New York City schools, therefore, the Subcommittee examined the 1992 "School Scorecard Report" prepared by the New York City Board of Education, which contains detailed information on the level of paint damage in New York City schools. This report shows

that thousands of lead hazards were present in New York City classrooms during the 1991-92 school year.

The 1992 School Scorecard Report examined wall conditions in 45,842 classrooms. In 17,218 of these classrooms (38%), the report found wall paint damage. In 6,108 classrooms (13%), the wall damage was scored as 2 or higher -- a score considered hazardous by the Chancellor's Task Force.

The 1992 School Scorecard Report also examined ceiling conditions in the same 45,842 classrooms. In 13,610 of these classrooms (30%), the report found ceiling paint damage. In 7,204 classrooms (16%), the ceiling damage was scored as 2 or higher -- a score considered hazardous by the Chancellor's Task Force.

The Twelve Most Hazardous Schools

The 1992 School Scorecard Report identified 12 schools as having the worst paint conditions in New York City during the 1991-92 school year. Eight of these schools are elementary schools, where children are the most vulnerable. The worst schools identified in the report are:

Brooklyn Schools
- P.S. 119
- P.S. 214
- P.S. 158
- P.S. 217
- P.S. 149
- J.H.S. 220
- Var. Alt. H.S.

Bronx Schools
- P.S. 4
- Morris H.S.

Queens Schools
- P.S. 188
- J.H.S. 125

Manhattan Schools
- P.S. 188

In some, but not all of the 12 most hazardous schools, capital construction work was either underway or in design in fall 1992.

Compliance with Task Force Recommendations

Despite the magnitude of the lead threat in New York City schools, the Division of School Facilities of the New York City Board of Education has done little to reduce hazards to children.

The Division of School Facilities, which is responsible for maintaining the school buildings, has had a copy of the findings and recommendations of the Chancellor's Task Force since June 1993. Yet to date, the Division has taken no action to adopt or implement the essential precautions recommended in the Task Force report. Instead, the Division has kept the

findings and recommendations confidential, impeding public understanding of the magnitude and nature of lead hazards in New York City schools.

Ironically, the emergency asbestos repairs now underway in New York City schools may violate the recommendations of the Chancellor's Task Force and could in some instances increase lead hazards. The Task Force recommended that a specific lead abatement protocols be followed during any work that disturbs intact lead paint. If these protocols are not being followed, disturbance of lead paint during the on-going asbestos repair work could be creating new lead hazards.

Health Effects of Lead

The federal Centers for Disease Control calls lead poisoning "the most common and societally devastating environmental disease of young children." According to the federal Environmental Protection Agency, 3 million young children have toxic levels of lead in their bloodstream -- levels high enough to cause subtle brain damage.

Virtually every system in a child's body can be adversely affected by lead. Lead exposure can shorten physical stature, impair kidney development, and alter red blood cell metabolism and vitamin D synthesis. Lead is also a probable human carcinogen.

The most significant impacts, however, are the effects on the development of the central nervous system, particularly in children under age six. Low levels of lead exposure can reduce intelligence; impair perception, hearing, and speech; and cause behavioral disorders like hyperactivity. Compared to their peers, lead-poisoned children have lower IQs, shorter attention spans, and much higher school dropout rates.

The most important sources of lead exposure are lead paint, which was commonly used before 1980; soil contaminated with the fallout of leaded gasoline; and drinking water contaminated with lead leaching from lead pipes and solder.

Exhibits

Exhibit A: Chancellor's Task Force on Lead Hazard Reduction, Report on Lead Based Paint Policy Recommendations (June 16, 1993)

Exhibit B: Excerpts from New York City Board of Education, School Scorecard Report (Fall '992)

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Exhibit A

REPORT ON LEAD BASED PAINT POLICY RECOMMENDATIONS

(Chancellor's Task Force on Lead Hazard Reduction, June 16, 1994)

BACKGROUND IN BRIEF

Lead-based paint is recognized as a major source of lead poisoning in children. Children six years and younger are considered most vulnerable upon exposure to dust and chips because of their still developing nervous systems, frequent hand to mouth activity and more efficient absorption rates of lead by their digestive systems.

Use of lead-based paint is not banned in public school buildings, but lead paint has not been used only since around 1960. The City of New York had banned the use of lead paint for residential interior use in 1960; the Federal Government banned its use in residences nationally in 1978. By regulation, paint manufactured after 1977 must contain no more than 0.06% lead; 600 parts per million lead by dry weight.

Industrial, military and marine paints were exempted from the 1978 regulations. It is generally believed that paint used in public schools before 1978 was of industrial grade. Since paint that was manufactured before 1978 may have been stored and used after 1978, we generally assume that all schools constructed before 1960 potentially have some lead-based paint.

There are approximately 960 public schools in New York City that were constructed prior to 1960 of which 628 are elementary schools.

There does not currently exist Federal law governing testing and abatement procedures for public school buildings, nor licensing requirements for testing and service providers. There do exist HUD Guidelines for testing and abatement in Federal housing structures, which have been used as the generally accepted standards by non-housing agencies in the absence of any Federal mandates. Previously, proposed Federal legislation concerning schools and day care never made it into law. Federal legislation relating to lead reductions in residences, known as Title X, was enacted in 1992.

A New York State Law, the Lead Poisoning Prevention Act, was passed at the end of the 1992 session in Albany. This bill covers universal screening of children, pregnant women, screening prior to entry to child-care and screening of pre-school enrollees. It also established an Advisory Council to advise the State Health Department on matters relating to the development of a lead poisoning prevention program, regulations of the NYS Department of Health, and statewide planning to prevent lead poisoning and to minimize the risk of human exposure to lead.

Pursuant to this Act, New York State is authorized to implement regulations that address lead abatement and safe work practices for protection against exposure to lead hazards in school, day care and nursery settings, as well as residential settings.

At the present time, the recommendations contained in this report are the only comprehensive requirements for lead paint hazard reduction in New York City Public Schools.

RECOMMENDATIONS

I. DEFINITIONS AND STANDARDS

The following definitions and standards are recommended for use in determining the appropriate application of lead paint hazard reduction protocols and work practices. These are the definitions intended in this report.

A. Lead-Based Paint or Lead Paint (LBP): Paint with lead content of more than .5% (one-half of one percent) by weight. This threshold is for paint chip analysis using atomic absorption analysis. .7 MG/CM2 is the NYC Health Code threshold using x-ray fluorescence analysis (XRF).

B. DOH Action Levels for Blood Lead: 10 ug/dl (micrograms per deciliter) is "reportable" (must be reported to DOH) and 20 ug/dl for children 6 years and younger results in "case management" (DOH monitors clinical evaluation and conducts environmental follow-up of the child to identify the source of the exposure and to direct abatement be done accordingly).

C. Risk Assessment: An evaluation to determine whether lead based paint hazards exist.

C.1 Hazard Level 1: Scorecard ratings or other surveillance indicate no damage to LBP surfaces (Scorecard Rating 0 to 1), however, dust on floors and horizontal surfaces is visible.

C.2 Hazard Level 2: Scorecard ratings or other surveillance indicate minimal to moderate damage of LBP surfaces (Scorecard rating of 2 to 3).

C.3 Hazard Level 3: Scorecard ratings or other surveillance indicate extensive to extreme damage of LBP surfaces (Scorecard rating of 4 to 8).

D. In-Place Management: Measures to prevent exposure by designing procedures; 1) To stabilize damaged areas, 2) To clean up any lead paint chips or dust that may inadvertently occur, and 3) To monitor intact surfaces for changing conditions.

E. Dust Clearance Thresholds: Use HUD guidelines for dust wipe samples for floors, window sills and window wells. For other classroom surfaces (e.g., desk tops), use the HUD guideline for floors.

F. DOH: New York City Department of Health

G. DSF: Division of School Facilities

H. HEPA: High Efficiency Particulate Filter

I. HUD: Housing and Urban Development

J. SCA: NYC School Construction Authority

K. Scorecard: See Appendix A for description

II. TESTING

A. Testing for lead content: Testing paint in all schools for lead content is not recommended. Instead, the Task Force recommends that an assumption be made that in all school buildings built before 1980, walls and ceilings contain lead paint and that actions recommended below be taken accordingly.

However, the Task Force also recommends that the Division of School Facilities should have the capability to perform or obtain such testing because there may be certain instances when specific testing may be needed.

B. Testing dust for lead contamination: Testing for dust contamination is not recommended across the system. However, test clearance procedures are recommended for all Action Level 1 work, as described in Section V.

C. Test Clearance Procedures: Procedures and methods for testing should follow HUD sampling procedures using dust wipes after a 14-hour settling period has elapsed.

III. WHEN TO APPLY LEAD PAINT HAZARD REDUCTION PROTOCOL

A. Assessment Methods: The Task Force recommends that the following risk assessment methods be applied, in the order of priority described in paragraph B below, when:

A.1 A risk assessment of any occupied room indicates the need to implement a response action and/or where work will be done that might disturb intact lead paint.

A.1.1 Target schools using the most recent School Scorecard paint condition ratings and the Annual Building Condition Surveys (ABCS). Establish a preliminary list of Kindergarten, Pre-Kindergarten and Special Education rooms and other related areas (e.g., cafeterias) that may require immediate attention. All elementary schools, LIFE Centers and special education schools built before 1980 should be reviewed.

A.1.2 The Task Force recommends that Scorecard ratings for walls and ceilings be reviewed separately and if in a room, either a wall(s) or the ceiling (or both) should have a Scorecard rating of 2 or higher, that room should be inspected and a full assessment of paint and dust conditions made (Refer to Section V). Based on the assessment, a hazard reduction (or management) plan should be developed and implemented.

A.1.3 The ABCS should be used to determine where exterior repairs (i.e., where water infiltration has occurred) are needed prior to interior repairs being made.

A.1.4 Any area that requires abatement which cannot be immediately abated should be sealed off from building occupants.

III. (continued)

A.2 DOH reports a child has screened for high blood lead levels, an investigation of the child's classroom condition should automatically be made and an in-place management plan be implemented or abatement made, as needed. (It should be noted that the child's home is normally the first suspected area of contamination and inspected first.)

A.2.1 DOH and DSF should develop improved notification procedures in preparation for cases of a finding of a high blood lead level (20 ug/dl or greater) by DOH in a child attending a public school. DOH has agreed to notify DSF even if the primary source of lead exposure is found to be the child's home.

A.3 Falling paint chips are the result of water infiltration or other incidental damage. Repair and a detailed clean-up in accordance with adopted guidelines will be performed.

A.3.1 Prevention of paint chip debris and dust should be the first line of intervention. Monitoring and ongoing maintenance should be put in place through the provision of proper training of custodians and providing similar information and fact sheets to school staff and parents. A daily/weekly/monthly cleaning system should be implemented as needed to be effective, focusing on vulnerable areas within a school and particularly focusing on problem schools.

A.3.2 DSF's Scorecard Inspectors should be instructed to call in to the Lead Hot Line (already established by DSF) any suspected hazardous lead paint problems (Note: Scorecard Inspectors were instructed accordingly on October 13, 1992.)

A.4 Work that will disturb otherwise intact lead paint is scheduled to be performed. Work should be done pursuant to the abatement protocol. Such work includes drilling for electrical wiring, removing or demolishing wall partitions and replacing windows.

III. (continued)

B. Priorities: Assuming that DOF may have limited resources and recognizing that the expanse and magnitude of the school system will not allow all work to be performed simultaneously, the following order of priority will be used, as necessary:

Priority No. 1- Pre-Kindergarten
Kindergarten
LYFE Centers
Special Education: NIH I and III
Any Special Education space with children under 7
Any room where DOH reports an occupant with a high blood lead level

2- Elementary School Cafeteria
Elementary Special Education
Any area where there is indirect damage occurring (i.e., water infiltration)

On a larger scale, elementary, special education, intermediate and high schools will be the order of priority.

C. Regardless of room condition, all radiators in pre-kindergarten and kindergarten rooms should be inspected for damaged paint conditions and a new cover provided, as needed.

D. Regardless of room condition, Scorecard should add windows to their list of regular items of inspection and inspect for painted contact surfaces between the window sash and frame.

IV. IN-PLACE MANAGEMENT

A. In-place management is the first line of defense and the primary strategy recommended for addressing lead based paint exposure in areas where lead based paint is intact. Intact paint on a sound surface does not constitute a hazardous condition. In-place management will also be implemented after corrective work is done to repair damaged lead based paint surfaces. For all school buildings constructed prior to 1960, it is assumed that painted surfaces that have not been tested contain lead. The primary objective is to minimize levels of lead dust and expeditiously repair damaged lead based paint to which a child may be exposed. This strategy requires:

A.1 Periodic inspection by Scorecard inspectors to verify that intact surfaces remain in sound condition.

A.2 Preventing acceptable situations from deteriorating to prevent creating excessive lead exposure in the future.

A.3 Precautions are to be taken to avoid inadvertently disturbing lead-based paint or creating dust lead hazards in the course of other maintenance or repair work.

V. RESPONSE ACTION LEVELS

Decision Chart

LBP Present?	Hazard Levels	Hazcard Rating	Action Level
YES	1	0 or 1	1
YES	2	2 or 3	2
YES	3	4 to 6	3

Action Level Requirements:

Action Level 1 A general cleaning will be done. Cleaning will include wet wiping, as necessary. All painted surfaces will be inspected semi-annually to verify that intact surfaces remain in sound condition.

Action Level 2 Wet scrape, repair and seal effected areas. After a general cleaning, all surfaces will be HEPA vacuumed followed by wet wiping and a final HEPA vacuuming. All painted surfaces will be inspected semi-annually to verify that intact surfaces remain in sound condition.

Action Level 3 Full dust containment barriers to be installed in accordance with work practices contained in Section VII of this report. Corrective action may include various abatement strategies, all of which contain wet methods. All affected areas should be restored to a sound and intact condition. All surfaces will be HEPA vacuumed followed by wet wiping and a final HEPA vacuuming. Clearance testing will be performed prior to containment barrier removal.

VI. ABATEMENT METHODS

The Task Force recommends that intact LBP on sound surfaces not be removed, as its presence alone does not constitute an immediate hazard. In this case, periodic inspections to verify that intact surfaces remain in sound condition are recommended.

A. Removal:
   On-Site a) Wet Scraping- Hand scraping only. Power tools prohibited
   b) Chemical- Use permitted by special approval only
   c) Heat- Prohibited
   Off-Site a) Scraping- Hand or power permitted
   b) Chemical- Permitted
   c) Heat- Prohibited

B. Replacement:
   Removal and replacement of building components (e.g., doors, windows, trim, etc).

C. Encapsulation:
   Liquid, elastomeric or vinyl covering of existing surfaces.

D. Enclosure:
   Fire resistant sheetrock, glued or screwed, taped and speckled.

VII. WORK PRACTICES

A. DSF and SCA should establish criteria for types of construction and repair work where such work in schools will be restricted. Specific criteria should be established to determine the conditions that will require: 1) Work that can take place during school hours in unoccupied spaces. 2) Work to be performed after normal school hours when the school is unoccupied. 3) Work that requires full containment.

B. Before work begins, in accordance with Action Level 3, a project scope meeting will be held with the school's principal, custodian, UFT representative, PTA representative, contractor (if applicable) and DSF (or SCA, as case may be) field inspector. Site preparation, work practices and project schedules should be presented at the meeting.

C. Site Preparation: The area of work shall be totally contained during all Action Level 3 procedures to prevent paint dust and debris from migrating to areas outside the work area.

D. Before any Action Level 3 work begins, the following preparations must be made:

D.1 Post warning signs at each local entrance to the work area.

D.2 Forced-air system must be shut-down and isolated with a six-mil polyethylene sheet taped around the perimeter.

D.3 Two layers of six-mil polyethylene must cover the floor and wrapped up the walls approximately six inches and taped on all sides.

D.4 All movable items that can feasibly be taken out of the space must be cleaned then removed. Items remaining must be wrapped or covered with six-mil polyethylene and taped.

D.5 All entrances to the work area must be sealed with two layers of six-mil polyethylene. The first layer to be taped across the top and left side; the second sheet to be taped across the top and right side forming a curtained access thru the door opening.

D.6 Construct a changing/mini decontamination area adjacent and contiguous to the work area using two layers of six-mil polyethylene in the same manner as the work area.

VII. (continued)

D.7 All windows and transoms are to be tightly closed.

D.8 Before beginning work, a trained DSF or SCA field inspector must inspect and approve the preparation of the work area and then while work is in progress inspect the work area for possible migration of paint dust and seal, as necessary.

DSF and SCA contractor specification language should be reviewed and, if necessary, changed to ensure appropriate contractor dust containment procedures.

E. Worker Protection: All workers and other authorized personnel entering an LBP work area must be adequately protected from airborne dust. It should be noted that lead dust might be airborne for up to 24 hours, but is otherwise not generally an airborne metal due to its weight. Worker protection requirements should include appropriate provisions of the recently amended OSHA standards 29 CFR part 1926.62 containing employee protection requirements for construction workers exposed to lead. This amendment became effective June 3, 1993.

E.1 Protective Clothing- Disposable Tyvek protective suits and foot protection are required to be worn by all LBP workers.

E.2 Respirators- When required, only respirators that are approved for use in lead atmospheres by NIOSH (National Institute for Occupational Safety and Health) and MSHA (Mine Safety and Health Administration) can be used.

F. Work Procedures:

F.1 Scope- An inspection and report indicating the location and approximate size of the damaged areas to be abated is to be prepared by a painting supervisor trained in de-leading procedures.

F.2 Containment- Determine whether the project scope requires work to be isolated from adjacent occupied areas or performed during off hours (i.e., Action Level 3).

F.3 Site Preparation- No LBP work is to begin prior to the set-up, inspection and approval of the site preparation by the appropriate DSF (or SCA) department.

VII. (continued)

F.4 Lead Paint Removal- All loose or scaling paint and plaster to be hand scraped using a wet spray and hard rubber scrapers.

F.5 Preliminary Clean Up- During the wet scraping, all loose paint debris should be collected frequently and a wet wipe performed to eliminate all loose paint dust in the work area at the end of every work day.

F.6 Final Clean Up- When all scraping and sealing is completed, a final cleaning should be performed using HEPA vacuuming, wet wipe/mop, and a final HEPA vacuuming.

F.7 Waste Disposal- All debris from the LBP area shall be wrapped in 6-mil polyethylene and sealed with duct tape. It shall then be removed and properly disposed of in a lawful manner.

F.8 Clearance Testing- Conduct clearance testing using wipe samples in accordance with HUD clearance levels. Dust containment barriers are not to be removed until final clearance approval is obtained. All meeting participants will be advised when final clearance is obtained and prior to removal of dust containment barriers.

F.9 Final Painting- All damaged repaired and sealed areas are to be plastered, primed and painted, as required to match existing areas, in accordance with existing standard procedures.

G. Medical Surveillance of LBP Workers:

G.1 Respirators- When respirators are used for lead based paint work, there must be a written respiratory protection program for the use and maintenance of respiratory equipment in accordance with OSHA regulations.

G.2 Blood level monitoring: Use the requirements for blood lead and zinc protoporphyrin (Zpp) stated in Section 8.5.4. of the HUD guidelines.

VII. (continued)

E. Recordkeeping:

E.1 It will be necessary to certify that work will take place where a lead paint hazard has been identified (or where potential hazards are assumed to exist). A record of information for every lead based paint project performed should be kept.

E.2 The file required to be maintained to effectively document the lead hazard reduction process should contain, at a minimum, the following:

- o Complete list of spaces being abated and location of LBP.
- o Results of all testing
- o General description of lead hazard reduction methods
- o Chronology of the specifics of the LBP project (from planning through final testing and occupancy)

The HUD guidelines for recordkeeping can be used as the suggested format to document work in progress.

VIII. CONTINUED MONITORING

Most lead hazard reduction projects will not "de-lead" the building, so that monitoring the remaining paint for deterioreties or damage is necessary.

Effective monitoring will depend on informed building occupants. Scorecard will continue to inspect all classrooms twice per year (Spring & Fall), and record the results of their inspection for paint conditions. In addition, more regular visual inspections by custodians will be necessary.

IX. EMPLOYEE TRAINING

A. All employees, including skilled trades workers, inspectors, specification writers, and supervisors, that are directly involved with the work required to prepare work sites, abate lead based paint, inspect and approve the work and prepare specifications for LBP projects shall have received specialized training in the area of lead based paint abatement that meets the requirements of the U.S. Department of Housing and Urban Development Guidelines for Hazard Identification and Abatement and the OSHA Hazard Communication Standard.

B. DSF should implement a training program for all custodians and their supervisors, the School Plant Managers. Custodians should be trained in visual inspections, reporting procedures, and dust prevention cleaning. New custodians should receive the training as part of their orientation.

C. DSF should properly advise all their skilled trades workers, contractors and others who may perform work in school buildings of the proper procedures to assure that LBP will not be disturbed without taking appropriate measures to minimize, contain and remove all LBP dust or debris from the work area.

X. PUBLIC OUTREACH

A. A program of education for school staff, parents, custodians and custodial staff should be developed which includes seminars and brochures explaining the lead poisoning issues and what can be done to prevent children's exposure and/or minimize their vulnerability to the hazards of lead. (Informational brochures for parents should be available in multiple languages).

B. The Board should develop a Fact Sheet for distribution to parents and school staff. The information on the sheet should include background on lead poisoning and lead, sources of lead poisoning, preventive measures, and how to report problem paint conditions for immediate inspection.

C. Public service announcements (radio, subway car cards, local papers) should be utilized to help educate the community at large in the prevention of lead poisoning in children.

XI. APPENDICES

A. Scorecard Program Description

Exhibit B

SCHOOL SCORECARD REPORT

Fall 1992

Summary

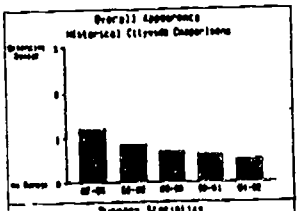
School Scorecard is a management information system that monitors the physical appearance conditions of all school buildings on an ongoing basis. Scorecard data assists school officials in establishing priorities for improving building conditions, allocating resources, and monitoring the effectiveness of maintenance initiatives.

This report compares 1991-92 classroom conditions to those of 1990-91 and previous years, going back to Scorecard's baseline data of 1987-88. Over 45,000 classrooms were inspected twice each year in five categories measuring the extent of cleanliness, paint and material damage to walls and ceilings. Also summarized are damage to various classroom fixtures and furniture, and conditions of student toilet rooms and cafeterias.

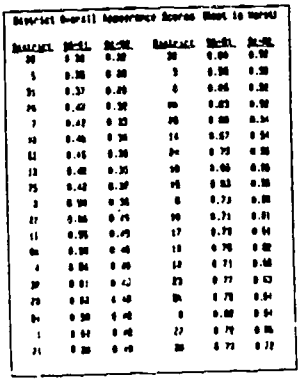
Citywide Improvement Continues

The five-year trend on the bar chart below shows continuing system-wide improvement in the classroom environment. The summary statistics indicate that while material integrity has remained static, paint and cleanliness conditions have improved. The table on the right sorts school districts in order of 1991-92 Overall Appearance scores. Comparing the current district Overall Appearance (O.A.) to last year's, we see improvement not only citywide, but at every one of the 38 districts.

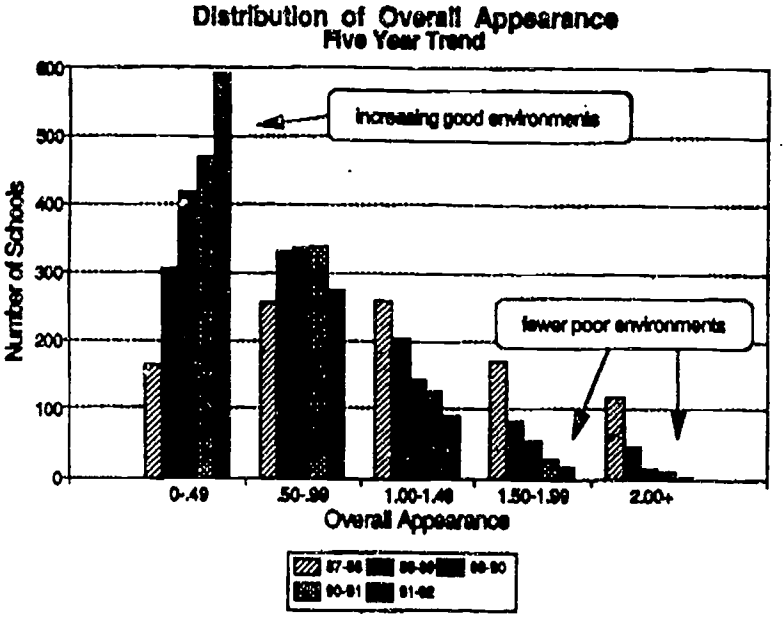
Overall Appearance, Scorecard's primary gauge of the physical environment, is the average of the five component scores listed in the lower left hand chart. The scores indicate extent of damage; the higher the number, the worse the conditions. (See page 6 for explanations of rating categories.) The 1991-92 citywide Overall Appearance average is .50, with the best school rating a 0.00, and the worst a 2.24. District O.A.'s range from .22 to .72 for Districts 1-32, Special Education (District 75), and High Schools by borough.



Summary Statistics	90-91	91-92
OVERALL APPEARANCE	0.81	0.50
Wall material integrity	0.25	0.21
Wall paint condition	0.72	0.55
Wall dirt/grime	1.30	1.02
Ceiling material integrity	0.15	0.15
Ceiling paint condition	0.64	0.58



The graph below plots the distribution of school O.A. over the past five school years.



It is important to note that although there are now only 5 schools in the system scoring a 2.0 or higher, indicating very poor classroom environments, there is still a significant amount of room-level damage that must be addressed. The histograms on page 47 show that out of the 45,842 classrooms rated: 27,166 have noticeable wall dirt/grime; 17,218 have wall paint damage; 13,610 have ceiling paint damage; 7,714 have wall material damage, and 4,786 have ceiling material damage.

SCHOOL SCORECARD REPORT

Fall 1992

Introduction

School Scorecard is a management information system responsible for inspecting and reporting on the physical appearance conditions of all school buildings on an ongoing basis. Using objective scales and standards, trained inspectors rate conditions in all schools twice a year. The two ratings are averaged to produce the school year scores. This information is used to identify needs, establish priorities, allocate resources, and monitor the effectiveness of maintenance initiatives over time.

These Scorecard ratings reflect the amount of damage and decay in over 45,000 classrooms in New York City public schools. By focusing on perceptible damage in classrooms, Scorecard is more a measure of conditions experienced by students and staff than it is an assessment of the architectural integrity or mechanical systems of the buildings (though in certain instances they are closely related). The inspectors producing these ratings have repeatedly demonstrated, through rigorous testing procedures, that they are capable of making judgments about conditions in a very consistent manner. In short, the Scorecard system produces very accurate quantitative measurements of school building appearance that can be used to compare individual buildings to one another, profile entire districts, and summarize conditions citywide. With billions of dollars of capital assets to maintain, and with the constraints of limited funding and budget cuts, the Board of Education needs to ensure that money spent on cleaning and repairs is allocated fairly and spent wisely. Scorecard is one of the management tools available to the Board for planning, tracking, and demonstrating accountability for resource expenditures.

In March 1988, the Board released Scorecard's first report summarizing the physical classroom environment in all of its over 1,000 school buildings. As a result of this report, twenty-seven schools that ranked "worst" in overall appearance received emergency overhauls in 1988-89. Currently, Scorecard generates lists of schools which rank "worst" in particular maintenance categories (such as window shades, door operation, and chalkboards). These lists have been part of the Division's Six-Month Maintenance Plan for Skilled Trades over the past four years. Subsequent ratings have shown improvements in these targeted maintenance categories.

This annual report focuses on the current state of the system and compares appearance conditions of school year 1991-92 with those of 1990-91 and years previous. We will focus not only on Overall Appearance ratings, and their rank order, but also on which schools have improved or worsened significantly. To determine which schools' O.A. scores have changed significantly from one year to the next, a standard statistical test (a two-sample t-test on 1990-91 and 1991-92 data) was performed. The graph on the next page shows the distribution of the differences in O.A. for all schools (negative differences indicate improvement). The O.A. for the great majority of schools changed less than ±0.25. More schools have improved (220)

significantly than have worsened (22). Since not all schools have recently undergone capital work, we can see that system-wide general maintenance programs (such as the custodial paint program) are improving conditions. A complete listing of schools that changed significantly is included in Appendix B.

Guide to the Data Sheets

The following pages summarize Scorecard's ratings of classroom Overall Appearance[1] in a graphical format for each district, including High Schools by borough and Special Education (District 75). Each school's yearly rating is an average of the results of its two semi-annual inspections. The first page is the data sheet for the city, with subsequent district and individual school data sheets following the same format. Included are the data sheets for the "Schools Most In Need", as well as the Ten Most Significantly Improved and the Ten Most Significantly Worsened Schools.

Overall Appearance ratings are derived from three wall ratings and two ceiling ratings given to each classroom. All classrooms were inspected, except for those locked off and inaccessible. In schools with over 100 classrooms, a 100-room random sample of rooms was rated. Sampling error is thus virtually eliminated from the data. A school's Overall Appearance score is the aggregate of all the room-level scores. Overall Appearance scores for each district and the city are weighted averages (by number of classrooms) of the school-level scores.

To measure coverage of various types of damage, Scorecard uses a seven-point scale from zero to six, with 0 representing virtually no damage, and 6 indicating extreme damage. Inspectors assign the scale point that most closely matches the amount of damage to each of the dimen. or' assessed. For walls, these dimensions are Material Integrity, Paint Condition, and Dirt/Grime; for ceilings, only Material Integrity and Paint Conditions are rated. These dimensions are defined as follows:

Material Integrity - the absence or disintegration of the wall or ceiling material (e.g., plaster, tiles, wood) including missing pieces, holes, crumbling, powdering, rotting, gouges, and cracks.

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[1] Scorecard's aggregate measure of appearance conditions is called "Overall Appearance". Though Scorecard's rating methodology is virtually unchanged since the first report, the calculation of Overall Appearance is different. Because the original method was to average the worst of the three wall ratings (material, paint, and cleanliness) with the worst of the ceiling ratings, Overall Appearance tended to over-emphasize one aspect of each room and undervalue the remaining scores, even when they indicated considerable damage. The unforeseen effect -- since no one knew the real nature and extent of deterioration prior to the first report -- was that the cleanliness component was the driving force behind Overall Appearance, since it tended to have the highest (worst) ratings. The new calculation is the average of all five scaled rating categories, which gives equal weight to all components. Historical and current data in this report were computed using the revised formula for Overall Appearance.

Paint Condition - surface blemishes, especially paint which is cracked, chipped, scraped, missing, peeling, or blistering.

Dirt/Grime - dirt, dust, soot, grime, graffiti, smudges, mismatched paint, mismatched material, tape, gum.

Each data sheet consists of four panels of information. The upper left quadrant presents Overall Appearance distributions, comparing data from academic years 1991-92 and 1990-91. At the citywide and district levels, these histograms show the percent of schools at each scale point (with the decimal portion of the score truncated); data sheets of individual schools display the percent of classrooms at each scale point.

The small histograms in the upper right of each page show the distributions for each of the dimensions rated for 1991-92 and 1990-91. Again, at the citywide and district levels these are percent of schools at each scale point; at the school level, these are classrooms.

The lower half of each page presents historical, district, and citywide comparisons, and summary statistics. The citywide data sheet lists the districts in rank order of Overall Appearance, while each district data sheet lists its schools ranked by O.A., grouped by citywide percentile. Thumbs, up or down, in the status column indicate statistically significant change in O.A. from the previous year. Individual school data sheets show that school's rank within the district, and its citywide percentile.

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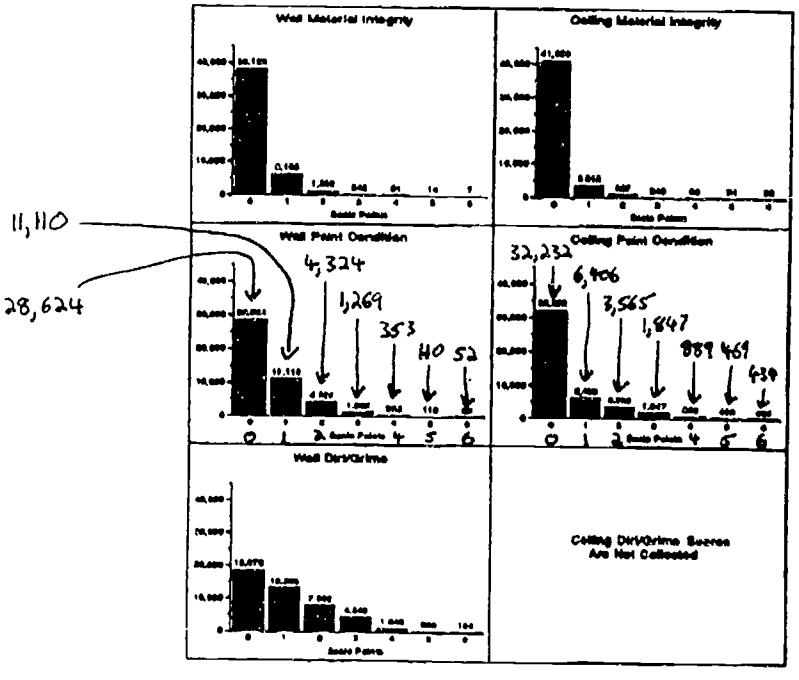
Discussion of the Findings

The citywide data sheet on page 8 shows system-wide improvement. Overall Appearance went from .61 in 1990-91 to .50 in 1991-92. Improved paint and dirt/grime conditions account for much of the overall change, while material integrity conditions were nearly unchanged.

The district data sheets show that while each district has improved, not all districts have the same conditions. Districts 26 and 5, ranked first and second respectively, have no schools in the bottom 25% citywide and districts 26 and 75 have more schools in the top 25% citywide than they have in the middle 50%. In contrast, districts 12, 19, 22, and Brooklyn HS have at least as many schools in the bottom 25% as in the middle 50% and districts 12 and 20 only have two schools each in the top 25%.

The O.A. for schools ranges from 0.00 for the best to 2.24 for the worst. In 1988-89, 41 schools had O.A. scores of 2.0 or greater, indicating very poor classroom environments. In 1989-90 the number dropped to 15, the following year to 10, and currently there are 3 remaining. It is important to note that school-level scores are averages, and that extreme conditions in particular schools may get washed out. The citywide graphs, which show percent of schools at each scale point, do not convey extreme conditions existing within schools. The histograms below show the room-level data which reveal those extreme ratings at the high end of the scale.

Number Of Classrooms At Each Scale Point
Citywide 91-92



The Twelve Schools With the Worst Overall Appearance Ratings: "Schools Most In Need"

Though citywide improvements in Overall Appearance are encouraging, the concentrated deterioration in many schools remains a serious problem. The next twelve pages present room-level data sheets for the "Schools Most In Need" based on and sorted by 1991-92 Overall Appearance scores. (See Appendix A for the comparative Summary Table of the "Schools Most In Need" and Twenty Most Significantly Changed schools.)

Eight of last year's "Schools Most In Need" have retained that distinction: PS 119, PS 214, PS 158 and Various Alternative HS Programs (a.k.a. Old Boys HS) all in Brooklyn; PS 4 and Morris HS in the Bronx; JHS 125 in Queens and PS 188 in Manhattan. Four schools have left last year's "Schools Most In Need" list to appear on this year's list of Significantly Improved schools.

The average O.A. for this year's "Schools Most In Need" is 1.87, down .35 from last year's 2.22. Currently the range of O.A. for the "Schools Most In Need" is from 2.24 to 1.62; as compared to last year's 2.54 to 1.90. This is consistent with the system-wide improvement trend: as conditions at the worst buildings are addressed and improved, the remaining "worst" are not as bad as the previous "worst".

The graphs in the upper right quadrant, showing percent of rooms at each scale point for all rating categories, tell the story for each school. Note that while Material Integrity ratings are less volatile and tend to be lower than the others, any ratings above zero in this category indicate a type of damage that is often beyond the scope of general maintenance, and therefore serious.

Although the "Schools Most In Need" have poor condition in common, the factors contributing to their poor O.A.'s differ in impact. For example, in Brooklyn's PS 214 (page 54), all five categories show extremely damaged rooms, with the complete range of scale points being used. The wall graphs show that only about 24% of the classrooms had no material damage, approximately 40% rated 2, while about 5% rated 6. Roughly 10% of the classrooms have unblemished wall paint, and nearly 90% rate a 3 or worse for Dirt/Grime. Ceilings fare slightly better. Although this school improved in all five scale rating dimensions, it still requires major material and paint repairs, and the classroom walls need some serious cleaning.

In contrast, PS 121 - Queens (page 60) has better material integrity, but its high O.A. is due to the impact of poor paint conditions at both the walls and ceilings, and especially to the wall dirt/grime rating of 3.75, the worst in the city.

All but one of the "Schools Most In Need" have capital construction work underway or in design by the School Construction Authority. A modernization is underway at Morris HS and is due to be completed in 8/94. Modernizations for Old Boys HS, JHS 125 Q, and PS 217 K are currently in design, with construction to be completed by 9/96, 3/95 and 6/96 respectively. PS 158 K, PS 4 X, PS 188 M and PS 149 K are all undergoing capital construction work and have additional capital work currently in design. JHS 220 K is undergoing capital work while PS 119 K and PS 214 K presently have capital work in design. Only PS 121 Q on our list has no capital work currently in construction or design.

Appendix A
Summary Table of the "Schools Most In Need" and Most Significantly Changed Schools

	SCHOOL (DISTRICT)	27 WORST	MAC PAINT	MODS [1] (Date Complete)	1989-90 "Schools Most In Need"	1990-91 "Schools Most In Need"	1991-92 OUTLIER
The "Schools Most In Need"	PS 119 K (22)					✓	✓
	PS 214 K (19)				✓	✓	✓
	MORRIS [2] (Bk HS)	✓		1995	✓	✓	✓
	PS 138 K (19)				✓	✓	✓
	VAR ALT (Bk HS)			1996	✓	✓	✓
	PS 4 X (9)				✓	✓	
	JHS 220 K (20)						
	PS 121 Q (28)						✓
	JHS 125 Q [2] (24)	✓	✓	1995	✓	✓	✓
	PS 188 M (1)					✓	✓
	PS 217 K (22)			1997			
	PS 149 K (19)				✓		
Most Improved	PS 171 M (4)			1992			
	IS 52 M (6)			1992		✓	
	PS 216 K (21)					✓	
	PS 65 K (19)						
	MIDWOOD (Bk HS)			1995		✓	
	PS 190 M (2)						
	AUTO TRADE (Bk HS)			1997			
	PS 370 K (75)	✓		1997			
	PS 134 M (1)						
	PS 91 Q (34)						
Most Worsened	PS 197 K (22)		✓				
	IS 210 K (17)	✓					
	PS 121 X (11)						
	PS 105 K (20)						
	PS 130 X (8)						
	BUSHWICK (Bk HS)		✓				
	PS 177 Q (75)						
	PS 230 K ((15)						
	PS 200 M (5)		✓				
	PS 189 M (6)		✓				

[1] As per School Construction Authority "Extent of Completion Report, March 1992".
[2] Note that Morris HS and JHS 125 Q were among the 27 Worst. Contractors were in default and work is still ongoing.

Mr. WAXMAN. For our first witnesses, I want to call forward Mr. Richard Hembra, Director of Environmental Protection Issues, Resources, Community and Economic Development Division, the General Accounting Office, and Dr. Routt Reigart, American Academy of Pediatrics, Chairman of the Committee on Environmental Health, Children's Hospital from Charleston, S.C.

We are pleased to welcome you to our hearing today. Your prepared statements will be in the record in their entirety. We would like to ask you, if you would, to try to limit your oral presentation to us to around 5 minutes.

Mr. Hembra, why don't we start with you?

STATEMENTS OF RICHARD L. HEMBRA, DIRECTOR, ENVIRONMENTAL PROTECTION ISSUES, RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION, GENERAL ACCOUNTING OFFICE; AND J. ROUTT REIGART, CHAIRMAN, AMERICAN ACADEMY OF PEDIATRICS

Mr. HEMBRA. Before I begin, Mr. Chairman, I want to introduce on my right Mr. Vincent Price who led our effort developing the information contained in a report released today. My remarks this morning focus on work done for the subcommittee to identify whether information exists on the extent of lead hazards in the Nation's child care facilities and schools.

Our work was based on contacts with child care licensing agencies in 16 States, education agencies in 10 States, and 57 school districts. Lead poisoning is considered to be the most common and devastating environmental disease affecting young children. Paint, soil and drinking water are the three primary media through which children are exposed to lead.

Although EPA has established limits for lead in drinking water, it has yet to define the conditions under which lead-based paint and lead-contaminated soil pose health risks.

Mr. Chairman, let me highlight some of the information contained in our report. While a number of Federal programs address lead hazards, only a few focus on child care facilities and schools. For example, EPA has provided some information and training on testing for lead in drinking water. In addition, a few EPA regions are doing some limited testing and surveying of lead hazards in schools. As the principal Federal Agency responsible for addressing lead-based paint hazards in housing, HUD provides housing grants to State and local agencies that may be used to inspect for and remove lead hazards in qualifying child care facilities.

CDC also provides grants to State and local agencies for testing and treating lead in the blood of children. When a child is found to have elevated lead levels, CDC grant funds may be used to test the child care facility. These funds, however, are not authorized for the abatement of identified lead hazards. We also found that State and local agencies differ considerably in the extent to which they deal with lead hazards in child care facilities and schools.

Some of the 16 States and 57 school districts we contacted have no programs and no requirements. Others have programs that actively address lead hazards, but the extent of these programs varies widely. For example, 9 of the 16 State child care agencies we

surveyed conducted limited inspections for lead hazards in drinking water, paint and soil.

However, none routinely inspect all child care facilities for these hazards. Similarly, although 50 of the 57 school districts we contacted had inspected at least some schools for lead hazards in drinking water, these districts have devoted little effort to identifying lead hazards in paint and soil, considered by EPA to be the two primary sources of high levels of lead in children's blood.

Our work also demonstrated that little information is available to assess the full extent and mitigation of lead hazards in the Nation's child care facilities and schools. Neither Federal agencies, nor State child care agencies we contacted were able to provide such data.

On the other hand, many school districts we contacted were able to provide at least some data on lead inspections and remediation efforts in their schools, mostly directed at lead in drinking water.

Mr. Chairman, our work suggests that the combined efforts of Federal, State and local agencies do not provide a comprehensive approach for dealing with lead hazards in child care facilities and schools.

Because of limited testing and reporting, little information is available to assess the extent of lead contamination in these facilities and whether it is being adequately addressed. Such information would seem useful in formulating appropriate Federal, State and local responses to the problem.

With that, Mr. Chairman, I will conclude my opening remarks.

Mr. WAXMAN. Thank you very much.

[Testimony resumes on p. 46.]

[The prepared statement of Mr. Hembra follows:]

STATEMENT OF RICHARD L. HEMBRA

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to discuss with you today the results of our work on lead hazards in child care facilities and schools. As you know, "lead hazards" refers to lead in paint, soil, and/or drinking water at levels which may pose health risks. Our testimony focuses on our efforts to identify (1) federal, state, and local programs and activities to inspect for and address lead hazards in the nation's child care facilities and schools, and (2) existing information on the extent and treatment of lead hazards in these facilities and schools. Our report to you on this work is being released today by the Subcommittee.[1]

In summary, Mr. Chairman, we found the following:

-- Federal agencies--in particular, the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), and the Centers for Disease Control (CDC)--conduct numerous activities to address lead hazards in general. Nonetheless, only a few of these programs specifically address lead hazards in child care facilities and schools, and the programs that do so are only available to a relatively small number of facilities or schools that qualify under the specific conditions established by each program.

[1]Toxic Substances: The Extent of Lead Hazards in Child Care Facilities and Schools Is Unknown (GAO/RCED-93-197, Sept. 14, 1993.)

- Individual state and local agencies differ considerably in the extent to which they inspect for and remove lead hazards in child care facilities and schools. Some of the 16 states and 57 school districts we contacted had no programs or requirements that focus on lead hazards in child care and school facilities. Others have programs that actively address such hazards in these facilities and schools, but these programs vary widely. Nine of the 16 state child care agencies we contacted conduct limited inspections of child care facilities in their states for lead hazards in drinking water, paint, and soil. However, none of the 16 agencies routinely inspect all child care facilities for these hazards. Similarly, although 50 of the 57 school districts we contacted had inspected at least some schools for lead hazards in drinking water, these districts have devoted little effort to inspecting schools for lead hazards in paint and soil, which are considered by EPA to be the two primary sources of high levels of lead in children's blood.

-- Sufficient information is not available for assessing the full extent of lead hazards in the nation's child care facilities and schools and for assessing how adequately these hazards are being addressed. Neither the federal agencies nor the state child care agencies we contacted in 16 states were able to provide data on the results of lead inspections and the subsequent remedial actions taken in child care facilities. None of the federal agencies and only two of the ten state educational

agencies we contacted could provide such information on schools. However, 47 of the 57 school districts we contacted were able to provide at least some data on lead inspections and remediation efforts in their schools.

Before I discuss our findings in more detail, I would like to provide some background on the problems associated with lead hazards, particularly lead poisoning in young children.

BACKGROUND

Lead is a dangerous and pervasive poison that adversely affects virtually every system in the body. Because lead is harmful to the developing brain and nervous system, exposure to lead is especially dangerous for fetuses and young children. According to CDC, lead poisoning is the most common and most devastating environmental disease affecting young children.

Lead poisoning occurs through exposure to lead in air, dust, soil, water, food, and products such as paint. Paint, soil, and drinking water are the three primary media through which children are poisoned by lead. Of these three media, EPA considers paint and soil, respectively, to be the most important sources of lead poisoning in children. EPA has established recommended exposure limits for lead in drinking water. In addition, the amount of lead allowable in paint was restricted in 1977 to 0.06 percent by

weight. However, standards that define specific conditions under which lead-based paint and lead-contaminated soil pose health hazards have not yet been established. EPA is currently developing these standards.

FEDERAL ACTIVITIES ARE LIMITED IN ADDRESSING LEAD HAZARDS IN CHILD CARE FACILITIES AND SCHOOLS

Although a number of federal programs address lead hazard issues, only a few of these programs focus directly on lead hazards in child care facilities and schools. Such programs, administered by EPA, CDC, and HUD, are limited in scope and apply only to a small number of child care facilities and schools.

EPA has prepared and made available to child care facilities and schools (1) a list of manufacturers and models of watercoolers that contain lead and (2) guidance for testing drinking water for lead. In addition, EPA has provided state and local agencies with educational and training assistance to help them test drinking water for lead hazards at child care facilities and schools. However, states and local authorities are not required to test drinking water for lead, and funds have not been appropriated to assist with this testing.

EPA has tested drinking water in 25 schools in its Region 2 to measure lead levels, and the agency plans to conduct a survey

concerning lead and other hazardous materials contained in paint in school buildings in that region. In addition, EPA's Regions 3 and 10 have provided funds to the states of Maryland and Washington to investigate lead hazards in schools. The purpose of these activities is to improve health screening techniques.

HUD is the principal federal agency responsible for addressing lead-based paint hazards in housing. HUD administers several programs that provide grant funds to state and local agencies for renovating public and Indian housing. Under some of HUD's programs, the grant funds may be used to inspect for and remove lead hazards in child care facilities within public or Indian housing projects. However, local housing authorities do not report in detail how the grant funds are used. In addition, HUD has not developed a system to track (1) how much of its funds are used for testing child care facilities for lead hazards or (2) the results of such tests when they are conducted.

Similarly, CDC administers a program that provides grants to state and local agencies for testing the levels of lead in the blood of children and for providing treatment for those children found to have elevated levels of lead in their blood. When a child tested under the program is found to have an elevated level of lead in the blood, CDC's grant funds may be used to test the child care facility attended by the child to determine if the facility is the source of the lead contamination. These funds, however, are not

authorized to be used for the abatement of any lead hazards found. CDC does not know the extent to which its grant funds are being used to test child care facilities for lead--or the results of such tests--because grant recipients are not required to report such information.

STATE AND LOCAL ACTIVITIES AND REQUIREMENTS VARY FOR CHILD CARE FACILITIES AND SCHOOLS

The state child care and education agencies and school districts we contacted indicated that the extent to which states and local governments address lead hazards in child care facilities and schools varies widely.

We contacted child care licensing officials in 16 states[2] to discuss their requirements and activities to address lead hazards in child care facilities. Officials in 9 of the 16 states indicated that child care licensing agencies specifically require facilities regulated by the state to be free of lead hazards. While none of the state agencies routinely inspect all of their regulated child care facilities for lead hazards in paint, drinking water, and soil, agencies in 9 states inspect facilities under certain circumstances (for example, in response to a specific complaint or a reason to suspect that a hazard exists).

[2]California, Florida, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, and Wisconsin.

Enforcement actions vary among the states in our survey that inspect child care facilities for lead hazards. Although failure to remove any hazards that are found may ultimately result in a facility being closed, one state official told us that, because of budgetary constraints, the inspecting agency does not always follow up on lead hazard citations to verify that the problem has been corrected. In two other states we found that, in cases in which citations were pursued, the follow-up actions sometimes took up to a year or more to complete.

The 57 school districts we surveyed in 10 states[3] have a total enrollment of 3.4 million children in over 4,200 schools. These districts included the seven largest in the United States. Officials in 50 of the 57 school districts told us that, as of early 1993, their districts had inspected some of their schools for one or more types of lead hazards, even though, according to state education officials, none of the 10 states in which these districts are located has a requirement or inspection program to ensure that schools are free of lead hazards. Fifty of the 57 districts had inspected some schools for lead hazards in drinking water, but only nine districts had tested for lead-based paint, and only three had tested for lead hazards in soil around school facilities.

[3]The school districts we contacted included 9 districts in each of New Jersey, Ohio, and Pennsylvania; 10 districts in both Illinois and New York; and 2 districts in each of California, Florida, Michigan, North Carolina, and Texas.

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Officials in two large districts told us that they discontinued testing for lead hazards in schools because of budget constraints.

Education agencies in 3 of the 50 school districts that had tested some schools for lead hazards were unable to provide data on the number of schools tested or on the results of such tests. Data obtained from the remaining 47 districts show that 2,272 schools, or about 81 percent of all the school facilities in those districts, had been tested for lead hazards, primarily in drinking water. Of those tested, 350 schools, or about 15 percent, were found to have drinking water containing levels of lead that are considered unacceptable by EPA. Testing and contamination rates varied widely among districts. For example, while one district we contacted inspected only 16 percent of its total schools for lead hazards in drinking water, 33 districts inspected all of their schools for such hazards. Similarly, although 29 school districts found no lead hazards in drinking water, two districts found such hazards in all of the schools inspected.

Although a number of schools were tested and found to contain lead-based paint, only one school was identified as containing a paint "hazard." A school district official told us that it is difficult to classify lead-based paint in a school as a hazard because EPA has not yet developed specific standards that define the conditions under which lead-based paint poses a health risk. Therefore, a determination as to whether lead-based paint poses a hazard in a

particular school is a judgmental decision. Officials told us that when inspections revealed lead hazards in a school, actions such as the isolation or removal of the source of the hazard were taken in order to eliminate the risk of subsequent contamination.

Although a few school districts told us that they had tested some schools for lead-contaminated soil, they could not provide any information on the results of these tests.

INFORMATION ON LEAD HAZARDS IN CHILD CARE FACILITIES AND SCHOOLS IS LIMITED

None of the federal agencies we contacted--EPA, HUD, CDC, and the Departments of Health and Human Services and Education--collect or have compiled information on the extent to which (1) child care facilities and schools contain lead hazards or (2) states and local jurisdictions address such hazards. None of the child care agencies in the 16 states we contacted had compiled data on the results of lead inspections at child care facilities, such as the number of facilities tested, the number of facilities containing lead hazards, the type of lead hazards found, and the number of facilities where lead abatement activities were conducted.

State education agencies compiled such data on schools in only 2 of the 10 states we contacted. In contrast, 54 of the 57 districts we contacted were able to provide at least some data on lead

inspections in schools, such as the number of facilities tested, the number of facilities containing lead hazards, and the type of lead hazards found. The available information indicates that most of the districts we contacted have inspected some of their schools for lead hazards in drinking water, but they have performed few inspections to identify lead hazards in paint and soil.

Because no information is available on lead hazards in child care facilities and only incomplete data is available on such hazards in schools, it is difficult to assess the extent of the hazards in these facilities and the actions that are needed to address them. To encourage the inspection of child care facilities and schools for lead hazards, a number of legislative options have been proposed. For example, during the last Congress, the Lead Exposure Reduction Act of 1992 (H.R. 5730) was introduced to require local authorities to test all regulated child care facilities and kindergartens for lead hazards and to report on their findings.

CONCLUSIONS

In conclusion, Mr. Chairman, our review indicates that the combined efforts of federal, state, and local activities that address lead hazards in child care facilities and schools are limited in scope and do not provide a comprehensive approach for defining and alleviating the problem. In addition, some state and local agencies are taking little or no action to identify certain lead

hazards in these facilities and schools. Although most state agencies we contacted have not compiled data on lead testing in schools, local school districts were generally able to provide this information. These data indicate that school districts generally test drinking water for lead hazards. However, only a few of the districts we contacted test schools for lead hazards in paint and soil, which are considered by EPA to be the principal sources of lead poisoning in children. Furthermore, while some of the state agencies inspect some child care facilities for lead hazards, they have no information available on either the extent of their testing or the presence and severity of the lead hazards identified.

Because testing is limited for some types of lead hazards in child care facilities and schools in the states and school districts we contacted, and because reporting of the results is limited when testing is performed, little information is available to assess the extent of lead contamination in these facilities and whether it is being adequately addressed. Legislative proposals in the Congress have acknowledged the need for more information on the presence of lead hazards in child care facilities and schools by requiring that state or local agencies test for lead hazards in these facilities and schools and prepare reports on their findings. Such information would be useful in locating and eliminating existing lead hazards, and, given competing environmental concerns and limited resources, in determining the extent of the lead problem in child care facilities and schools and formulating appropriate federal, state, and local responses to the problem.

* * * * * *

Mr. Chairman, this concludes our testimony. We would be happy to answer any questions.

Mr. WAXMAN. Mr. Reigart.

STATEMENT OF J. ROUTT REIGART

Mr. REIGART. Thank you. Mr. Chairman, thank you for the opportunity to address you on this topic.

Mr. WAXMAN. Would you pull the microphone closer to be sure we get this all on the record?

Mr. REIGART. Is that close enough? I tend to be a little soft spoken so—Mr. Chairman, thank you for the opportunity to address you on this topic. My name is Routt Reigart. I am a professor of pediatrics at the Medical University of South Carolina where I am involved in the practice of general pediatrics and environmental medicine.

I am also the chairperson of the Committee on Environmental Health of the American Academy of Pediatrics and chairperson of the Advisory Committee on Childhood Lead Poisoning Prevention of the Centers for Disease Control and Prevention.

I would like to speak to you today in the context of a practicing pediatrician who has been involved in lead poisoning prevention activities in South Carolina for more than 20 years. During this time, we have had many successes in dealing with childhood lead poisoning and have learned many hard lessons.

One of the most important lessons has been that you only find lead hazards and lead poisoned children when and where you look for them. It is very easy to overlook lead hazards or lead-poisoned children simply because we have not considered the child or the environment to be at risk.

I myself had always considered day care centers and schools to be relatively low-risk environments. Fortunately, the State of South Carolina was not so quick to accept this assumption and in 1986 mandated lead inspection of all day care centers and foster homes as a requirement for licensure. Specifically, the law requires that new day care centers and foster homes be free of lead hazards prior to approving licensure. If a day care center or foster home has lead-based paint, the paint must be "removed, replaced or permanently and securely covered."

If the lead-based paint is peeling, soil and dust sampling is also performed to rule out these additional sources of lead hazard to the children in the center. If the water is lead contaminated, this hazard must also be corrected. Day care centers and foster homes in existence in 1986 do not require removal of all lead-based paint unless the paint is deteriorated or peeling. These centers are inspected by the South Carolina Department of Health and Environmental Control for the condition of paint on an annual basis for day care centers and every 2 years for other centers.

Centers which are not church-based are also inspected by the South Carolina Department of Social Services, the licensing body, on an annual basis. If deteriorated paint is discovered on these visits by DSS, the Department of Health and Environmental Control is notified that additional inspection is necessary. At any time that a hazardous condition is noted, it must be corrected as a condition of continued licensure. Also, in all cases where deteriorating lead-based paint or other imminent hazards are found, the local mater-

nal and child health agency is notified that there may be children at risk and testing of children is offered.

I would like to offer you some of the results of these activities to indicate they have been useful for the protection of the children of South Carolina. During the 6 fiscal years, 1988/1993, 3,206 day care centers and foster homes have been inspected for lead hazards by the Department of Health and Environmental Control. Of these, 566 have been found to have lead hazards. This represents 18 percent of all the inspected centers. These centers have been spread throughout our sparsely populated, largely rural State. They have not been only in the more populated larger metropolitan areas. They have often been in counties where physicians, public health agencies and the public believed there was no lead hazard in the community.

Since the testing of children in these centers is voluntary, systematic testing data is not available for all the centers and records are generally not kept by health agencies categorized by day care center. I was able to obtain the results of screening in two church-based day care centers in my own city, Charleston, S.C. In 1992, 46 children in one day care center were tested for lead exposure. Nineteen of these children had elevated lead levels. This is 41 percent of all tested children. Of these, six had lead levels greater than 15 micrograms per deciliter of whole blood and three were greater than 20, the level requiring physician referral for evaluation and treatment.

In this group, it is not possible to clearly differentiate the contribution of the day care center from home exposure. However, this is a very high yield for any screening activity. In a second center which did not have lead-based paint in the interior but did have lead-based exterior paint and demonstrated soil contamination, children were tested both in 1992 and 1993. In this center in 1992, 15 children were tested. Three of these children had elevated blood lead levels. This is 20 percent of the total.

When children were again tested in this center in 1993, only 1 of 11 children had an elevated lead. This one child clearly had a home exposure as his primary source of lead. While it is tempting to conclude that intervention in the center had caused this decreased yield in screening, the data is insufficient for such a conclusion.

What can be concluded clearly, is that it was worthwhile to examine these centers for lead hazards and clearly worthwhile to screen children in the centers. Having reached that conclusion, the Charleston Lead Poisoning Prevention Program is presently hiring an additional nurse exclusively for day care and door-to-door screening of children. I hope that you are as convinced as I am that there is considerable merit in examining day care centers for lead hazards and in testing children in such hazardous centers for lead exposure.

Thank you.

Mr. WAXMAN. Thank you very much, both of you, for your testimony.

Dr. Reigart, let me start with you. Many Federal agencies have been recently warning us about the risk of lead poisoning. The Federal Centers for Disease Control says that lead poisoning is, and

I quote, "the most common and societally devastating environmental disease of young children."

Louis Sullivan, who is the former head of the Department of Health and Human Services said, and I want to quote him, "Lead poisoning is the number one environmental hazard facing our children," and according to Carol Browner, who is the existing head of the Environmental Protection Agency, says, and I quote, "Lead poisoning is the single most serious environmental threat to this country's children."

Could you tell us why lead is such a serious threat to children?

Mr. REIGART. Well, there are at least three reasons. One, it is very, very widespread. The country is contaminated with lead throughout. The second is it is a hazard that does not dissipate, deteriorate, go away with time. It is an accumulative toxin that can only be dealt with by removal of the hazard, and third, young children are uniquely susceptible to this in the sense that young children have serious, long lasting, probably permanent neurologic injury from lead.

Mr. WAXMAN. In New York City there is a lot of concern right now about asbestos in the school system. I would like you to put asbestos and lead as risks in some kind of perspective. You are the Chair of the American Academy of Pediatrics and Committee on Environmental Health.

Which is the more serious and more immediate risk?

Mr. REIGART. Well, clearly in my point of view, lead is the more immediate risk. The risks from asbestos are statistical and based on a long-term prediction of increased lung mesotheliomas, which is cancer of the lung. Lead tends to effect many, if not all children in a hazardous environment and affect them immediately with regard to detriment to their central nervous system.

Mr. WAXMAN. Mr. Hembra, today the General Accounting Office is releasing a new report. It is entitled The Extent of Lead Hazards in Child Care Facilities and Schools is Unknown. This is a copy of your report.

Your findings are troubling because they indicate that child care facilities and schools are doing very little to address the two most significant sources of lead exposure, lead paint and lead-contaminated soil.

Let me ask you first about lead paint, which is the leading source of exposure for children. Are child care facilities and schools being inspected for lead paint hazards?

Mr. HEMBRA. Mr. Chairman, what we found out was only 2 of 16 States routinely inspect for lead paint hazards in child care facilities and only 9 of the 57 school districts that we contacted inspect for lead-based paint in schools.

Mr. WAXMAN. The second leading source of lead exposure is lead-contaminated soil. This is often from the fallout from decades of use of leaded gasoline. Are child care facilities and schools being inspected for soil hazards on their playgrounds?

Mr. HEMBRA. Mr. Chairman, we found only 1 of the 16 States inspect for lead-contaminated soil in child care facilities and only 3 of the 57 school districts inspect for lead-contaminated soil.

Mr. WAXMAN. Your report concluded that because of the absence of testing for lead, the extent of lead hazards is unknown. We sim-

ply don't have the hard data that we should about the conditions inside schools and day care centers. Is it possible for you to comment on the potential for lead hazards in schools and day care facilities? For instance, did you examine how many school buildings, based on their age, are likely to contain lead paint?

Mr. HEMBRA. Let me give you a couple figures, Mr. Chairman. I think that will put some of this in perspective. According to an American Association of School Administrators Study, more than 80 percent of the existing school buildings were built before the late 1970's and, as you are well aware, it was around 1978 when there were significant restrictions placed on the content of lead in paint. Prior to that period, the lead levels were quite high in paint.

When we looked at the 57 school districts in our review, what we found was, based on almost 3,000 schools involved, 67 percent, or close to 2,000, were built before 1960. Almost 30 percent, or around 850 schools, were built between 1960 and 1978.

What that says is well over 90 percent of the schools that were included in our review were schools that were built before 1978, and I think that information suggests that paint being used on those schools were likely to have a much higher level of lead than what you would see being used today.

Mr. WAXMAN. Well, simply having been painted with lead paint doesn't constitute a hazard, but based on your analysis of the age, the likely use of lead paint, and maybe a guess as to the upkeep that has been given to these schools, how great a problem do we actually have of exposure of lead in schools and in child care centers in this country?

Mr. HEMBRA. Well, as I mentioned in the testimony, what is unfortunate is we don't have very good information on that. We do know that where inspections occur, problems have been found. There has been lead found in schools. There has been some lead identified in child care facilities, but there is just not a lot of information out there, and as a result, you don't know if there is a risk currently posed, how severe that risk is and given the age of the schools, if there is renovation and some reconstruction going on, you are placed at a disadvantage because I think, as Dr. Reigart just pointed out, that when you begin tampering, that you can increase the problems and increase the risk.

Mr. WAXMAN. Dr. Reigart, you are from South Carolina which may have the Nation's best records on lead hazards in child care facilities. South Carolina, which was not part of the GAO study, does inspect child care centers for lead hazards.

Could you summarize what the South Carolina data show?

Mr. REIGART. Well, the important thing is that many centers that were inspected had hazards and that has led us to a situation where we are able to correct the hazards before the day care centers opened.

That seems to be the most useful thing. In the older centers, it has allowed us an early warning system by the inspections. As soon as the lead based paint begins to deteriorate, we do require correction, and I believe that this has done a great deal to protect children in the day care centers.

I should say, Mr. Chairman, that in day care centers, you sometimes have the situation where there are quite a few children and

not very many caretakers, so the level of supervision of the children, watching them for hand to mouth activity, cleaning their hands, all of the things that lead to lead toxicity in a hazardous environment may be worse in some day care centers than they would be in the child's own home.

Mr. WAXMAN. Is it accurate to state that the South Carolina data show that 18 percent of day care facilities, nearly 1 out of every 5, had lead hazards when they were inspected?

Mr. REIGART. Yes, sir, that is absolutely correct. That was my testimony.

Mr. WAXMAN. And is it also your testimony that at one of the centers, 40 percent of the children were discovered to be lead poisoned, and the other, 20 percent were severely lead poisoned?

Mr. REIGART. That is correct, sir.

Mr. WAXMAN. That is a pretty astounding figure. Based on the experience of South Carolina, what are your views about the seriousness of the lead threat in day care centers and schools and the need for inspections?

Mr. REIGART. I think that it clearly indicates, at least in South Carolina, that we should continue the activity. It has clearly shown to me that we need to do more about screening children in day care centers than we have done in the past and it needs to be more systematic.

Mr. WAXMAN. There is one final issue I want to ask the two of you about: the risk of renovation in schools and child care centers. Even if lead paint is intact, it can be disturbed and become hazardous during ordinary renovation work if a school or center does not test for lead paint and take special precautions.

Mr. Hembra and Dr. Reigart, would you comment on the risks of renovation? Is it important that all schools and day care centers built before 1980 test for lead before conducting any renovations?

Mr. HEMBRA. As I had mentioned in my earlier comments, Mr. Chairman, whenever there is renovation, whenever there is a contamination problem, whether we are talking about lead or whether we are talking about what you may find in a Superfund site, in order to deal with it in a protective fashion, you have to understand what the problem is and how significant it is.

What our work tells us is there is not a lot of information out there. There is not a lot of inspecting going on. What inspections that do occur tend to be directed at determining whether there is lead in drinking water. Very little inspection is going on with regard to lead-based paint and lead contamination in the soil.

Mr. WAXMAN. So if they don't know what the status of the lead problem is, and they go in and do other renovations, can they make the problem worse?

Mr. HEMBRA. It can be quite disruptive and I think the possibility there is to increase the risk to the children.

Mr. WAXMAN. Dr. Reigart?

Mr. REIGART. Yes, sir. I possibly can illustrate my views on this by telling you about a city ordinance that we are presently—hopefully has passed at this point, but will be within the next few weeks.

The city of Charleston has decided this risk is so great that before a permit for any paint or renovation work is done in any struc-

ture in Charleston, the structure must be inspected for a lead hazard.

If that lead hazard is found, all the occupants must be removed from the dwelling or day care center or other building while the renovation work is being done. As part of this, the contractor must post a bond. Prior to reoccupation of that dwelling, day care center, the center must be verified as free of lead hazards, including correction of dust hazards as well as any other contamination prior to reoccupancy.

It is my view that this kind of legislation which we are dealing with on a local basis has wider applicability.

Mr. WAXMAN. Mr. Hembra, this kind of ordinance they are talking about in Charleston, do you know whether other cities have that kind of an ordinance and whether it would be advisable?

Mr. HEMBRA. No. To our knowledge, based on the work we did and the States we looked at, we do not have any indication whether or not—or how extensive you would find that occurring out in the States.

Mr. WAXMAN. That ordinance may be a model for the rest of the country since it looks like the rest of the country hasn't responded as well as Charleston appears to be responding.

Mr. REIGART. I think I should say, Mr. Waxman, it is very interesting that we had a great deal of input on this. The contractors worked with us with this, both the building contractors, paint contractors, the historic preservation league, all of the people that were involved in dwellings and other structures in the city of Charleston. They have all agreed that it is a good piece of legislation.

Mr. WAXMAN. We enacted legislation last year that said that warnings had to be given so that people knew what was the extent of the danger from these buildings.

Well, I thank the both of you for your testimony today. I think you have set out the problem for us.

We want to hear the testimony from the next panel and figure out where we go from here. Thank you for being here.

Mr. HEMBRA. Thank you, Mr. Chairman.

Mr. WAXMAN. I would like to call forward the following individuals to testify in our next panel. Ms. Amy Linden, the Chief Executive, Division of School Facilities for New York City Board of Education, Ms. Susan Johann, Executive Committee, Parents Against Lead in Schools.

Dr. John Rosen, Professor of Pediatrics, Director of the Division of Environmental Science, Montefiore Medical Center, and Ms. Megan Charlop, Chairperson, New York Coalition to End Lead Poisoning.

Thank you very much for being here today. Your prepared statements will be in the record in their entirety. What we would like to ask each of you to do is try to limit the oral presentation to around 5 minutes. Ms. Linden, why don't we start with you?

STATEMENTS OF AMY LINDEN, CHIEF EXECUTIVE, DIVISION OF SCHOOL FACILITIES, NEW YORK CITY BOARD OF EDUCATION; SUSAN JOHANN, EXECUTIVE COMMITTEE, PARENTS AGAINST LEAD IN SCHOOLS; JOHN F. ROSEN, PROFESSOR OF PEDIATRICS, DIRECTOR OF THE DIVISION OF ENVIRONMENTAL SCIENCE, MONTEFIORE MEDICAL CENTER; AND MEGAN CHARLOP, CHAIRPERSON, NEW YORK COALITION TO END LEAD POISONING

Ms. LINDEN. First of all, I want to thank you, Mr. Chairman, for inviting me down here today to testify on this very important issue of the risk of lead exposure to children in our public schools.

First, I want to address the question of what Federal, State and local governments are doing to address the lead situation in the public schools. There are no comprehensive Federal, New York State or New York City laws governing lead paint hazard reduction in the New York City public schools or other schools in New York State at this point in time.

As you already know, use of lead based paint is not banned in public schools. What is banned is the manufacturing of lead-based paint. There are no guidelines or regulations in existence for the testing and abatement procedures required for public school buildings, nor are there licensing requirements in existence for the testing and abatement service providers that might be out there.

So there is no regulatory—regulation of anyone who might currently be performing lead paint abatement. There certainly are courses offered, but there is no formal certification or regulation of these courses or the people offering them.

New York State did recently establish an advisory council to advise the State health department on the development, procedures, and regulations related to the prevention of lead poisoning. Those procedures are still—and regulations have still yet to be finalized.

Now, to the extent of the problem. There are two issues in talking about the extent of the problem: How much lead is to be found and how dangerous is it. I have already heard your—the panel prior to us talk about whether there is and isn't information on lead in the environment.

I can't speak for New York City as a whole, but I would presume that lead in the environment is somewhat extensive because it was a common material for many, many decades up through 1980's. It is in the homes. It has been found in the water supplies and in buildings. It is obviously in the paint on bridges.

It has been found in the dirt outside and in the soil in playgrounds. In terms of lead paints in the schools, as the draft report which you—your office procured a copy of, it talks about using our Scorecard rating system.

Based on the most current Scorecard rating system, cycle, rather, for spring 1993, based on the damage assessment of paint conditions in the schools, it suggests that up to one in four classrooms could possibly have lead dust present.

Almost 90 percent of our system was built before 1980. That is approximately 960 buildings out of 1,100. This current Scorecard rating cycle indicates 23 percent of our 56,758 classrooms that are rated, or over 13,000 rooms, have paint condition ratings of 2 or greater. That is what the one in four is based on. Scorecard does

not yet rate all parts of a building. It doesn't rate the hallways or the corridors or auditoriums, so therefore it doesn't fully assess the condition of paint in the entire set of our school buildings, however it does rate a large portion of the surface area since it rates all classrooms and bathrooms and cafeterias.

Other people of course are more appropriate to speak to regarding health implications, but the city's Department of Health has told us the following: New York City has shown approximately 700 cases of lead poisoning per year in recent years. Last year, due to changes in definition and testing, the number was approximately 1,300 cases.

By far the largest number of cases are in children 4 years and under. The Department of Health also tells us that a very small number of cases of lead poisoning are attributable to the school environment, and that is certainly not to discount that there is any risk at all, because there certainly is, or to minimize the issue for any one child who might be exposed in the schools, Department of Health tells us that approximately 80 percent of these cases of lead poisoning are attributable to the home and that those cases, as well as the other 20 percent, are also attributable to other factors, other homes frequented by the child, day care environments, outside soil and other causes.

Therefore it is hard to determine the extent of the public health hazard caused by lead dust in schools but to the extent possible, we of course should try to quantify the problem and try to assess the risk. That is specifically why the Board of Education created a task force last year on lead hazard reduction, to establish a risk assessment protocol for the school system, and I will talk about that a little bit in a few minutes.

But I want to get to the main point, which is that obviously you are dealing with a very important topic and the subcommittee must make a broad determination, not just for New York City but for the whole country. There are over 88,000 school buildings across the country and over two-thirds of them were built before 1980, and you must make these determinations based on not just testimony from the school districts and from parents, but from the medical community, the scientific research community. and other places of—sources of research.

But regardless of the official determinations on the extents of the hazard posed by lead in the schools, obviously the New York City Board of Education would like nothing better than to abate any and all hazards that could potentially cause harm to any student or staff member.

But our buildings are like abandoned children. They have been neglected for almost 20 years now since the first fiscal crisis in New York City in 1974. All the work that is needed now is a result of that neglect cannot all be done at once and it must be prioritized according to risk and effectiveness.

So yes, the work must be done but it must be acknowledged and a practical system must be set up to prioritize the risk and get the work done according to those priorities.

It is important to recognize that the New York City public schools don't have so much, therefore, an asbestos problem as men-

tioned earlier or a lead problem, but to put it in the context of the tremendous maintenance problem that we have.

These substances, asbestos and lead, pose health risks when they are present in a damaged or deteriorated condition. The New York City public schools have a maintenance backlog of $600 million which does not include the normal annual upkeep of our buildings, preventive or routine maintenance, nor does it include our capital backlog of over $13 billion.

Over 400 of our buildings need modernizations, exterior modernizations and interior modernizations. With this kind of under funding, schools get repainted only once every 60 years, if they get repainted at all. And if we don't alleviate the sources of the damage, such as leaking roofs or roofs that needs complete replacement, we will have the problem over and over and over again.

The nationwide average of the number of schools constructed more than 50 years ago was 20 percent but in New York City, over 50 percent of our buildings were constructed more than 50 years ago. Using the Scorecard system and using an estimate of the surface area in all our schools, walls and ceilings and hallways, rooms and commonplace spaces, to remove all lead paint from all our buildings, that is over 330 million square feet of surface area, would be—take $3.53 billion for all of our buildings. For just the elementary schools alone would take over $750 million.

That includes though our life centers, which are our day care centers in our high schools. For the immediate set of damaged walls and ceiling that we are aware of through Scorecard, it would take an estimated $50 million for that, based on the report, the task force report, might be considered an immediate hazard, including contractor costs and soft costs.

So that leads us to the question of what should be done to better protect the children in our public schools. The New York City schools, as you are aware and as we talked about, has developed a comprehensive system for lead-based paint hazard reduction in the New York City schools. You have apparently seen the report.

As you know, the task force was comprised of representatives of our unions, parents, the medical community and other local departments of health and environmental protection, as well as the school construction authority.

You have asserted that the Board of Education has not implemented the task force's recommendations and I feel compelled to observe that the draft report was not finalized until early August. As you know, all our resources since that time have been devoted to asbestos.

I do want to assure you that our asbestos-related protocols for Operation Clean House, the reinspection program going on now, does include the cleanup of lead dust in the areas that are receiving asbestos abatement.

To summarize the report very briefly, it has developed a risk assessment evaluation method to determine hazard levels, a prioritization method amongst the room times, grade levels and buildings, an in-place management strategy, response levels to the different hazard levels, abatement methods and work and worker practices, including medical and record keeping, employee training and public outreach, and we have addressed all these issues in the

report which the board will be considering as a policy matter, but which must also consider in conjunction with what funding is available to implement this report.

The report itself is a risk assessment methodology and a program of remediation. It is not a report that actually assesses the level or extent of the danger to children in the public schools. That can only be assessed based on the report.

I think what is very important is that the Federal Government needs to think of this as a massive national infrastructure problem. I would expect the identical concern and level of problem in every aging urban center in Boston, Los Angeles, Chicago, Newark and Baltimore.

We are the largest public school system with over 100 million children but we are only 1 percent of the public schools nationwide. The size of the estimated cleanup for New York alone, I told you it would take over the years $3.5 billion, although that is in current dollars. But if you multiply that by the number of old school systems out there, I think it indicates that Federal funds would be required in order to implement any laws or regulations that are enacted.

Unfortunately, public school buildings are not considered part of the national infrastructure the way highways, airports and sewers are. In fact I was once asked to testify at a Public Works hearings and was told schools are not part of the national infrastructure.

And though you may choose to draft laws and regulations and mandate lead paint testing and remediation, I ask as someone who will have to implement those laws and regulations, that you keep certain considerations in mind in order to utilize available sources optimally.

I think it is important, especially for older school systems, that provisions are included for going—for not requiring testing of lead paint content, but to allow for a system to go straight to hazard reduction or interim controls if the presumption is strong enough that lead is present.

As the task force report states, we are assuming, we are not denying, we are assuming that there is lead paint in all our school buildings built before 1980. I don't think the millions of dollars that would be required to test for lead content would be well spent on testing. It would be better spent on remediation.

We estimate, again, that over 80 percent of our surfaces, therefore, are covered by lead paint and it is not sensible to perform testing for the content. I also believe that the AHERA laws were good laws and good regulations and that while there are adjustments I might make with our experience with Operation Clean House, that I do believe that a program for lead paint testing remediation and abatement could center around the structure and intent of the AHERA laws.

I also ask that you don't institute any mandates without also providing funding sources. We want to work with you as partners. The asbestos mandate alone has cost the New York City school system over $500 million and we are still not done, and although lead paint wasn't mandated, if you recall, asbestos was a mandated construction material in buildings, including schools for many years, and now we are cleaning up after the fact.

This should be a national priority with a Federal funding source. So I just ask that we work together as partners to resolve this situation and I agree with you, this is a very, very serious problem.

Thank you.

Mr. WAXMAN. Thank you very much, Ms. Linden.

Ms. Johann.

STATEMENT OF SUSAN JOHANN

Ms. JOHANN. Thank you very much for having Parents Against Lead in Schools at this hearing and thank you, Mr. Waxman, for all of your work in trying to prevent lead poisoning in our children.

Ms. Linden has given you the macrocosm and I am going try to give you a little bit of the microcosm because it was a school in New York City last year where we discovered that the lead contamination was severe and that is why I am here today.

I woke up to the fact and to the realization that my child had been exposed to very high levels of lead in school while there renovations were going on. The spring of 1992 was when the first disaster happened. There was sanding and scraping of walls while the children were in the school. My son and his friend will tell you some stories of having to hold their noses while they ran down the halls because the dust was so thick, and it wasn't until a third grade child, Daniel Saltzman called his mother and said he was having an asthma attack and Lydia Saltzman went to school to pick him up and noticed that there was immense dust in the school.

There were open bags of garbage and chips that the children had to walk over, lead chips it turned out because Lydia didn't even realize until—she woke up suddenly, this is a real hazard in the middle of the night. That must be lead paint. This is a hazard and she started calling, and this is what we really need to point out, that trying to get through a bureaucracy in any large entrenched situation in any big city is a really difficult thing.

If we could go to one central source, it would be a lot easier. Lydia made calls to the principal. She made calls to the district office, to the chancellor, to the Department of Environmental Protection, to the Department of Health, to the Department of Lead Poisoning Prevention, all of these places. None of them could stop the job. The job went on for 10 days while phone calls were made.

Finally, parents hired their own consultant. Mr. Malloy of Malloy Corporation who had done a lot of work and apparently—a parent happened to hear him on a radio, WBAI, giving a discussion about lead poisoning and the cleanup in a school in Massachusetts, which has of course very stringent laws, but not all States have laws, and New York State does not have laws, particularly as it regards schools.

Finally armed with these test results, Ms. Saltzman called up Vinnie Carra of the Department of School Facilities, Ms. Linden's organization, and when he was told that the test results were 13,000 micrograms per square foot, which is 65 times of HUD levels, he said, well—and this is a quote, "Well, that is nothing compared to some schools." And I am sure he is right.

PS 3 is not one of the worst schools in New York City. It is in Greenwich Village. It is not in great shape. But then it is not in

horrible shape. It is 90 some years old, and so that finally stopped the work, the fact that it was such an old building and that these test results came back so high.

The construction was halted but the debris was not cleaned up. The debris was not cleaned up for well over a week after that, and in fact the children were asked at one point, there was a talent show and some of the children were asked to sweep and clean in the auditorium where there had been this renovation and parents came in the night of June 17th, I think it was, June 17th and saw for the first time this amount of dust that was still present.

Finally on June 17th after an intense cleanup by the custodial staff, the Board of Education took some samples for tests and an article ran in the New York Times and the Department of Health then sent notices by backpack to parents of children under age 6. That is another problem.

Children over 6 can be lead poisoned. We can all be lead poisoned. This isn't just a small child problem. Yes, the smaller children are more at risk for developmental problems, and Dr. Rosen I am sure will address that, but a child 6 years old could be lead poisoned very seriously. My child is 9 years old. He was on a floor where major construction was happening.

There were promises of cleanup of course and a new contractor was hired. This contractor had no lead expertise. He was an asbestos contractor. There are no requirements for him to have lead expertise in the State of New York, and we need that from the Federal Government.

Finally, just as the time for the school year ended, Parents Against Lead in School was formed and started to contact experts. Dr. John Rosen was one of the experts that we contacted because of his chairmanship of the committee that put together the CDC guidelines, and Dr. Annemarie Crocetti who was mandated to write the congressional reports on lead poisoning in children in the United States and Mr. Malloy, who as we said is somebody who had enormous expertise in this field. He also, as opposed to some of the contractors that were hired in our schools, has no EPA violations in asbestos or lead anywhere.

In the week before school was to open, we learned that the school had not been cleaned properly and in fact some more sanding and scraping had gone on. We asked that there be a tour of the school and Dr. Rosen and Dr. Crocetti and Mr. Malloy went with us to the school at that point.

The Board of Education maintained on the basis of some testing that they had done that the school was safe. The tests that they had done, some of which were air testing and air monitoring, which is not what should be done in a lead contaminated place, but in fact at the same time, the United Federation of Teachers hired an independent tester and they found high levels of lead and the school was finally closed.

The only time that parents were allowed to ask lead experts questions was at a meeting that PALS convened at the Union Theological Seminary, and at that point in time they asked a lot of questions. We became sort of adversarial, but we finally realized that in fact this had been a much more serious problem than we had originally thought.

We began to understand the really profound effects of lead in children. The school was cleaned and tests afterwards indicated that it was all right. When we have shown those tests to our experts, to Dr. Annemarie Crocetti and Dr. Rosen, they have indicated that they thought that maybe there were still some questions that they had, but we were not allowed to bring in our experts and that was another question that we had all along is that there are no federally mandated licensing for this so that we couldn't say, you know, you haven't got a lead expert here.

They would say, well, we don't have to have a lead—these are the best we can do. The fact that there are no lead laws is a very large problem. No lead laws on a Federal level, and the protocols are still very difficult for parents to understand and we need to be able to refer to something that is set up from the Federal level.

To this date, we really have not gotten a lot of the raw data from PS 3. We as parents need to have that. In our homes, we can certify, we can bring in an expert and they will say this place is safe or not safe, but when we cannot go to the experts, when in fact we bring them to meetings, open meetings that the district office and the Board of Education have and they are not allowed to question the very experts that have written things for the U.S. Congress, then it becomes very difficult for anybody to make an assessment on a personal basis.

My child can go into this school. If you as a Congress person or I as a parent were on a beach and we were told we could send the child into the water and they said, no, we would say, but I want to know is it safe and we would have answers to that.

Mr. WAXMAN. Thank you very much. I appreciate that testimony.

[The prepared statement of Ms. Johann follows:]

Testimony for the House of Representatives Sub-Committee on Health and the Environment. September 15, 1993

Susan Johann, Executive Committee, Parents Against Lead in Schools.
Member of Subcommittee, Community Outreach of the Mayor of New York's Oversight Committee on Operation Clean House.
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BACKGROUND - PS3, GREENWICH VILLAGE, NEW YORK CITY

This is a story of one school in New York City - New York City which was ahead of its time when it banned lead paint for residential interior use in 1960. Unfortunately, the New York City Board of Education used lead paint in the school system for another twenty years. It is also well documented and accepted that the paint used in the schools up to 1980 was industrial grade, thus much more toxic.

Our school, PS3, is neither the best nor worst of the school buildings in New York. It is very old, built in 1906. Over half of the schools in New York are over 50 years old. PS3 has many wonderful dedicated teachers and terrific parents and children, but the whole fabric of our school was damaged as a result of the lead contamination.

SPRING 1992 -THE FIRST DISASTER,CONTAMINATION

Here is what happened at PS3 in Greenwich Village. In the Spring of 1992, GNA Construction Co.,a contractor hired by the New York City Board of Education did repairs in the auditorium and on the 3rd and 4th floor of PS3. No safety precautions were taken. This was in keeping with a general policy by the Board of Ed to do extensive renovations during the school year while the children are present.

The sanding and scraping of paint went on for days. The dust from these repairs was dispersed throughout the school. Because it was Spring the windows were open and the dust flew. My child's third grade classroom was turned into a dump site for the debris from this repair work and large garbage bags filled with the chips and broken bits of plaster sat open on the floor. The children were moved to the room next door but still went freely into this room. My son, Trevor, and his friend, Jami, tell of having to hold their noses to run down the hall because dust was so thick.

It wasn't until a third grade child, Daniel Saltzman, called his Mother because of an asthma attack that any alarms went off. She picked him up from school and noted the very dusty halls and

construction debris. It was later that night that she literally awoke with a start to the realization that the age of the school meant that the paint was almost certainly lead paint and the dust then a major hazard. Lydia Saltzman went into action immediately. She called other parents, she went to the principal who said he was not authorized to stop the work. She called the New York City Department of Environmental Protection, the Department of Health, and the District Office for the Board of Education,the Chancellor's office,and the Office of Lead Poisoning Prevention, the work continued. Other parents individually went to the principal and made phone calls.

NO RESPONSE FROM OFFICIALS, PARENTS TAKE ACTION

Parents then hired Molloy Corporation an environmental consulting firm to conduct lead tests at the school. The results of these tests showed levels of lead as high as 13,000 micrograms per square foot, sixty-five times higher than the HUD guidelines.

It was now 10 days after the parents first expressed concern. Many parents were still unaware there was a problem.

Finally armed with the test results, Ms. Saltzman called Vincent Carra of the Department of School Facilities who said when told of the 13,000 lead test result "That's nothing compared to some of the lead levels at other schools". When she questioned the union status of the non- English speaking workers and the fact that they were not wearing protective gear, he said he would immediately shut down the construction job.

CONSTRUCTION IS HALTED BUT THE DEBRIS REMAIN

The debris and dust remained and in fact children were encouraged to help sweep and clean the auditorium for an end of year talent show. The day of the show hundreds of children sat on the floor of this auditorium while dusty fans stirred up a continuous cloud. The parents, including infants and pregnant women, peered through the haze of construction dust at their children's show. For the first time many parents saw the construction debris and dust and voiced their concern.

On June 16, two parents Lydia Saltzman and Nancy Cardozo, accompanied by Mr. Molloy met with a representative of the District Office and the school principal. Mr. Molloy examined the AHERA report and said it was not up to date. (Portent of things to come...the 1993 asbestos mess. Many of our questions regarding AHERA and asbestos were dismissed in the next months.)

While touring the school all the people at this meeting observed a class of 4 and 5 year olds scuffing through big piles of dust and climbing over open bags of wall chippings on their way to the library. Mr Payne, the principal said he had trouble

getting the construction company to clean up their mess. Later Amy Linden Executive Director of School Facilities would allege in a letter in the New York Times that the construction company had cleaned every two hours.

That afternoon Nancy Cardozo, a parent of a pre-kindergartner and third grader, came to photograph the areas where the children had been exposed to dust. A construction worker threatened her and when she would not stop taking pictures he grabbed the camera, hitting her. Nancy and Lydia Saltzman called the police and filed a report.

TESTING BY THE BOARD OF ED AND HEALTH DEPARTMENT

On June 17, after an intense clean-up by the custodial staff, the Board of Ed finally took some samples for tests. An article ran in the New York Times the 18th and the Department of Health sent notices by backpack to parents of children under six that they would test children for lead on June 24.

On June 24 the Health Department arrived to do the tests. Not all of the parents received the letter, and there are non-English speaking parents who got no letter in their language, and the parents of Special Ed children never received a notice. Those children who only had notes, not the pre-printed form, were not tested unless their parents could be reached and came down to the school. About sixty children were tested. The nurse who set up the tests was the only city employee who responded concretely. The tests were competently performed but results through the Health Department Office were not received until the following fall.

PROMISES OF CLEAN-UP, SCHOOL YEAR ENDS, NEW CONTRACTOR HIRED HAS MANY EPA VIOLATIONS, MORE LEAD CONTAMINATION.

When the school year ended there were promises that the school would be cleaned thoroughly and that there would be no lead dust present when it reopened in the Fall. Unfortunately the contractor hired by the Board of Education had no background in lead clean-up or abatement. He was not required to by any state or Federal law. He had, in fact, 60 EPA asbestos violations, and had just agreed to pay the lions share of fines that he ahd incurred along with violations that he incurred along with the Board of Education. A mere three days later, this company, which had committed asbestos violations in New York City in schools, was again hired by the Board of Ed to clean-up our school PS3 for lead. He cleaned over the summer but it was a routine cleaning and when the same group of parents brought forth questions regarding the protocols for this cleaning. Their concerns were summarily dismissed.

PARENTS AGAINST LEAD IN SCHOOLS FORMS, CONTACTS EXPERTS

By September, these same parents principally Lydia Saltzman, Nancy Cardozo, Judith Raymond and Len Sideri, had done a fair amount of research about the dangers of lead. It was at this timew that they formed PALS. New York has one major advantage over other areas. There is an enormous pool of knowledgeable people. This gave us access to experts such as Dr. John Rosen, who chaired the latest CDC Guidelines on lead poisoning, Dr. Annemarie Crocetti, who as an epidemiologist was mandated to write the Congressional Report on "Lead Poisoning in Children in the United States". Our hands-on technical person was Laurence Molloy, whose environmental expertise in schools is extensive and who is licensed to do lead clean-up and abatement by Maryland and Massachusetts the two states whose licensing is most stringent. Mr. Molloy has no EPA violations in asbestos or lead.

PROMISES BROKEN, FURTHER CONTAMINATION

In the week before school was to open for the 1992 fall semester, we learned that the school had not been properly cleaned for the lead contamination of the Spring. In fact over the summer, PS3 had undergone the same kind of sanding and scraping which had brought on the initial contamination. Parents asked our experts, Dr. John Rosen, Dr. Annemarie Crocetti and Laurence Molloy to accompany us on a tour to inspect the building. to evaluate the potential hazard. Dr. Rosen's three word description of the schools condition made the front page the next day. PS 3 he said was "a toxic dump".

BOARD OF ED MAINTAINS SCHOOL IS SAFE

The day after the tour, the Board of Education met with some of the parents and maintained that regardless of what the experts saw or said, there was no lead problem at PS3. Still, they said that to allay parents' fears they would "clean" over Labor Day. They assured the parents further that they would have "qualified experts" come in to clean and conduct tests to confirm that PS3 students and faculty would not be exposed to lead. They agreed further to hold a walk-through for all PS3 parents the day after the Labor Day weekend.

TESTS BY TEACHERS UNION SHOW HIGH LEAD

On Sunday, September 6, testing companies were hired by the Board of Education and the United Federation of Teachers to conduct tests to determine the levels of lead. The test the Board of Education used was an air sampling test appropriate for asbestos, which is a light fiber and easily airborne, but is not right for lead. The tests were not comprehensive and seemed to be done more for the purpose of mollifying the parents than to determine how safe the school was. The parents were kept in the dark as to any details or raw data for our experts to see. We

were constantly reassured by the Board of Education that everything was safe. It was only when the independent tests from the teachers union showed high levels of lead that the District Superintendent had no other choice but to close the school. The school opening was delayed and classes were held at alternate sites for the next month.

TOP EXPERTS GIVEN CHANCE TO SPEAK TO PARENTS BY PALS

Parents, city officials and the media attended the walk-through of the building and which made national news. A group of perhaps seventy-five parents convened at the Union Theological Seminary to ask questions of Dr. Rosen, Dr. Crocetti and Mr. Molloy. This meeting was arranged by Parents Against Lead in Schools, PALS. Despite the objections of the leaders of the PS 3 parent association, seventy-five parents attended and for the only time at a large meeting they heard experts and were able to ask them questions.

OFFICIALS KEEP LEAD EXPERTS FROM SPEAKING AT GENERAL SCHOOL MEETING AND REFUSE THEM ACCESS TO PROTOCOLS AND DATA

At all of the meetings called by the District Office and the Board of Education the experts were not allowed to answer questions posed by parents or to ask questions. This despite the fact that Dr. Rosen, Dr Crocetti and Mr. Molloy had come to the meetings at our request. There was no lead expert from the Board of Education or from anywhere else for that matter. They simply didn't have anyone on staff at the Board of Education.

SCHOOL CLOSED FOR CLEANING BY SAME CONTRACTOR AS THE SUMMER CLEAN-UP, STILL NO LEAD EXPERIENCED EXPERTS

The school was closed for one month and the same contractor who had done an inadequate job over the summer and had the EPA violations, Jack's Insulation, was hired to do the lead clean-up. He knew nothing about lead clean-up, being an asbestos abatement contractor and when we asked him questions after the job it was obvious that even the simple facts of what chemicals should be used for the wet cleaning necessary were not part of his knowledge. Still the Teachers Union Industrial Hygienist brought in a testing company to do tests.

RESULTS OF POST CLEANUP TESTING STILL QUESTIONABLE

The Board of Education took the results of these tests and declared the school safe for occupancy. When our experts inspected the raw data and worksheets they raised serious questions about procedures. It seemed unlikely that samples recorded at one minute intervals could be accurate.
There were many letters from PALS to the Chancellor, the Mayor,

the City Council, all asked for follow up t[illegible]ting and monitoring.

NO LEAD LAWS REGARDING SCHOOLS IS [illegible] PROBLEM

There are no laws on the books in New York with regards to lead in schools, there are only guidelines. The lack of these regulations was a major stumbling block. The constant response to our requests that the work be done by expert people and the results reviewed by experts in the lead field for all these months was "but we don't have to. There are no laws." The guidelines used in the testing were HUD. These are, of course, meant to be used after complete abatement not after a clean-up. Even so we were never given any detailed protocols for the clean-up they did. Never given the follow-up testing that we were promised.

MORE BROKEN PROMISES. NO FOLLOW UP TESTING, BOGUS FOLLOW UP PROTOCOLS

One of the few protocols that parents at PS3 ever got were given at an investigative committee meeting of the local School Board on October 19. This one page protocol called for high dusting and other procedures that are totally in contradiction of what should be done where there continues to be lead hazard. Our feeling was that it was whipped up for the School Board Meeting. When we questioned the representative of the Board of Education he simply replied with the same song we heard over and over"I don't know anything about lead". After our inquiries and letters to the Chancellor we were informed that those protocols had been come under the scrutiny of the UFT Industrial Hygienist. Parents checked with Mr. Molloy, Dr Rosen and Dr Crocetti who verified that this dusting would be the wrong thing to do in an environment that had been lead contaminated.

THINGS ARE STILL QUESTIONABLE AT PS3

Dr. Rosen offered to use XRF, circular 15, playground closed.

They continue to do work in our school, many times not informing parents of the fact that it is to be done. They continue to hire contractors who do not always use proper containment for toxic substances such as lead and asbestos. We had no sooner had our playground completely cleaned for lead by one contractor during the year who should be congratulated for doing it right, than another contractor came in and sandblasted the exterior ruining the work of the first. It had to be deleaded again.

In short we are still in the hopeless limbo of botched jobs, inadequate response, untold dollars, insufficient data. And we still don't know where all the potential hazards are. All this a

year and a half after our first disaster. We would still be unaware of the dangers if it had not been for the outrageous first disaster.

WE GOT ACTION. COULD ANYONE?

WHY WE GOT ANY RESULTS, WHAT ABOUT THOSE LESS FORTUNATE?

The reason we got results was that we were an articulate, well educated, media savvy, politically aware group of white middle class parents....with a lawyer. We formed a coalition and fought like hell for our children with all the tools we could find. But picture if you will a 19 year old inner city mother of two, with a baby on her hip complaining to her school principal about peeling paint or crumbling plaster in her child's South Bronx kindergarten. The school can't afford drawing paper or text books, forget art supplies or gym equipment. The principal can't get the fence around the playground repaired or the roof patched and the city just cut funding for the four and five year olds. What are the chances of action? What will happen in the neighborhoods in Houston or Detroit or Albuquerque and many other states without laws.

THE ASBESTOS MESS, STILL NO COMMITMENT ON LEAD

For the past month since the beginning of the asbestos mess of 1993, we have with PALS joined with the parents from the five boroughs of New York and from the major parent organizations in the city who were authorized to form the Parents Environmental Steering Committee.

We have been involved in a continual dialogue with the Board of Education, The School Construction Authority,The Mayor's Office, The Department of Environmental Protection, and The Department of Health. We have toldthem that since they are testing and abating asbestos they are disturbing and perhaps further exacerbating the lead problems in many schools. We have been assured that they will clean-up for lead but will not test for lead after clean-up. When we have asked for lead cleaning methods that are being used the answer is a resounding "We'll get back to you on that" repeated at every meeting. City Councilman Stanley Michels has asked for particulars from the Board of Education. He has not been given particulars either.

CITY DOESN'T ENFORCE HEALTH CODE RE: KINDERGARTEN LEAD RULES

The City of New York Health Code , Article 47 and 49,states that there shall be no lead paint on surfaces in pre-kindergartens and kindergartens in school facilities even that small assignment is not carried out adequately. The Board of Education is kept like a small kingdom apart, and the

kindergartens are in as appalling shape as the rest of the school. There are also nurseries for babies in some high schools. By the estimate of the Executive Director of the Board's Department of School Facilities 80% of the walls contain lead paint. The Board of Educations report about the physical conditions in the schools is called the "Scorecard". This report shows chipping and peeling paint is the norm on 40% of the walls and 30% of the ceilings.

PREVENTION IS FIRST GOAL, TIE MAPPING TO AHERA

No school can be considered lead safe and free from lead hazard unless the extent of the lead problem is first identified. This requires experts in the field to assess the damage and map the school for lead paint. Since lead abatement licensing is not required in every state and specifically not in New York, we hope a Federal licensing agency would be an answer. The mapping of the schools could be tied to AHERA reports. New York, too, will have to come into compliance with AHERA and could tie in their next round of inspections to lead testing at the same time. Perhaps an EPA squad like the plane crash squad could be set up to be brought in specifically for schools in distress. We also need something like the TAG grants for Superfund (SARA). Parents need this resource to equip themselves in a highly technical area.

FEDERALLY MANDATED MODEL SCHOOL PROTOCOLS

Each school system in the country is very different. In New York City most of the schools are multi-storied and are deteriorating. In many urban school systems there are schools whose population is monolithically poor, non-white and whose families are nearly all recipients of some sort of public assistance. These populations are disproportionately exposed to environmental toxins and hazards. Some of the worst schools are in the poorest neighborhoods and the children who might be getting lead poisoned in their homes because of chipping or peeling paint adding to their lifetime burden of lead at their schools. Immigrants who have linguistic barriers and fear of repression because of experiences in their home country may not know how to use the system. In many homes the parents are both working, they drop a Terry and Noel at school for a breakfast and pick them up at six after the after-school program. Ten hours altogether.

MONITORING THE CHILDREN OF SCHOOL AGE

Currently, the CDC guidelines concentrate on children up to 6 years old and their housing. It does not specifically state that prevention must also be for older children and for their school environments where they spend so many hours and which have, as New York is now known to have, serious risk on a major scale in

almost 15% of their classrooms.

Health Departments and school authorities have consistently misinterpreted the CDC guidelines by insinuating that they don't have to respond to such situations unless the children are under six and lead poisoned. This disingenuous misinterpretation must be "officially" corrected if our children are to be protected. Guidelines must be set for monitoring school age children who have been exposed, sometimes at high levels. Detection of the sources of the lead pollution and real definition of safe and adequate remedies must be put forth by experts and not left to local authorities who cannot be counted on to have the necessary conscience or expertise to develop standards and protocols.

We are very aware of the magnitude of the problems of clean-up of this toxin but the cost to the system in terms of damaged children will be a much larger drain on our city and our country.

WHEN SCHOOLS ARE SAFE THE SAFETY SYSTEM WILL HAVE DONE ITS JOB AND SELF DESTRUCT

If the school system sets up protocols as New York says they are doing, these models must be filed and approved by some Federally competent agency to which we as parents can refer and find answers and assurance. The agency could set up model protocols that take into account the size, age and complexity of the school system. If variations are desired by the School Board they would be Federally approved. The goal is - of course - that eventually all schools would be safe and the system of protocols for lead would not be needed any longer. In other words, this is a system we hope would self destruct on completion.

The conditions would have to be very specific as to when a school building is safe - when the school is totally abated. We have learned from our experience at PS3 that a long entrenched system is very tricky, the layers of bureaucracy provide ample hiding places for people who come under scrutiny. A large system can be virtually unresponsive while giving the appearance of action. No matter how urgent a situation there is, at this point, no guarantee that parent concerns will be taken seriously without the backing of the law.

ONE GOAL - SAFE SCHOOLS - PREVENT LEAD POISONING

We have here an opportunity to help millions of children to reach there full potential by preventing lead poisoning and cleaning up the lead pollution where it already exists. It might take twenty years for all school systems in the U.S. to have completely abated their schools, but it can be done. I hope that by the time I have grandchildren I can sleep soundly knowing their school buildings are totally lead safe.

The final thing we learned at PS3 is common sense means nothing. NO LAW EQUALS NO ACTION.

Mr. WAXMAN. Dr. Rosen

STATEMENT OF JOHN F. ROSEN

Mr. ROSEN. Thank you very much for the invitation to testify today. I am Professor of Pediatrics at Montefiore Medical Center in New York with over 20 years experience in the clinical management of childhood lead poisoning.

About 14 million children less than 17 years of age are at high risk because they live in pre-1959 housing that contains the highest concentrations of leaded paint. Children also live in 54 million residential housing units where there is an inventory of approximately 3 million tons of leaded paint.

As their second home, 80 percent of New York City public schools contain leaded paint and according to our correspondence in 1987, the Board of Education identified over 50,000 classrooms that needed lead paint repairs.

Today, as in previous decades, lead-based paint is the primary source of childhood lead poisoning and exposure. The 90 percent phase-out of lead in gasoline in the early 1980's led to an estimated decrease in average blood lead values in American children of approximately threefold.

Low level lead exposure has been causally linked to impairments in IQ of four to five, six points, and deficits in reading, spelling, math, arithmetic, abstract thinking and other cognitive skills, skills that are necessary for academic success and ultimately productivity in the workplace.

These adverse effects of lead occur at blood lead levels which are down to at least 2 micrograms per deciliter, which is even below the current national estimated average of blood lead levels in U.S. children.

These IQ deficits will result in approximately 50 percent more children scoring in the border line range of 80 and an absence—I repeat, and an absence of children achieving scores above 125 in the superior range.

What actions have been taken by the Board of Education to repair over 50,000 lead paint violations in New York City's public schools? The Board of Education agreed in 1987 to repair 45 classrooms which represents one-thousandth of 1 percent of all lead paint violations.

The Board of Education refused to carry out these repairs according to safety methods in CDC's current guidelines. Two, the inaction has been made worse by failure of the Department of Health to enforce Article 47 of the New York City Health Code, which requires lead paint inspections and repairs in day care centers, pre-K and K classrooms throughout the public school system in New York City.

Three, when leaded classrooms were recognized again last year, the chancellor's task force's main recommendation was more frequent moppings by custodians and a band-aid approach for abatement, far from definitive protection of children.

These inadequate recommendations were also reflected by the chief of the public school facilities, Ms. Amy Linden, who claimed in our letter written to the New York Times on August 1, 1981,

that leaded gasoline, not leaded paint, was the primary health threat to young children.

Four, when asbestos repairs are being made during the current crisis, disruption of any painted surface to remove leaded paint is likely to yield leaded dust, leaded debris and leaded paint which provides an immediate health hazard to children, and I would also include women of childbearing age, namely teachers within the schools.

Unless safe remediation methods are incorporated directly into asbestos cleanups, the asbestos crisis in New York City will soon be followed by a lead crisis. Federal legislation with protocols such as the 1986 AHERA, Asbestos Hazard Emergency Response Act, is definitively required to ensure lead-safe schools.

Unlike previous national administrations, the U.S. EPA must be held accountable for enforcing these protocols. National legislation is needed and parents will not permit tolerance by local jurisdictions of unsafe classrooms.

In closing, I would like to emphasize that prevention of childhood lead poisoning and of the severe academic deficits produced by very mild lead exposure in public schools and in elsewhere throughout society will assist the United States in providing a productive work force and a stable society for many years to come.

Thank you.

Mr. WAXMAN. Thank you very much Dr. Rosen.

[The prepared statement of Mr. Rosen follows:]

STATEMENT OF JOHN F. ROSEN, PROFESSOR OF PEDIATRICS, HEAD, DIVISION OF ENVIRONMENTAL SCIENCE, MONTEFIORE MEDICAL CENTER

I am the past Chairman of the Centers for Disease control's Advisory Committee on Childhood Lead Poisoning prevention in 1985 and 1991 and a current member of this Committee chaired by Dr. Reigart. I am grateful for the opportunity to testify today as Professor of Pediatrics at Montefiore Medical Center and the Albert Einstein College of Medicine.

About 14 million children less than 7 years of age are at great risk because they live in pre-1959 housing that contains the highest concentrations of lead-based paint (1,2). Young children live in at least 54 million residential housing units, where there is an extant inventory of 3 million or more tons of leaded paint (3,4). As their second home, about 80 percent of New York City Public Schools contain leaded paint; and in 1987, the Board of Education indicated that there were over 50,000 classrooms that required lead paint repairs (5).

All sources of lead are integrated systemically in critical target organs; and the margin of safety is extremely narrow. Today, as in previous decades, lead based paint remains the major source of childhood lead exposure and poisoning (1,3,6,7). The 90 percent phaseout of lead in gasoline in the early 1980's (8) has led to an estimated three-fold decrease in average blood lead values in children (1,2,9).

Lead has marked effects on neurobehavioral development that are now widely pervasive in America's young children (10-13). These studies have directly and casually linked "low level" lead exposure to impairments in I.Q. of 4-6 points and deficits in reading, spelling, mathematics, attention, abstract thinking and maturational development—skills that are necessary for academic success and future productivity in the workplace. These adverse effects of lead occur at levels as low as 2 μg/dl with no apparent threshold. I.Q. deficits of this magnitude in a population of children would result in 50 percent more children scoring in the borderline range of 80 (15) and an absence of children who achieve superior scores greater than 125 (3).

What actions have been taken by the Board of Education to safely repair over 50,000 lead paint violations in the New York City's Public Schools?

—The Board of Education agreed to repair 45 classrooms in 1987 or 1/9000 of 1 percent of all lead paint violations; and the Board refused to carry out repairs according to CDC guidelines (16). Ms. Ruth Messinger, then a Council member, brought both lead and asbestos violations to the Board's attention in 1987 (17).

—This inaction has been further enhanced by failure of the Department of Health to act under Article 47 of the New York City Health Code, which requires lead paint inspections and repairs in day care centers, pre-kindergarten and kindergarten classrooms.

—When leaded classrooms were recognized again last year as an environmental health issue, the Chancellor's task force primary recommendation was more frequent floor mopping by custodians; and Ms. Amy Linden of the School Construction Authority claimed in the New York Times that leaded gasoline, not leaded paint, was the primary health threat to young children (18).

—Whenever asbestos repairs are made as a result of this current crisis, disruption of any painted surface is more than likely to contain leaded paint. Disruption of such a surface will yield chips and leaded dust—an immediate health hazard to children and women of child-bearing age. Unless safe and effective lead remediation methods are incorporated directly into asbestos clean-ups, the asbestoscrisis will be followed by a profound lead crisis.

Federal legislation, with strict protocols such as the 1986 Asbestos Hazard Emergency Response Act, is required to ensure lead-safe schools. Unlike previous national administrations, the U.S. EPA must be held accountable for enforcing these protocols.

Prevention of severe academic deficits produced by low level lead exposure will yield a productive workforce and stable society for many years to come.

Mr. WAXMAN. Ms. Charlop.

STATEMENT OF MEGAN CHARLOP

Ms. CHARLOP. Thank you. My name is Megan Charlop and I am speaking from a variety of hats. I am a mother of four children in the public schools. I also have two foster children in the public schools. I chair the New York City Coalition to End Lead Poisoning, I serve on the Governor's and the Mayor's advisory committees, and I work at the Montefiore Medical Center.

We have developed a unique Safe House there which provides traditional shelter from families during the time their homes are being abated. I thank you for holding this hearing. I think it is a step forward for the kids throughout the country.

I want to just tell you a few anecdotal things as to what my reality has turned out to be in light of these situations. First of all, with regards to sources of lead. We run a clinic at the Safe House for children with low lead levels, and we also run another clinic for children at higher lead levels and although we are not prepared to give you statistics at this time, since I am one of the people that sleuths around for the sources for these kids, I can tell you about a trend that we are observing that sort of points out to what is happening.

For the kids at the very high lead levels, we are almost always seeing cases where the home has deterioration, but for kids at the lower ends, parents are not describing and inspectors are not finding immediate hazards in the home. In fact what we are finding is that the day cares and the schools, in other words, a variety of sources but primarily those two sources, are the main contributors for children at the low end, but still dangerously elevated lead levels.

I had a father—as a matter of fact it was a grandfather in the clinic on Monday who told me that his child who had I believe a 19 lead, his grandchild, had received it at the day care center. He has since changed the center but there was no source within the home, and so we are looking at the day cares and the schools very seriously because we see that, in fact, the children coming to us are coming with those kinds of anecdotes.

In my own child's school, in one of the public schools in New York City, PS 83, an inspection was done for asbestos. 200 samples were taken and in fact there is a lot of asbestos and asbestos tile which is loose in the school, and so at a parents' meeting that we had September 8th we were told that the school was not going to be opened and that the kids were going to be shipped to Mercy College, some of the kids, and some of the kids to another elementary school.

There is going to be double shifts. Some of the kids will go to school in the morning. Some will go from 12:00 to 5:00, busing costs, we have to pay other—rental space for these kids during the time they are not in the school, and yet what I understand, although the school will be closed and although it will be vacated, the only thing that will be addressed will be the asbestos.

What is the condition of this school? It is deplorable. My son tells me that when it rains, a puddle collects on the floor of his classroom. The teachers in this school have to put up posters in order to keep the walls back. In the science room she hangs sheets of plastic to keep the plaster from falling off the brick into the room. This is the science room.

All the children in the school go into this room. In my capacity at Montefiore, I had access to a machine which can read the lead levels and it can tell you, as Amy told you with a presumption, that those lead levels throughout that school are unacceptably high.

Although we have no standards by going with either HUD or our local Department of Health standards, we know they are unacceptably high. The walls are falling off the brick. The auditorium is peeling. The cafeteria had been peeling for years. Paint chips falling on the tables in the cafeteria where the children eat their breakfast, snack, for after school and they have their lunches there.

All right, I wanted to tell you also that I organized a day care center and I worked in that day care for 8 years. Recently that day care was cited for lead violations by our local Department of Health which, as Dr. Rosen said, does mandate no lead and no peeling leaded paint in day cares. Something tricky about that and you might be familiar in Congress about turf, is that although this is mandated by DOH, it doesn't really translate back to the schools.

Those kindergartens, it is hard to translate DOH authority within school board properties. So it is not really complied. But within the day cares, DOH covers it. In the day care, we got a notice stating that we had violations, and then a few weeks later, there was a tribunal and the school was to be closed.

No information was given as to what had to be done. No information was given as to funding sources. No information was given that the school would be closed if the risks were too great. So here we have a situation where we are trying to create a safe environment. But in fact we eliminating day care slots because the thing wasn't done properly.

The parents were in a complete quandary. If it hadn't been for some of the knowledge that I have, the school would have ended up being closed down. It is not a big school. It is 30 slots, but still 30 children is 30 children and every year multiply it out.

Going sort of to what Amy said, the fiasco I believe in the schools in terms of the mandate on lead, we are going to be crazy to try

to get this school remediated. We did not want to bring our kids back into the school given the condition, but without that Federal mandate that they have, for example, with asbestos, we really have to just buck it, but we don't have the legality standing behind us.

I wanted to just say that I agree with the idea of presumption. I know you had asked that question earlier about should the places be tested. In certain cases the testing is really a waste of money. I did a survey of several schools within the Bronx, probably about 11 schools, and I cited in my testimony a bunch of the lead levels, but let me just say this, in District 9, I found—every school I went into had peeling paint and every school had elevated levels. It is one of the poorest areas in the Bronx.

PS 55, highest levels on the machine. PS 35, same thing. High levels. I saw peeling paint in dress-up areas. You know how the kindergartens have the little dress-up corners, the little wigs they put on, the little food that they have in the house corner, covered in dust. All those readings were the highest lead levels of 10's and 9's micrograms per centiliter squared on the reading.

It was unacceptable, completely unacceptable and we know that a presumption is logical. Let's just move to the next step. We don't really need, in my opinion, to work on a big testing protocol. Once we see it, that is level 1, some type of maintenance.

We also need to make sure that we look at safety procedures. As was mentioned before, I have seen window replacement and children cleaning up their desks. You talk to the principal, say, do you know this is a hazard? And the principals say to me, yes, I know this is a hazard, but do you know how many years I have been waiting for these windows. I am not saying anything.

I need these windows, so bring them in and let the kids clean it. If it is a little hazard, it is a little hazard. I can't jeopardize the windows, and this is what is happening with us.

I wanted to also say that funding is critical. As in the case with the day care, if we don't come up with a funding stream to back up this, we are going to end up closing institutions instead of making them safe. I would say that whatever legislation that you enact—I am just waiting—I would say that whatever legislation you enact, it has to have a two-pronged approach.

It has to be the temporary remediation, which is basically the deferred maintenance, which is to make all lead hazards—in other words, lead is present but the walls are smooth, the windows are smooth, the windowsills are smooth. That is level 1 of your legislation. But it is not the end.

There needs to be a long-term scope in which these walls get encapsulated. The windows become replaced so that, in fact, the actual source of lead is reduced. Because, as we know, everything deteriorates by and by.

So I think that is kind of what I wanted to say and I wanted to just mention one other thing. You know the Head Starts are regulated for testing. Kids have to have their blood pulled, which is great, but another point for Congress to consider is a regulation of the spaces of the Head Start spaces, because the physical plants are not regulated and so many millions of children are in Head Start.

Thank you so much for this opportunity.

Mr. WAXMAN. Thank you very much for your testimony.
[The prepared statement of Ms. Charlop follows:]

STATEMENT OF MEGAN CHARLOP

Good morning. My name is Megan Charlop. I am the mother of four children in the New York City public schools, the oldest of whom was lead poisoned. I chair the New York City Coalition to End Lead Poisoning, serve on the Mayor's and the Governor's Advisory Committees. For the past 10 years, I have directed the Lead Poisoning Prevention project at Montefiore Medical Center, which developed a unique Safe House for Lead Poisoning Prevention.

I commend Congressman Waxman and the Subcommittee on Health and the Environment for holding these hearings. I believe that this hearing represents a positive step towards protecting young children from the dangers of lead contamination. I also believe that, for New York City parents, the timing couldn't be better.

The need for Congressional action is urgent. Our communities look to you: (1) to enact legislation to mandate lead safety in all public schools and (2) to provide funds to enable localities to reach that goal.

Federal legislation is critical. In response to recent research demonstrating the biological damage caused by lead at low levels, we have opened a clinic for children with low blood lead levels at the Montefiore Safe House. I am one of the staff sleuths who investigates the sources of lead that the children have been exposed to. Although the low level clinic has been in operation for only a short time, a clear trend has emerged which is significant to this hearing. Whereas, in 99 percent of the cases of children with high lead levels we find deteriorated lead surfaces in the home, children with lower blood lead levels often live in homes with no immediate lead hazards. Primarily, these children acquire lead from leaded paint found in places other than the home, where they spend a significant amount of time. That signals schools and day cares.

I leave it to my scientific colleagues to quantify the clinical data and to present it to you in the future as a formal study. The message I bring you today is that our experience confirms that children are absorbing unacceptable levels of lead from leaded paint outside their homes, notably in their schools.

I mentioned earlier that the timing of this hearing couldn't be better. I'd like to take a moment of your time to convey a personal story which demonstrates the current crisis we're facing due to the absence of Federal legislation.

This is the story of my youngest child's predicament at P.S. 83 in the Bronx. P.S. 83 is a school with a lovely personality and high academic standards. My three older children and one of my foster children attended the school. They loved it. But the physical plant of this school has been decaying over the years and the population has more than doubled. The school is presently in disastrous physical condition. There was a fire in the auditorium 2 years ago, the burn marks and broken windows are still there. On the top three floors, the walls are falling off the bricks. Teachers are forced to hang sheets of plastic in order to keep the walls from crumbling into the classrooms. Many teachers complain of respiratory ailments, head aches and general malaise. There is peeling pant in every section of the school including many common areas and there is a large amount of broken asbestos floor tile.

On September 8, 1993 an informational parents' meeting was held at P.S. 83. The Parent Association President announced that because of unsafe asbestos conditions in the school, which have not yet been confirmed, the children would not be allowed into the school. They will be disbursed to three different sites, on two different time schedules. Parents were in an uproar.

The move to vacate the building is extremely inconvenient for all the children and their families but it makes medical sense. What doesn't make any sense, and what parents were too upset to understand, is according to our new chancellor, only the asbestos will be addressed during the time the building is vacated. We are going to haul our children all around the borough for months, maybe the whole year, and we're going to come back to the same peeling leaded walls, the same fire burnt auditorium, the same dust levels. Only the friable asbestos is promised to be remediated. The school system intends to spend money to relocate 1,000 children but refuses to maximize its financial resources to make the school safe of all its environmental hazards. This fiasco results from the lack of a legal mandate to clean-up the lead.

In 1987, a group of concerned citizens began a campaign for lead safety in the New York City schools. As part of that campaign, I personally tested non-intact surfaces in eight public schools in the Bronx. The machine that I used gives an instantaneous reading of lead in micrograms per cubic centimeter. Because no Federal risk

levels had been established, we used the local Department of Health regulation level of .7 + .5 s which applies to residential units.

It will come as no surprise that all of the schools I surveyed were old and all had extremely elevated lead levels. I found peeling paint in all of the District 9 schools, one of the poorest in the Bronx. I observed dust covering dress-up clothes and play food in several kindergarten "house corners". In P.S. 55, the kindergartens had levels of 3.7, 4.2, and 5.0 and the hallways next to the bathrooms had readings of 9's and 10's, the highest reading on this machine. In a first grade classroom in P.S. 11, every surface had peeling paint and all the readings were 10's. P.S. 35 kindergarten room 102 had peeling paint near the radiator and the teacher's desk with readings of 10. In my own children's school, P.S. 83, the level of peeling paint over the cafeteria tables was 5.3.

In 1987, our group prepared a position paper on safe school repair procedures which called for the evacuation of children from all work areas, the cessation of food preparation in all work areas, and full clean-up before re-occupancy. We recommended systematic inspection of all schools with the Department of Health and offered parental assistance. We further recommended that a priority list be developed with the worst offenders to be repaired over the summer. We never requested the removal of the leaded paint nor full encapsulation. All our suggestions were reasonable and keep costs in mind. Our answer was basically that custodians would paint the kindergarten rooms and some specific schools were repaired. No systematic inspection or abatement was ever initiated, maintenance continued to be ignored, and now, 6 years later, we're in worse shape than we were then.

As in 1987, but now with greater urgency the community looks to Congress to pass legislation to guarantee environmental safety in schools. We believe that a logical formula would be to divide the universe into a two parts: (1) immediate hazard reduction and (2) long term source reduction. Like AHERA, the existence of lead should be presumed on every non-intact surface. One of the lessons from the samples I took in 1987 is that the consistent findings of lead make the use of a lead presumption a very intelligent cost effective approach to the school remediation. Use of a presumption eliminates the cost of testing and basically calls for routine maintenance which is so often non-existent in our schools.

The second part of the legislation should mandate source reduction beginning with the encapsulation of walls in areas where the youngest children are located and where food is prepared. Window replacement and window sill replacement or encapsulation should also commence in the same priority order.

Both stages of the legislation, creating intact leaded surfaces and creating lead safe surfaces must include safety procedures. I have seen cases where classroom windows were replaced and the children were asked to clean up the dust afterwards. In these cases, the school principals knew that this was dangerous but didn't want to protest for fear of losing the windows.

It is medically proven that smaller particles of lead are more easily absorbed by the body than larger chips. Leaded dust poses the greatest danger to children. No school maintenance of any kind that involves breaking walls should be done with children at the site and no children should be allowed to re-occupy the site until a full clean-up has been completed.

Finncing needs for lead reduction is critical. Children are going to schools that are literally falling down around them. They are being exposed to lead, to large amounts of dust, to asbestos, and to the psychological message that nobody really cares about them. All of these factors endanger our children.

Our communities are calling for immediate legislation, and where money can be recouped, we call for the prosecution of those who have squandered the public school funds and we call for the necessary additional funds to save our children from the debilitating consequences of lead exposure in their public schools.

On behalf of the children, I thank you.

Mr. WAXMAN. I want to thank all of you for your presence here and Ms. Linden, I want to thank you for coming because I know you are dealing with many responsibilities related to the opening of the New York City schools and have many demands on your time. I am glad you appreciate how important it is to confront the issue of lead hazards in the school.

I would like to begin with a question of how regarding the seriousness of the threat of lead hazards in schools, particularly in the pre-K, kindergarten and elementary grades. Dr. Reigart and the last panel indicated that lead is a more serious and immediate risk

to children than asbestos, and I want to ask this panel its views on this.

Dr. Rosen, could you compare the risks of lead with the risks of asbestos?

Mr. ROSEN. There is no question in my mind through all of my training and experience similar to Dr. Reigart's that the danger from lead is serious, severe, and immediate and has the substantive potential for robbing children forever of the basic skills for which they are intended to go to school for those skills to be gradually enhanced.

My understanding of the asbestos issue is that it requires somewhat long-term exposure and relatively high dose exposure for the dire ultimate effects of asbestos to ensue, so in terms of young children, there is no question in my mind that lead should be at the very top of the agenda in terms of providing environmentally safe schools and ensuring the health of children.

Mr. WAXMAN. Ms. Linden, what is your opinion about the risk of lead exposure? Do you agree with Dr. Reigart of the American Academy of Pediatrics and Dr. Rosen that lead is a more serious risk than asbestos?

Ms. LINDEN. I don't want to hold myself out as either a medical or scientific expert. Those aren't my credentials, but what I have learned from those people from the Department of Health, Department of Environmental Protection and of course other independent experts around is that in the sense of measuring a couple different ways the amount of the source material, in this case lead paint versus the amount of asbestos, and the ways in which children can be exposed to it, first of all, we have already done $500 million of abatement of asbestos. That doesn't mean it was all removed.

A lot was encapsulated, but we have moved towards eliminating that. Towards it. I am not saying we are there yet, towards eliminating that hazard and we haven't done, as you have said, anything on lead paint.

So I think in terms of just quantities, the risk is greater. Also the ways in which children can get exposed in terms of the hand-to-mouth activity. They are lower to the ground so they can pick up dust or paint chips or they can take it off radiators or reach windowsills, versus asbestos which is generally a risk if it is airborne fibers, which is—seems somewhat less likely combined with long-term exposure than the issue of lead paint dust which just stays there unless it is cleaned up.

Mr. WAXMAN. Well, you do see that lead is a serious health problem?

Ms. LINDEN. Yes.

Mr. WAXMAN. And I have a copy of your letter to the New York Times, August 1, 1992, where you seem to indicate that leaded fuel emissions and other pollutants were a bigger problem for lead than paint. I assume now you realize that lead paint is more a serious problem.

Dr. Rosen, Ms. Linden said there were about 1,300 children affected by lead in New York City. Do you agree with this estimate? How many children are likely to be injured by lead in New York City?

Mr. ROSEN. The current CDC guidelines defined childhood lead poisoning as a blood lead value equal to or greater than 10 micrograms per deciliter. There are 600,000—approximately 600,000 children in New York City who fall between the ages of 1 to 6.

Based upon national statistics from the U.S. report to Congress in 1988, it is currently estimated that 17 to 20 percent of those children are at great risk for developing blood lead values above 10 which indicates approximately 100,000 to 120,000 children in New York City who are vulnerable to lead poisoning.

So that I think until New York City fully, finally implements the CDC guidelines of 1991, the—without playing numbers games, the exact numbers are unknown, but I would suggest that Ms. Linden's figures are a gross underestimate of the problem in New York City.

Mr. WAXMAN. How do you explain the discrepancy, because New York does the higher figure when they are assessing lead poisoning?

Mr. ROSEN. Well, to my knowledge, the figures that Ms. Linden quoted dated back prior to the switching of lead screening directly to blood lead values when erythrocyte protoporphyrin values were in essence thrown out the window by the CDC because they are an insensitive indices of lead toxicity.

Mr. WAXMAN. She says around 1,300 children and you say what number?

Mr. ROSEN. The 1,300 figure goes back to prior to 1991. At the present time, pending further definitive information and pending the computer setup which was mandated by Governor Cuomo in his State legislation that was passed on April 1 this past year, the current estimate of at risk children is over 100,000.

According to Dr. Andy Goodman of the New York Department of Health at various mayor's committee meetings, the estimate of new cases of childhood lead poisoning above 20 micrograms per deciliter is 10,000 to 15,000 children per year.

Ms. LINDEN. Can I comment?

Mr. WAXMAN. How many would be above 10 micrograms?

Mr. ROSEN. The—again, based upon 600,000 children and 1 out of 5 children nationally being at great risk, there are roughly 100,000 children at considerable risk in New York City for developing childhood lead poisoning.

Ms. LINDEN. May I make a short comment?

Mr. WAXMAN. Ms. Linden.

Ms. LINDEN. The number I quoted was from the Department of Health. In fact it was from Dr. Goodman, but that is a number that refers to reported cases of lead poisoning.

I think the question you are asking and obviously what is of concern here is how many children are at risk and all children are at risk if they are in a lead paint environment. So that number had to do with reported cases. There could be more children out there obviously suffering from——

Mr. WAXMAN. There could be children that are suffering from lead poisoning that are not being reported, not just at risk. And I assume your figures are children who have been harmed by lead, Dr. Rosen, or are you talking about children who are simply at risk of lead poisoning?

Mr. ROSEN. The roughly 100,000 children are, I would say, are at risk, but the number of roughly 1,000 dates back to prior to 1991 when there was a major shift in the CDC guidelines.

Mr. WAXMAN. Ms. Linden, the subcommittee released a report today that estimated that about one out of every six classrooms have lead hazards. The subcommittee report was based on data from the 1991–1992 school year. [See p. 10.]

Your testimony today is based on more recent data, data from the 1992, 1993 school year. It shows that the problem is even worse than the subcommittee estimated. You said that in the spring of 1993 one out of four classrooms in New York City had lead hazards, not one out of six as estimated by the subcommittee. Then that was one out of six that we had according to the standards in the chancellor's task force; is that right?

Ms. LINDEN. We are using the same rating scale, Scorecard ratings haven't changed and what that shows is from one school year to the next, the increased deterioration or damage of the paint surfaces in all our schools and it is continuing to worsen because we don't have the moneys to ameliorate that situation, you know, fix the sources of the damage as well as the damaged surfaces or stop the deterioration.

Mr. WAXMAN. The subcommittee estimated that there are 6,000 to 7,000 rooms with lead hazards. Your testimony is that there are 13,000 rooms. Is that correct?

Ms. LINDEN. That are in buildings built before 1980, yes.

Mr. WAXMAN. Dr. Rosen, what do these figures say to you about the magnitude of the lead hazard in New York City?

Mr. ROSEN. Well, to repeat what I said earlier and I think colleagues on my left and right agree, that the lead hazard in New York City, perhaps being the focus of these hearings, is remarkable, is dangerous, and one could consider it to be a health crisis with young children in New York City if all of us in this room agree that the most critical resource for the future of this country is the health of our children, and I don't think that any shortcuts in remediation, in lead paint repairs, and asbestos repairs are acceptable when it comes to child health.

And I would also add that it is absolutely critical for individuals with public health and child health experience to have input into the Board of Education in New York City. To date, excluding myself, there are other experts who could have provided considerable advice and expertise who have also been excluded by the Board of Education in a very iron-fisted manner.

Mr. WAXMAN. Let me talk about this chancellor's task force. Ms. Linden, that task force on lead was founded last September in response to the lead problems described by Ms. Johann, and you were a member. Its report was completed and sent to your division in June of this year, if not before.

This report indicates that there are thousands of lead hazards in New York City schools. It also contains several recommendations for responding to lead hazards. Did you make the report public when you received it?

Ms. LINDEN. The report was not final. The copy you have, I received a copy from your offices. As it says, draft, is dated June 16th because that was the date of that particular draft and, as you can

see from inside, all the members of the task force needed to give final sign-off and the last sign-off on that version was given on August 2nd, and at that point, we were awaiting the arrival of a new chancellor and it hasn't been made public because the chancellor and the board have to review it and adopt it as policy. It is a set of recommendations to the chancellor.

Mr. WAXMAN. Do you act on its recommendations? For instance, did you initiate a systematic program to assess and abate the hazards in the classrooms identified as having lead problems?

Ms. LINDEN. As I have already stated before, there is no funding to develop and implement all the recommendations of this report in terms of lead paint abatement. We can already assess, based on Scorecard, and the report uses the Scorecard rating system to establish a risk assessment procedure, and that is as far as we can get.

There are measures we have taken with the custodians in terms of cleaning, and this reference to in place management, but given the condition of so many of our classrooms in terms of the paint conditions, there is no question that a remediation program is needed and we don't have the moneys to do that.

Mr. WAXMAN. So even though you got this report before June——

Ms. LINDEN. It hasn't been adopted as policy yet.

Mr. WAXMAN. But you got it and you knew the information in that report. You were waiting for it to become final, but you didn't do anything with respect to that report even though kids were coming back to school in the fall. You took no action and you didn't tell the public or the parents about this report.

Ms. LINDEN. That is not true. They were aware of the creation of the task force and what its role was in developing guidelines in the absence of any Federal, State or local law, and, again, I have explained the size of the problem and there aren't the funds. We are severely funded both on maintenance and——

Mr. WAXMAN. One in four classrooms had a lead problem. Were they——

Ms. LINDEN. They know themselves. That is why Ms. Johann is here. They are very aware. That doesn't mean it is their problem to solve. I am just saying they are aware it is lead paint. That is what they are pushing for.

I commend them for their activities in this area. I hope that we all work together so we can have funding to have a lead abatement program.

Mr. WAXMAN. Let me ask Ms. Johann to respond to that.

Ms. JOHANN. We are a small group of parents from one school and we have in the last number of months obviously, you know, contacted and been contacted by a number of parents outside of our school, and the thing that I see here very seriously is that, in fact, there is a lot of information that has not been gotten out to parents.

In fact, it is blocked. It has consistently been blocked. It is true there was a parent on the chancellor's task force but that was somebody who did not know anything about lead poisoning. I mean, it wasn't Megan Charlop. It wasn't myself. It wasn't anybody who had been through the process of having a lead-poisoned child or a child in a lead poisoning catastrophe situation.

I would think that it would be very important that if school systems such as New York set up protocols, then there has to be something on the Federal level that is a competent agency to which we as parents can refer, because every system throughout this country is going to be very different.

Mr. WAXMAN. But on this report, Ms. Charlop, if you want to say something about it, you knew there was a problem with lead.

Ms. JOHANN. Oh, yes.

Mr. WAXMAN. You started worrying about this problem. Did either of you have a sense of the magnitude of this problem——

Ms. JOHANN. Never.

Mr. WAXMAN [continuing]. That report documents by the Board of Education itself?

Ms. JOHANN. And I think that in a lot of the poorer neighborhoods you have the much more deteriorating schools. So they are getting a second hit. They are getting a hit at home. By a hit, a lifetime burden is being added. More lead poisoning, more accumulation in their blood and parents in those areas, I can tell you, are just waking up.

They don't know, I am telling you, out there in Brooklyn and the Bronx, they are just waking up, and I am glad that they are just waking up, because it is a very, very serious problem.

Mr. WAXMAN. Parents are now being informed.

Ms. JOHANN. Yes, but not on a—not from the school level. They are not being told from a school level at this point.

Mr. WAXMAN. Now, work was being done on asbestos during this period of time. Wouldn't it have been cheaper to do work on asbestos and lead at the same time when you knew there was a real problem with lead and asbestos, and in fact, more of a problem with lead?

Ms. LINDEN. As I have already stated, the Operation Clean House where there is asbestos work going on, to the extent there is any lead paint left on the plaster, it is the plaster that contains asbestos, not the paint. If it does contain asbestos at all, that will be covered through the asbestos abatement procedures and the cleanup—post-abatement cleanup procedures, but not all damaged plaster contains asbestos and there are many, many surfaces—in fact, less than 25 percent of the plaster in the schools so far through Operation Clean House has been shown to contain asbestos.

We are talking about a much more significant number of surfaces that contain leaded paint.

Mr. WAXMAN. Maybe one of the other panelists wants to comment on the question of integrating the abatement of asbestos and lead. Would that have made sense? Would it have been cheaper? Do any of you have any knowledge about that?

Ms. CHARLOP. Well, it always makes sense to do the two things at once because in fact you have to maintain safety protocols in both procedures. So you have to do the work or the place is empty. You can't work and occupy places.

I can't really work in the afternoon and then clean it up in the morning for the next kids to come in. You have to vacate the premises.

So when you go to the extent of vacating the premise and putting the safety protocols in place, you might as well hit the thing at once instead of doing it in two stages. It doesn't make sense to look at the building in component parts.

It makes sense—in building management and school management it makes sense to look with the full system, deal with the full building, get in and get out.

Mr. WAXMAN. Yes, Ms. Johann.

Ms. JOHANN. And another point here is that we have asked to see the protocols that they are using for cleanup of lead. We have asked and we have asked and we have asked and the answer we always get is we will get back to you on that.

When we ask whether there is going to be testing after they abate for the asbestos, they are going to test for asbestos, but they are not going to test for lead, so they will clean up for lead, but they won't test for lead in that same space which is supposedly contained.

So I really have a difficulty about that. In other words, again, we are getting a questionable response.

Ms. CHARLOP. It gets to the place, for example, in our school, where parents are aware of the lead problem. You are almost hoping that your kids have been exposed to asbestos just to get the school remediated. It is too ironic to believe.

Mr. WAXMAN. Well, let me ask you where we are going from here. A lead task force made some simple recommendations and I want to go through them one at a time, and I want to know if and when these are going to be implemented.

You say that—first recommendation is on page 3 of the task force report. It says, and I quote, "The task force recommends that Scorecard ratings for walls and ceilings be reviewed separately and if in a room either the wall or the ceiling should have a Scorecard rating of 2 or higher, that room should be inspected and a full assessment of paint and dust conditions made. Based on the assessment, a hazard reduction plan would be developed and implemented."

Will you be implementing this recommendation, Ms. Linden?

Ms. LINDEN. Again, as soon as the board—I do believe it is a very good report and set of recommendations based on as much information we could gather to develop a rational but effective testing and remediation program.

As soon as the board adopts it as policy, I am sure they will be making a request to the—you know, to various potential funding sources to implement the program. Their adoption of this report as policy, the chancellor's and the board's, will have to come with a funding price tag attached to it.

Mr. WAXMAN. Will you be making a personal recommendation to them?

Ms. LINDEN. Well, I certainly am recommending to the chancellor to adopt this report, which means he will, if he adopts it, will turn it around and recommend it to the board. But in all cases it comes with a price tag, and I am sure you can appreciate the difficult decisions that the Board of Education, who has taken over $1 billion cut in the last 3 years, has to make between textbooks and bricks and mortar and it is not an easy decision.

Obviously any health risk to be a child doesn't have a price tag on it. It is not acceptable, but, again, I emphasize the need to prioritize the varying levels of risk as well as the need for funding. In New York City, the volume is big.

Mr. WAXMAN. If you are going to prioritize, how will that take place? Now you have done that report and it says that one out of four classrooms is a lead hazard. So you have got to do something. You have got to prioritize.

Ms. LINDEN. There is definitions of hazard level 1, hazard level 2.

Mr. WAXMAN. People have been complaining about the problem in a task force, the task force came in with a recommendation. It laid out the hazards, and——

Ms. LINDEN. Right, and it is those hazards that are priorities. So hazard level 3 would be done before hazard level 1. It can't be a simultaneous——

Mr. WAXMAN. The report says any area which requires abatement which cannot be immediately abated should be sealed off from building occupants. Will you be implementing this recommendation?

Ms. LINDEN. Yes. Again, I refer to the priorities of types of grade levels and buildings that are on page 5, if you have the full report there, so it is sort of a matrix, you have to have hazard levels 1, 2, and 3 versus the different kinds of spaces.

So the focus is on, for priority 1s, the pre-kindergarten, kindergarten space or life centers, our day care centers in high schools, certain special education spaces, other special education spaces, and of course any room where the Department of Health has reported to us that a student has a high lead blood level, and it is the crosswalk of these different kinds of spaces, given the age level of the kids.

So a high school classroom would not take priority over an elementary school. The elementary school would take priority over the high school. With limited resources, I can't do both.

Mr. WAXMAN. You say they should take the action immediately. What is your time frame for the recommendation for taking action immediately?

Ms. LINDEN. I can't tell you how quickly our board will adopt this and what funding will be given to it, but as soon as we can do it, I am sure it will be done.

Mr. WAXMAN. May not be immediate?

Ms. LINDEN. If the resources aren't there.

Mr. WAXMAN. The third recommendation says, "If work will be done that could disturb intact lead paints, specific protocols should be followed to prevent the creation of lead hazards."

I believe it was failure to follow this type of recommendation that led to the problems in PS 3 that Ms. Johann testified about. I assume you will be implementing this protocol.

Ms. LINDEN. Yes. That is more specifically a reference to the kind of capital construction work that the school construction authority carries out for us, in particular, window replacements is the kind of work where lead paint can be disturbed around windows while they are being removed, as well as installed.

Also, projects such as drilling into walls for new intercom or public address systems and so on and so forth, and so instead of viewing those just as a new system installation, it also has to be viewed as a lead paint abatement project.

Mr. WAXMAN. The recommendation on page 5 says, "All radiators in prekindergarten and kindergarten rooms should be inspected for damaged paint conditions and a new cover provided as needed." What about this recommendation?

Ms. LINDEN. Yes. We have implemented that already in a few schools and we are doing that, we are using our own shop people to make those radiator covers. We have found radiator covers already with peeling paint that aren't lead paint, but we have a program in place to begin replacing all radiator covers.

Mr. WAXMAN. How many kindergartens and pre-K's have already been taken care of with regard to this?

Ms. LINDEN. I don't know the precise number. It has been dealt with with schools that were undergoing some kind of abatement programs in those rooms or other kinds of construction work.

Mr. WAXMAN. We would like for to you give us that figure for the record.

Ms. LINDEN. I will come back to it.

Mr. WAXMAN. Mr. Towns, I want to recognize you at this time.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Let me begin by saying I applaud you for your efforts to combat lead poisoning. I hope that the testimony that we will hear and have heard, will encourage people all over this Nation to begin to do something about this very serious problem. I cannot emphasize that enough.

This subcommittee and the General Accounting Office have uncovered particularly troubling actions by New York City's Board of Education. As a parent whose children attended the city's schools, I am aware of how painful and frustrating this situation must be for parents of current school children.

I am relieved that they have found an audience before this subcommittee. However, in the current political climate in New York City, I am concerned that these revelations will be misused to smear the mayor of the City of New York. He has already had to step forward and intervene over the asbestos problem in our schools, and has taken criticism for actions by a school board he does not control.

The public schools in New York City are run by the Board of Education, an independent agency outside the jurisdiction of the mayor of the City of New York. In the heat of a political race, these distinctions are sometimes overlooked and sometimes abused. I wanted the school board's independence to be on the record, Mr. Chairman.

I think it is important because this is a very important topic that we are discussing.

I would like to begin by addressing this question to you, Ms. Linden. Can you assure this subcommittee and the parents of New York City school children, that no one will face an increased lead threat because of asbestos removal, that you will test every asbestos school for lead dust and paint problems?

Ms. LINDEN. I have already stated earlier in my testimony that as part of the protocol for Operation Clean House, the asbestos reinspection program going on right now, that in the abatement areas, but only in the abatement areas, the abatement procedures and the cleanup does cover lead paint, and that is written into the protocols. I will be happy to provide you with a copy of that.

Mr. TOWNS. Thank you.

Dr. Rosen, in light of these concerns, what do you feel is necessary to address the lead threat in schools and day care facilities?

Mr. ROSEN. I think first of all, to begin with, which I think is really the taking off point hopefully of the leadership of this committee ask that national legislation is desperately needed to provide very strict protocols that can be followed and should be followed and must be followed by all jurisdictions throughout the United States, so that across the board there are strict protocols which are accepted by CDC, accepted by HUD, that can address in a very definitive and safe manner the permanent removal and permanent safety of lead paint violations in the New York City public school system.

I think this has to be initiated in my own view from a Federal standpoint, and that parents, as they have been empowered in New York City in the recent past, must hold local jurisdictions accountable for seeing to it that Federal legislation is indeed implemented.

Mr. TOWNS. But you really feel that the way to attack it is to do it at the Federal level?

Mr. ROSEN. I don't think there is any way to escape that initiative. It has to come from the top and this is the top.

Mr. TOWNS. Thank you.

Ms. Johann, let me raise this question with you. Your testimony includes some horrific experiences.

Ms. JOHANN. It does. It is.

Mr. TOWNS. I would like to ask you several questions about it. I invite the other panelists, to comment if you feel you want to do so. Clearly there was no clear path for parents to voice their concerns and to shut down dangerous construction work.

Would you advocate a hotline for these concerns with a strong protocol for immediate inspection and protective action?

Ms. JOHANN. Absolutely on maybe an EPA level. One idea that we batted around in our organization was the idea that maybe, like the squads that go in when there is a disaster, an air disaster, that maybe there be an EPA squad that could go out to schools when there is an environmental disaster.

It could be asbestos or lead or another toxin, a health crisis in the school of some sort, a real hotline that parents could use would be an extreme help, no doubt about it.

Mr. TOWNS. Ms. Linden, what would your reaction be to that?

Ms. LINDEN. I agree and obviously am very familiar with Ms. Johann's and PS 3's experiences last year. I don't know whether—the concept is right. Whether it needs to be at the Federal level or not, I don't know.

Both the School Construction Authority and the Board of Education have inspector general offices and maybe in those offices hot lines could be set up so that it is—you know, those are independent offices of those agencies that they work with.

Mr. TOWNS. Yes.

Ms. JOHANN. My feeling is this is going on around the country and some places don't have access, the kind of access—we also had access, don't forget, to some very well-known lead experts that might not be out there in other places, and the technical expertise, we are not going to get from an inspector general's office.

When we call the asbestos hotline in New York right now, we get recorded messages to, you know, what the dangers are and what school is closed and what school is open and that is about it. So I think it has to be—we need a place you can call.

Mr. TOWNS. It has to go further than that.

Ms. JOHANN. Much further with real protocols, and if the New York City school system, and I applaud it for trying to set up some protocols about lead paint, set these up, there has to be sort of a Federal protocol so that the local school system will model it.

It needs to have something that they can look to and say, this is what our model is and how does that stand up to the Federal model. And if there is a variation, it has to be a very specific variation because of unusual circumstances in every school.

New York City is multi-leveled structures, 50 percent of them over 50 years old, and it is a very difficult sort of situation where some of them have been recently renovated. Some of them have not been renovated at all. Some of them are falling down, but out in Albuquerque, N.Mex. it might be a single leveled, very different kind of school but it might have equally difficult problems. It might be old or lots of lead paint or lots of asbestos, but an EPA violation or federally mandated program, a hotline I think would be a terrific idea.

Mr. TOWNS. Ms. Charlop you want to add something to that?

Ms. CHARLOP. I want to add to that without the Federal mandate though, the hotline doesn't really have the punch. The reason we got into this fiasco in New York City, why we spent $500 million on asbestos is we have Federal legislation, we have AHERA legislation.

The mandate—these are self-imposed recommendations but we as parents can't turn to something and say, look, this is what our kids are entitled to. We can go on a moral ground, we can go on a logical ground, but we don't have the tweak in there to take the bite and that is missing.

So a hotline without that—I mean, because be it Albuquerque or be it the Bronx, a safety standard is a safety standard. How you arrive there may be different, but the bottom line in terms of what a classroom should look like for a child, be it a 5-year old, be it a 6-year old, 7-year old, 15-year old, you know, it is a standard set.

Mr. TOWNS. And you feel very strongly that for us to get through the red tape and all delays and everything, that we really need to do something at the Federal level as well?

Ms. JOHANN. Another thought was that maybe the lead investigations or whatever could be tied to the AHERA mapping that we already have in a lot of schools. New York is going to have to come into compliance with AHERA and they are going to have to go back and inspect. Every 6 months schools are supposed to inspect.

If we could set up some sort of prioritization. These classrooms have to be looked at this year, the next classrooms have to be—

I don't know. I can't get into details, but if it was tied into an AHERA map, presuming that it was lead and then presuming that it is not.

Mr. TOWNS. Yes.

Ms. LINDEN. I agree with Susan. The only issue is, it is more an expansion of AHERA. In other words, there is the 6-month resurveys required to monitor where there is known asbestos containing material. It is a visual survey. To the extent we have determined once and for all that plaster doesn't contain asbestos, that material won't otherwise be looked at again.

And so what she is saying would be really to just add those non-asbestos containing walls and ceilings anyway to the resurvey to monitor the changing paint conditions, and while I can tell you our Scorecard system will continue to monitor, I don't think in terms of assurances for the parents and—although I stand by the Scorecard system—assurances for the parents and what is needed to ensure that the monitoring is done right and that there are certified workers doing that like there is for the AHERA program, I do think the idea is a very good one.

Mr. TOWNS. On that note, then, let me ask you a question, Ms. Linden. The report indicates that there are 12 schools as having the greatest threat.

Ms. LINDEN. Those were called the 12—I didn't look back at the old Scorecard report. There is a Scorecard each year—we put out an annual report—and those are not the 12, quote, unquote, most hazardous schools. Those are the schools in the worst conditions. It may be that one of the worst conditions they are in has to do with their paint surface conditions.

So I think that was not a title that we assigned to those schools, that they were the most hazardous, just that they were in the worst condition in terms of cleanliness and physical visual condition that the students and staff see in the classrooms.

That is not to say those buildings don't contain lead paint and that the lead paint condition isn't part of the problem there, but that wasn't an assessment based on paint conditions. That was what is called the overall Scorecard rating. It was based on that particular rating, not the paint ratings.

Mr. TOWNS. Not the paint ratings?

Ms. LINDEN. No. The paint rating is part of the overall appearance rating but there are other things that are taken into account. Most of those schools, I don't think all 12 of them but the majority of them, are undergoing construction, such as Morris High School. One of them on that list, I believe, is PS 4 in the Bronx which through Operation Clean House was determined that—and they did have severe plaster damage as well as paint damage throughout the building. That was one of the buildings found to contain asbestos in the plaster and it is undergoing a full abatement now.

Mr. TOWNS. Well, I am very concerned about this list. I need to share with you that two of the schools are in the district that I represent, so I am very concerned about it. So I would like to know that the school facility and the school board are definitely on top of making the correction.

Ms. LINDEN. Yes. Scorecard is used—as I said, and I think it was quoted in the copy distributed by the subcommittee—I don't have

it in front of me, but that those—it named which schools were undergoing modernization, meaning these conditions would be taken care of.

We use Scorecard to prioritize our limited maintenance funds and so the Scorecard ratings, especially the schools with the worst ratings, are given high priority in our maintenance program.

Mr. TOWNS. This was hit upon earlier, but I am concerned because parents do not understand what is going on, and how do we find a way to begin to communicate better with them? Because you explained it to me, but of course when I read it, I got a different viewpoint altogether, and of course I am certain that the average parent out there would have some questions. So how do we better communicate with them?

Ms. LINDEN. I think communication with parents is one of the greatest problems that we have, meaning we are not doing it as well as we could be.

I think that, for instance, we talked before about this, number of reported lead poisoning cases. Parents don't know, as Susan said before, and unless they get better educated and informed, they still won't know, and they may learn the hard way what some of these health risks are to their children. And to the extent that we as a large school district and school community can help educate the parents through different means, not just written materials, but through the formal channels that parents—you know, reaching out directly to the individual school parent and associations and through the groups that are set up that are parental involvement groups to advise the Chancellor or work with the central board, so not just the individual school level but also the central board, I think that that is very important and it is both through oral exchange as well as written material.

There is a group called the Parents Environmental Steering Committee which has proposed to the Board of Education, as well as City Hall, a concept called an environmental charter, sort of an environmental bill of rights for children, and I know Chancellor Gortenez, as well as myself, think it is a terrific idea.

As part of that, they have proposed some kind of environmental performance evaluation committee, and while I am not sure we agree fully with the detailed suggestions of the makeup of that committee, the idea that there should be some kind of group of independent medical and scientific experts with parents where standards and criteria are established, criteria for assessing risks, such as what we have done in the lead task force report, that that group works with us, so that through that, hand in hand with parents as well as experts that are acceptable to both the board and the parents, I think that can be done, and to the extent there is, therefore, such a group focused on environmental issues in the school.

Lead is a very critical issue, lead poisoning for children, but it is not the only environmental issue in our schools and we have issues with indoor air quality, for instance. We have issues with—which is an issue for the city on the Clean Air Act, the fact that we still have 350 coal-fired plants that has caused the pollutants that are put into the air, cause lung disease and emphysema, and so to have a group that focuses on all environmental issues and can

work with us to help us figure out how to better communicate with parents, you have to start with a group and have that group network with a larger group and so on and so forth.

But with the board trying to help distribute information to all parents, I think that can be done. But it is an important issue but it is not being done to all parents all at once right now and obviously we have to work with the city to do that, too.

Mr. TOWNS. Is it being discussed seriously?

Ms. LINDEN. Oh, yes. I mean, there are parental involvement groups. I don't think they are all happy with all the work that is being done or the amount of communication between parents and the board, but it is certainly being discussed.

As I said, this is a formal proposal from a group of parents which includes parents who have had direct experience with PS 3, Manhattan, the lead paint issues, PS 1, the asbestos issue which led to Operation Clean House, and they have the experience of—of where it doesn't work, and it is through their own experiences that they can help better inform other parents, as well as the board, how better to communicate and how better to do some of what needs to be done. So, yes.

Ms. JOHANN. I would just like to address it in saying that last year one of the most difficult things for us was not being able to have access to the experts for all of the parents. I mean, when we had these meetings, and sitting in the meeting was Dr. Rosen and Dr. Annemarie Crocetti, and parents were not allowed to ask them questions, nor were Dr. Rosen or Dr. Crocetti allowed to ask any questions of the district office people or the people from the Board of Education.

It made for a wall of distrust. That has to be broken down now and we need access to the top people, and if maybe there is a—you know, some sort of a federally mandated board or a group that—but it just—it fell apart.

What can I tell you? It really fell apart. We couldn't seem to get the information out because we were denied the access for the majority of the parents. That is what happened last year.

Mr. TOWNS. Mr. Chairman, I know I have gone way over but I do have one more question. Yes?

Ms. CHARLOP. I just want to say that the state of affairs currently is complete confusion in terms of communication. There was a meeting with the superintendents, 32 superintendents with the Chancellor, and what I understand to have happened is complete confusion.

At this moment, communication is at an all time low. Parents don't know what the heck is going on with their schools. Principals don't know which of their rooms is safe. Superintendents don't know which schools to open up. Talking about confusion and lack of communication, there seems to be a total breakdown at this moment. People are calling me all day long: How do I know? Did it get reinspected? What is going on? Is there a lead problem? Should I send my kid to school?

As you know, it is the middle of the week. We don't even know for sure if school is going to open on Monday because the communication is so bad. The asbestos and the lead in terms of parent

confusion have sort of piggybacked with each other because parents are wondering now is this school safe for me to send my kid.

There is a pressure. We have been 2 weeks late on school. So people would love to send their kids to school. We do like to send our kids to school. As you know, we are big on education in New York and we don't know which is the wisest course. Is the wisest course to throw our kids back in or is it to hold them back home because it is not safe?

The communication is very poor right now. There is a lot of confusion and I think with that comes a lot of hysteria. It just happens as a matter of course because people are frustrated, extremely frustrated with the lack of information that is going on.

Mr. WAXMAN. Would you yield to me?

Mr. TOWNS. I'd be delighted to yield to the chairman.

Mr. WAXMAN. Let me ask you this question. Ms. Linden has indicated they know there is a problem. One out of four classrooms is a lead hazard. They know that children can be poisoned from lead and it could have serious consequences. But they don't have the money to take care of these problems.

Do you think parents ought to be informed that their kids are going to a class where there is a lead hazard to which the children may be exposed and that the school district knows about, but there is not anything going to be done about it in the near future? Is that useful information? Do you think parents ought to be told that or should parents just be kept in the dark about the problem completely? Which choice would you make?

Ms. CHARLOP. Do you want to know if you are dying or if you are not? Yes, parents need to know. They have the right to know and they should know. We all need to know what environment we are sending our kids into. We can see what it is.

Mr. WAXMAN. Could you speak into the microphone?

Ms. CHARLOP. Yes. I mean, by common observation parents are knowing the deplorable conditions their kids are going into. Just in parentheses here, we know the psychological message that it sends our kids and teachers when the kids go into schools that are completely falling apart. It is really a "we really don't care about you" message.

But out of parentheses, what might be missing in the informational step is that not only does it look bad, not only is it a bad message psychologically but it is also a health factor. I would say that might be missing. Should parents know that information? Definitely. Is it going to create more confusion? Yes, it will. We parents are in a quandary as to what to do, what is the right thing for their children.

Mr. WAXMAN. I fully agree with you. The message I hear from Ms. Linden, I understand this message, you feel like you are overwhelmed in New York. You have got so many things to do. It all costs money. You don't have the money. But it seems to me that withholding the information from the parents is wrong because the parents ought to know, one, because it is their kids that are going into these classrooms. Second, because there are some things that can be done to minimize the damage, rather than to simply say, well, we can't deal with the problem in its entirety, we will just not

let anybody know there is a problem and continue to ignore it, and pretend it doesn't exist.

Mr. ROSEN. Could I add on just one afterthought of that? So far the discussion this morning has been focused on the costs of remediating the schools. That is one side of an equation. The other side of the equation is the loss of IQ points, special ed costs, loss of lifetime earnings, grade retention, tutoring, ultimately failure in the workplace, failure to graduate from high school. These are societal costs which, according to at least two cost benefit analyses by EPA, one by CDC, clearly have to be considered in the equation, and in those cost benefit analyses that have been carried out, the benefits of preventing lead poisoning have far outweighed any of the construction costs invested in preventing lead poisoning.

Mr. TOWNS. Let me just ask Ms. Johann another question. You have mentioned elsewhere that you are concerned about the statement on lead poisoning put forth by the Centers for Disease Control. You have suggested mandating that the statement include school aged children and the school environment. Could you elaborate on why you feel this is necessary?

Ms. JOHANN. Well, I think it is a misinterpretation of the CDC guidelines that leads to many, many health departments around the country to focus only on children under 6 years old. Obviously, we can be lead poisoned at many ages, and I am sure that Dr. Rosen would know, you know, what those problems are, but it seems to me that maybe that guideline needs to be officially sort of corrected so that they can't keep making this mistake.

My child is age 9. He was in a situation where the lead dust was extreme and he needed, as all of the 500-some-odd children at PS 3 were, to be monitored on a regular basis after that. Only 60 children, you know, were at all tested and there was no monitoring. After that first test, if they didn't test high and they still went back into that environment, they were not tested again. In other words, they were screened but not monitored. It wasn't ongoing, even though the children were back in the same source of the lead dust.

So that was my point on that. It needs to be sort of officially opened up a little bit, maybe in the CDC guidelines so that it can't be misinterpreted anymore. It is sort of a disingenuous way that the DOH and whatever get around having to do too much more. Does that make sense?

Mr. TOWNS. Yes. Thank you very much. Mr. Chairman, I would like to ask one more question, but I know my time has just really expired and you have been so generous.

Mr. WAXMAN. No limit to my generosity.

Mr. TOWNS. Ms. Linden, you know, I understand the importance of having additional resources and that they need to be able to deal with the entire problem, but I am troubled by several issues that don't need additional resources. One, the school board needs to have standard procedures to evaluate potential lead problems before construction work is done. It doesn't cost any money to do that. Second, there should be established procedures and protocols to protect workers and children and teachers during work. I am horrified at the dust levels that Ms. Johann has testified to; that dust could easily be carried home by anyone at the school, poisoning other family members, including the very youngest children that

they have in the household that are most at risk and others. What is your response to that? These protocols that really don't cost anything, that for some reason we just don't seem to move to correct those kind of things and we just keep talking about the millions and billions that we need.

Ms. LINDEN. The conditions you describe, some of which do cost money. I mean, even if we eliminate through the custodial services, our custodians and their crews in the buildings, what is visible dust through constant mopping, wiping down walls, it doesn't eliminate the condition of the paint, the damaged paint or deteriorated paint that is actually on the walls, and they will constantly, therefore, where paint is flaking, chipping or peeling, constantly send more dust. And there are many conditions in our schools in which even with constant cleaning, a very interim measure and not necessarily in certain conditions a successful measure, can keep up with it. There is remediation needed on the wall surfaces and the ceilings and that does cost money. That is not something the custodians can do.

Mr. TOWNS. My question, though, is in terms of procedures, that doesn't cost a lot of money, having some set——

Ms. LINDEN. Abatement?

Mr. TOWNS. No. Procedures in terms of how this work can be done. That doesn't seem to exist.

Ms. LINDEN. The procedures are established in the task force report. It is implementing them, meaning using any of the—where the combination of the priority—high priority spaces and the hazard levels cross—interface that abatement is needed.

Mr. TOWNS. Let me ask you this: How much would that cost? Because I am having some difficulty following you.

Ms. LINDEN. Well, there is deterioration now, and as you can see from the 1992 versus the 1993 Scorecard ratings, the deterioration continues, and all lead paint surfaces, assuming over time they will be damaged or deteriorate, the total cost to the school system would be $3.5 billion.

Mr. TOWNS. Ms. Johann, do you have any comments on that?

Ms. JOHANN. Well, I don't have the kinds of figures in my head, unfortunately. My question is really about this very issue, has to do with the fact that they are knocking into walls right now and they are abating asbestos, but at the same time, there is no moratorium on that work going on in the schools during the time the school is in session.

Now, they have said they are not going to work from 9 o'clock in the morning until 3 o'clock in the afternoon, but there are lots of after school programs, and they say they are going to work at night and they are going to work over weekends. Lead dust takes 24 hours to settle; asbestos, 90 hours they say because it is a very light fiber. And my worry is that while they are knocking into these walls, how are we knowing that the school is safe the next morning? They are not going to be testing.

I have said before I would trust that if Amy Linden was in the building and if Sandy Frucia from the School Construction Authority were in the building. They would be sure it was done, but right. But there are a lot of construction people who are not as particular and as precise as these people would be and so I have a real con-

cern that there are going to be lead poisoned children because they are abating asbestos and there is no moratorium on that building. And that is my concern.

Mr. WAXMAN. Will you yield to me? I want to just follow up that point. Ms. Linden, you said that while they are doing the asbestos correction, they are following the protocols on lead in order to keep the problem from getting worse.

Ms. LINDEN. Right, in just the abatement area. But an abatement area might not be a whole room, so the damaged—let's say you have four walls in a classroom and only one wall has damaged plaster. That damaged plaster, under Operation Clean House, is now tested positive for asbestos. Then it will be abated and it is on that wall in a contained area where the abatement work and the abatement procedures and the cleanup will be done for both asbestos and the lead paint. The concern I think that is really here——

Mr. WAXMAN. Let me ask you about something specific. In your report, there is what is called Action Level 3, and it says clearance testing will be performed prior to a containment barrier removal. What that means is there is going to be a test to see if there is lead residue and that test is going to be conducted and evidently determined not to be a problem prior to containment barrier removal, which would mean letting the kids back in the classroom. Are you following that particular action level protocol?

Ms. LINDEN. You have to understand that that is where an entire area is undergoing a lead paint abatement and in this case this isn't a lead paint abatement program. This is an asbestos abatement. So if one wall is abated but there was dust on the other side of the room, that doesn't necessarily mean that dust—and that dust was there before they started—that it is caused by the asbestos abatement. They are wet wiping as part of the cleanup, not just the work area but the rest of the room, but you can't test for a whole room when the entire room isn't abated.

Mr. WAXMAN. Let's just talk about whether—where they are doing work on asbestos on a wall. Is that any different than doing lead abatement on that wall? It seems to me——

Ms. LINDEN. Under lead abatement protocols, the entire area would be cleaned; the entire room would be cleaned.

Mr. WAXMAN. You said you are not making the problem worse for lead by virtue of what you are doing for asbestos, is that——

Ms. LINDEN. Right. That doesn't mean the problem isn't there to begin with.

Mr. WAXMAN. I know, but you are not making it worse. If you are chopping up a wall to deal with the asbestos problem, you have got to make sure from that wall that there is not lead——

Ms. LINDEN. That is right.

Mr. WAXMAN [continuing]. Still there in terms of dust or chips?

Ms. LINDEN. Right. And in that contained work area, inside the enclosures for that work area's area, that is what will get cleaned up, but it doesn't speak to the rest of the room, and that is what is part of the issue that they rightfully have.

Mr. WAXMAN. Dr. Rosen, did you want to——

Mr. ROSEN. Well, I have looked at the abatement protocol and it does not follow CDC guidelines for the repair of leaded paint in

that there has to be, after leaded paint is scraped and painted, there has to be a permanent wall board barrier put up, such as sheetrock, Structure-Lite. There are many other materials out there, so that this forms a permanent, durable barrier for all children in a rough and ready school. If this is not done, the first child that hits a tricycle, a pen or a pencil in a fast paint and scrape job is going to dislodge leaded paint.

So that the actual recommendations do not follow current HUD and CDC guidelines, nor are they definitive, sufficiently definitive to protect child health in the long term. It is a very, very short-term measure.

Ms. LINDEN. Could I say something?

Mr. TOWNS. Yes.

Ms. LINDEN. Dr. Rosen is referring to encapsulation, and in the case of asbestos abatement going on now, encapsulation isn't the only form of abatement of a hazard. Removal is another form, and in the case of the abatement going on, the plaster with asbestos that is damaged is being removed. So any lead paint that is sitting on that plaster is also being removed. So it is no longer there. Encapsulation thereby would be redundant in this case.

Mr. WAXMAN. Mr. Towns.

Mr. TOWNS. Thank you very much, Mr. Chairman.

I just want to make myself clear. What I am saying to you, in terms of my earlier question, is it too expensive to warn teachers and workers and parents and children before construction begins?

Ms. LINDEN. No. There are—of course not. There are preconstruction meetings to every job that the School Construction Authority carries out, and that is established procedure with the Teachers Union and with the school. So that can be definitely part of that preconstruction meeting, as well as—and at those meetings, the work plan is established, what worker protection—what is the work, what are the concerns about the work, and what procedures need to be followed, and, so, no. I am sorry. I thought your question before had to do with the actual work to clean up any lead paint that was damaged.

Ms. JOHANN. That information often does not get out to the parents, unfortunately. It may get to the head of PTA but it doesn't always filter down to the child whose classroom it is. And I can talk about that from a personal point of view. They have been much better, I have to say and I have to say it really loudly. They have been much better at PS 3 last year with some work that was done on the roof at our building, which was a lead job, and they really did a very, very good job. Unfortunately, right after that they hired another contractor who destroyed the job of the first contractor, and the playground was completely contaminated again with lead so——

Mr. WAXMAN. You know, I find it hard to accept your answer, Ms. Linden, that you are informing the parents, because until we held this hearing today, none of this had been made public to anybody as far as we know. You were waiting for some sign off or other, but parents weren't informed that there was a lead problem associated with the asbestos removal and I don't think they are really informed of the magnitude that your report indicates, which we released, not you. I don't think they have been informed by you.

They have been informed by us, and you are saying to us, you think parents ought to be informed. Well, I find that a little disingenuous.

Ms. LINDEN. I don't believe I stated before that we were informing parents of the lead hazards. I said I agree they needed to be informed.

Mr. WAXMAN. Who is to inform them, if not you?

Ms. LINDEN. The Board of Education hasn't established what the policies or the risk assessment levels are. We haven't denied that there is lead paint in the schools.

Mr. WAXMAN. You haven't denied it, but for parents to know this information—I mean, you are keeping it secret from the parents if you are waiting for somebody else to tell them because you are the ones who have the information.

Ms. JOHANN. It is an expediency problem. It was the shock of my life, I have to tell you. I am talking the shock of my adult life to find out that my child had been exposed to a major lead hazard and then not to be given the information except by people that we went to and to be constantly seeing that the people I had entrusted my child to for 8 and—sometimes 8 hours a day, because he goes to after school sometimes, that they would constantly balance between expediency and truth and they would choose expediency, and I can't tell you how upsetting and frustrating it is. It is like being told that there are sharks in the water but it is OK to send your child in. It is not OK. If one child gets bitten, it is too much.

Mr. WAXMAN. I absolutely agree with you. And what Ms. Linden just said is parents should be informed, but then who should inform them if not you? And then your answer to that is, well, we haven't figured out yet the protocol on how we inform the parents.

Ms. LINDEN. No, that is not what I said. I said I agreed and that I already commented earlier that communication with the parents wasn't anywhere as good as it could be and that I agreed.

Mr. WAXMAN. That doesn't cost money.

Ms. LINDEN. And I agreed when Congressman Towns said before, does it cost money. I agreed that it didn't and that it should be done.

Mr. WAXMAN. What is going to happen next? Are you going to change? Are you going to inform the parents in New York City about each school and the potential lead hazard in each school?

Ms. LINDEN. The Board of Education itself will deliberate on these matters, I am sure quickly, and decide how best to go about informing all parents of lead poisoning issues and what the conditions are of the schools.

Ms. JOHANN. If all the parents are empowered, then they can do something. They can ask you, they can ask their State people, they can say, we need help, but if they have no information, they are disabled. They are made impotent and there is enough in this system already. There is enough impotency, and it is much worse, let me tell you, when you are talking about places, you know, that are impoverished already, where the educational level is not what it should be, because maybe they are lead poisoned.

Mr. WAXMAN. If I could just continue on this, we have got to look at what Federal legislation would be appropriate. Should we have a Federal law that requires that there be an inspection in schools

and day care centers and that parents be informed of the results of those inspections?

Mr. ROSEN. Absolutely, and with very stringent protocols for lead hazard, inspections and repairs, yes. It is all a package.

Mr. WAXMAN. It is all a package, but first question. Should—and I think it can be answered fairly simply—should we require as a matter of Federal law that schools and some day care centers be inspected and that parents be informed? That is the first thing.

Ms. LINDEN. And I think we all agreed.

Ms. JOHANN. Yes.

Mr. WAXMAN. Dr. Rosen, Ms. Johann.

Ms. JOHANN. Absolutely.

Ms. LINDEN. And I think we all agreed. I recommended before that the whole lead paint program could be established around the same construct as AHERA. AHERA does require parent notification to the parent representative at the school.

Mr. WAXMAN. So you would all support legislation along those lines that would require testing and parents to be informed?

Ms. JOHANN. Absolutely.

Mr. TOWNS. Well, on that note, Mr. Chairman, I want to help right away. Ms. Linden, if you would give me the list in terms of those schools in my district, I would like to get that information, and I could be helpful at least in some communication with those 582,000 people who reside in the 10th Congressional District in Brooklyn. You give me that list, I will at least get it to them. I want to be helpful. I think that is one way to start—with communication, until we can get some legislation on this end. Dr. Rosen.

Mr. ROSEN. There is one other modification or one other concept that I would like to present here, and that is that Ms. Linden and the other representatives of the School Construction Authority and the Board of Education are largely focused on construction and technical details. They are not public health trained individuals, and the top of the agenda here is the public health of children in the schools, and I think perhaps in concert with whatever legislation you may be mulling about, there has to be a medical public health component to this that can provide a framework for safety in the schools and how to safely abate schools so that children are always at the top of the list.

Ms. LINDEN. The School Construction Authority does use, and has a whole industrial hygiene unit which does deal with those issues, and they are the ones who oversee the abatement projects or other work that the School Construction Authority does.

Mr. ROSEN. Industrial hygienists are not M.D.'s in the area of expertise of environmental health in children.

Ms. CHARLOP. Could I just add one thing?

Mr. TOWNS. I have used more than my time and Mr. Chairman, you have been so generous, however, I would like very much for her to comment and then I could just yield back to you.

Ms. CHARLOP. I just wanted to say that that information disclosure for the schools is not exactly analogous to the information disclosure to private property. I know you have that, that we have already passed, and I know you have that fresh on your mind. In fact, where you have a transfer of property, you have different economics. Where you have children's lives and a public institution,

you don't—the disclosure in and of itself doesn't yield the kind of result that is analogous when you have private property transferring, and I just wanted to say that. Just a disclosure without these other components of the safety standards and et cetera isn't really going to give us the kind of tool that we need to safeguard our children in these institutions.

Mr. TOWNS. I yield back, Mr. Chairman.

Mr. WAXMAN. I thank you for that point. This hearing obviously was focused somewhat on New York City, but the problem is not unique to New York City. It seems to me that at the minimum, the Federal Government ought to require that there be this inspection and that parents be informed of the results of the inspection.

By the way, you don't need a Federal law to do that in New York. I assume that you are going to recommend to the board that that would be a wise policy?

Ms. LINDEN. Yes.

Mr. WAXMAN. But I think we do need that Federal law, but that is not enough. It seems to me the first job of a school is not to harm the kids and not to put them in a situation where they are going to be in danger. The irony is especially overwhelming in schools: while we are trying to increase their knowledge and intellectual capabilities to cope with all sorts of problems and information, exposing them to lead diminishes permanently their intellectual capacity. It seems to me the first job is not to do that kind of harm to students.

So I would hope that we can tell schools everything that they must do. I would hope in every community in this country, once a problem is known that parents in the communities will demand that all the appropriate protocols be followed to remedy the situation and protect the children.

I thank you all for being here, coming from New York to talk to us about what is happening in New York City, and I think we have learned a lot at this hearing that will be helpful for us and I hope for New York, too. That concludes our hearing today. We stand adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

[The following statement was submitted:]

STATEMENT OF NATIONAL SCHOOL BOARDS ASSOCIATION

The National School Boards Association speaks on behalf of public education nationwide and represents 97,000 school board members who endeavor daily to provide an excellent public education to every child in the country. School board members are the elected and appointed officials responsible for making the hundreds of difficult choices that balance educational programs against the fiscal realities which they and local voters face. As you know, these choices have become more difficult in the last several years.

School board members run for office to benefit the education of school children. The safety of their own children and the children in their community is a very real concern for these unpaid civic leaders. They do not want anything to harm the health of the children they work so hard to serve. The National School Boards Association supports those school board members and endorses the mission of the current lead bill in the Senate, S. 729, and previous House bills.

One of the school districts' most difficult tasks is to balance the many competing needs of children. These competing needs include the innovations required to educate children for the 21st century, adequate salaries to attract and keep good teachers, and special services for children, such as food and health services, which are precursors to student learning. All of us share the goal of making each school into the perfect educational setting—with all the books, computers, and teachers needed;

with aesthetically pleasing buildings, in excellent repair, and devoid of every potential environmental threat. But this ideal is not the state of America's public education. Instead, each school district must create a system to assign priorities with insufficient and finite funds. consequently school board members must be precise in distinguishing among imminent dangers—guns, hunger, abuse—and potential risks. Priorities are different for each school district.

NSBA's effort last year during the House consideration of a bill to mandate lead testing in schools resulted in an enormous step toward appropriately addressing the problem of childhood lead poisoning. We applaud the balance struck then with the two-tier lead testing requirement: the stringent testing in classrooms used by kindergartners and younger children and the less stringent testing in classrooms used by older children.

We also applaud the use of the State, instead of the local school board, to conduct the actual testing. There are competent professionals in every State who are familiar with environmental risk assessment and management. School board members and school personnel should not become engineers, environmental scientists, industrial hygienists, and risk managers. This is an important lesson learned from the asbestos experience. School board members should not be diverted from managing the educational business of schools.

However, we think there are remaining limitations. NSBA makes the following recommendations: (1) priorities should be set for testing and abatement based on risk; (2) the State should conduct all lead abatement; (3) necessary Federal funding must be available for testing and abatement; (4) steps should be taken to ensure that lead testing and abatement does nct affect the State's maintenance of education funding; and (5) school districts should not be liable, for the testing and abatement it does not control.

In our common effort to ensure that our children are safe from lead poisoning, we must assess those areas where abatement is necessary and will most effectively reduce childhood exposure. In many cases, schools are unlikely to be the highest priority. During children's school age years, they spend less than 10 percent of their time in school.

This point was underscored in a letter written (attached) to the National School Boards Association from the doctor who authored the CDC statement, Preventing Lead Poisoning in Young Children. Dr. Sue Binder, Chief of the Lead Poisoning Prevention Branch, wrote, "As you know, we at the Centers for Disease Control (CDC) emphasize that we must set priorities for identifying and abating those lead hazards that are likely to result in lead exposure in children. We are more concerned about day care centers than schools. . . The letter continues, "The CDC statement . . . emphasizes identification and case management of children less than 72 months old [6 years]; particularly those less than 36 months old [3 years] because of the fact that these young children are most likely to have high blood lead levels. For these children, schools are not likely to be a major source of exposure. . . ."

Experts in the field clearly do not make the case that schools should be a priority for lead testing or abatement. For example, in neither of the two major publications on this subject are schools even mentioned as an area of concern or necessary activity; the publications are the Center for Disease Control's, Preventing Lead Poisoning in Young Children and the Environmental Defense Fund's Report and Proposal for Legislative Action titled, Legacy of Lead America's Continuing Epidemic of Childhood Lead Poisoning.

If the committee determines that schools are a high priority, NSBA has several recommendations. Some of the most significant follow.

Although abatement—removal, encapsulation, or management—was not required in previous lead bills, nevertheless the notification process will create intense pressure to perform abatement. It is disingenuous to suggest that parents can be told that there is lead in their child's school without demanding its abatement.

Lead abatement is extremely costly and requires an understanding of both the environmental hazard and the available abatement procedures. The trained professional in the State environmental department would be most effective in handling the abatement process with a strong role for the school board. With the State's expert scientific advice, the State environment department and the school board could develop a plan to ensure that the timing is appropriate for the school calendar, communication with the parents is complete, and accurate and timely information is available for the media and other interested parties.

Congress must make adequate funds available to those State environment departments to conduct all needed lead testing and abatement. The proposed authorization for lead testing has been reduced from a total of $150 million to $90 million during the last year. The original House bill, H.R. 2840, contained a $30 million annual authorization for each of 5 years. A later House version, H.R. 5730, reduced the

same authorization to 4 years. And now, S. 729 reduces the $30 million per year authorization to 3 years.

Conversely, the cost estimates for lead testing and abatement have not been reduced. The Congressional Budget Office cost estimate for the inspection of lead in the paint and soil in school buildings and grounds is $1,000 to test paint and $3,600 to test soil. Since there are more than 70,000 schools with elementary age children, the total cost is more than $320 million.

In its 1990 report to Congress, the U.S. Department of Housing and Urban Development discussed the abatement of lead-based paint. Their estimate to remove lead paint from small public housing apartments with intact lead paint and high levels of dust ranged from $8,900 to $11,900. This figure does not reflect the cost of abating lead in exterior soils.

The city of Chicago has been proactive in lead paint removal. Chicago was one of the first school districts in the Nation to embark on removal and encapsulation. Naturally there is a wide variation in cost depending upon the work required, but in a single school in Chicago, in which abatement is only two-thirds completed, the cost at that point was $400,000. Even if 10 percent of the 70,000 schools covered needed that level of abatement, the cost to taxpayers would be $3 billion. And that assumes that the other 90 percent of schools needed little or no abatement.

NSBA recommends that there be a separate authorization for day care facilities, so that schools and day care facilities are not pitted against each other for funding. Then the State can use the school funding to set priorities among the schools.

Any lead bill should provide full funding for lead testing. Further, a tripartite funding system—where the Federal Government, the State government, and the local school district all commit themselves to a financial partnership to abate the lead paint—should be established. Otherwise, lead abatement could become a higher priority in the school district than the education of children. Lead testing and abatement would receive all the funding they require, while education programs must make due with what remains.

It is very important to have the States conduct all of the lead testing and all of the abatement that is deemed necessary. Nevertheless, superintendents and school board members have voiced concern that the funding would go to the State, but the actual burden of the mandate would be passed on to the school district. There is also a fear that funding not provided to the States by the Federal Government for the testing and abatement would come from the depleted coffers of the States' funding for education.

The National School Boards Association proposes a Federal grant to States for lead testing and abatement. A condition for receiving the grant would be a maintenance of effort in funding for education, thereby ensuring that the current education funding priority would not be lowered. This concept mirrors the Senate bill's own maintenance of State efforts on lead inspections as a requirement for Federal funds.

If schools do not conduct the testing, they should not be responsible for the civil penalties that flow from a violation. A violation in previous lead bills would subject a school to Federal civil penalties of up to $5,000 per violation. The language of the bill suggests there may be a new violation each day that each school does not comply with every requirement of the section. Such language could have disastrous results. For example, if there is no infrastructure in place to handle lead inspections immediately after a renovation, that is a violation. If a hurricane or other natural disaster strikes, and it's not possible to test for lead in the buildings that are used as schools, that is a $5,000 per day violation. A violation could be the failure to give to a new child at the school the lead-testing report. A violation could be the failure to notice that such a report had been taken from the bulletin board in the teacher's lounge and not replaced for a month; thereby creating a potential $150,000 in school district liability.

Is this how schools should spend taxpayer resources for education? NSBA suggests a showing of bad faith be required for this violation to be imposed and that the daily penalty be reduced substantially.

Most important, the penalty should be against the State, not the school district. The school district cannot be held liable for failing to conduct an inspection it is not responsible for conducting.

The National School Boards Association urges the Energy and Commerce Committee to address these concerns:

A. Priorities should be set for testing and abatement sites based on risk, especially since children spend less than 10 percent of their school age years in school.

B. Lead testing and abatement in the schools should be conducted by the State environmental agency.

C. Sufficient Federal funds for testing and abatement in all schools must be included in the bill, and separate funding should be provided for schools and day care facilities.

D. States should be required to maintain their current educational funding levels as a condition for receiving a Federal grant for testing and abatement.

E. School districts should not be held liable for civil penalties if they do not have the responsibility for conducting the testing.

The National School Boards Association looks forward to working with Representative Waxman and the Subcommittee on Health and the Environment in developing lead legislation.

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