

Testimony of Joellen Lawson in Opposition to Section 6 of An Act Concerning Relief of State Mandates On School Districts, Senate Bill 1142

March 23, 2009

Senator Gaffey, Representative Fleischmann and other members of the Education Committee my name is Joellen Lawson and I am here today to testify in strong opposition to Section 6 of Senate Bill 1142. Section 6 directly undermines the legislative intent of the indoor air quality for schools legislation enacted in 2003.

An Act Concerning Indoor Air Quality in Schools was passed by a nearly unanimous vote. One third of the current members of this Education Committee voted for and/or cosponsored that landmark legislation. We will always be indebted to Senators Gaffey, Fonfara, Boucher, McDonald and Stillman as well as Representatives Fleischmann, Klarides, Lewis, Mikutel and Nafis for their support.

I am speaking to you today as the founder and Honorary President of the Connecticut Foundation for Environmentally Safe Schools (ConnFESS) and as a board member of the Healthy Schools Network, Inc., a national 501(c)3 research, information, education and advocacy organization located in Albany, New York. ConnFESS is a member of the national Coalition for Healthier Schools which is coordinated by the Healthy Schools Network and a statewide nonprofit organization dedicated to promoting policies, practices and resources that protect school children and personnel from preventable environmental health hazards.

ConnFESS was formed in 2002 by parents, educators, health professionals and environmentalists throughout Connecticut whose lives had been irrevocably harmed by school indoor air pollution. In my case, my twenty-three year career as a special educator and educational consultant was ended by health problems medical experts have attributed to exposure to poor air quality in a school. These ongoing health challenges include chronic pain, stamina, balance and vision problems along with a fifty percent loss of lung function.

Since its inception, the primary goal of ConnFESS has been to ensure that effective indoor air quality legislation was enacted and implemented in Connecticut.

Effective policy should advance our efforts to:

1. Guarantee school children and employees a safe environment free of preventable health hazards.
2. Provide school community stakeholders access to accurate and reliable assessments of school facilities.
3. Hold school officials and public agencies accountable for what they do or do not do to maintain safe and healthy school buildings.

Section 6 will not advance our efforts to achieve these goals and actually creates additional barriers by extending the reporting process on the implementation of IAQ programs to every five years.

The original language of PA03-220 required local and regional school districts to adopt and implement an indoor air quality (IAQ) program as well as report annually to the State Department of Education (SDE) on action taken to implement this IAQ program. The State Department of Education was also

assigned the task of adding an indoor air quality section to its then annual report on the condition of CT's public school facilities.

Annual reporting had been deliberately included in PA03-220 to ensure greater compliance and effective implementation of IAQ programs while reinforcing the critical importance of annual walkthroughs and action plans. Annual walkthrough, action plans and reporting encourage:

1. Better Planning as IAQ problems are assessed and prioritized in a timely fashion providing essential input when a school district plans for its capital budget and schedules summer repairs.
2. Improved Communication and Transparency that will build trust and cooperation among parents, school staff, administrators and school facility managers. All school community members have access to an action plan that clearly states how IAQ issues are identified and how/when they will be corrected.
3. Prevention of Health Hazards that protect students and school staff from building related illnesses (such as asthma and hypersensitivity pneumonitis) while enhancing attendance rates, test scores and job performance.
4. More Responsible Fiscal Management as IAQ issues such as moisture incursion and mold contamination are much less expensive when detected and remediated early on.

Delayed and inconsistent reporting encourages:

1. Poor Planning that can contribute to the accelerated deterioration and reduced efficiency of school facilities and equipment.
2. Decreased Communication and Transparency between school officials and the school community. This sets the stage for more liability issues, poor morale, strained relationships and generating negative publicity for schools and school districts.
3. Increased Potential for Short and Long-Term Health Problems for students and staff that can lead to lower test scores, higher absentee rates, more funding for substitute teachers, diminished job performance, lawsuits, disability and workers' compensation claims.
4. A Lack of Vigilance and Compliance with Basic PA03-220 Requirements to adopt, implement and report on actions taken to conduct IAQ programs. This promotes a crisis intervention rather than an ongoing problem-solving approach.

All four of the above consequences of delayed and inconsistent reporting contribute to poor fiscal management, wasted resources and the likelihood that money will not be well spent.

The working group that crafted the legislative language required the State Dept. of Education to incorporate an IAQ section into its School Facilities Survey and annual reports on school facility conditions as a logical way to track compliance with the law. However, they did not anticipate back in 2003 that:

1. In 2006 PA 06-158 would reduce this annual reporting process to every other year. (This was done without a public hearing.)
2. In 2009 a proposed bill would actually suggest extending this process to every five years.
3. Information collected by the School Facilities Survey would need to be divided into categories that distinguish those which need an annual review from those for which a biennial or five year review would suffice. Questions on the School Facilities Survey that ask about the number of desks in a room or the appearance of a school's landscaping do not warrant annual documentation.

Indoor air quality issues and reporting must keep pace with the public's right to know when IAQ problems exist as well as when and whether or not they have been rectified. Requiring reporting every five years does not convey the importance of identifying and remediating potential health hazards in a timely manner.

Testimony at public hearings from 2000-2003 established the statewide problems related to deferred maintenance and a lack of public access to information regarding school IAQ. The practice of cutting building maintenance budgets and postponing repairs had created health hazards, liability issues and increased costs for remediation in the long run. Delayed reporting encourages a return to a mindset that helped cause the sick school epidemic in the first place. Has the testimony of children, parents and teachers adversely affected by poor IAQ presented in March 2003 already been forgotten? Delayed reporting will reinforce complacency rather than ongoing vigilance to maintain healthy and safe school environments. Ultimately, this promotes a crisis management rather than a proactive approach which is especially dangerous during an economic downturn when budgetary decisions tend to become more pennywise and pound foolish.

Nearly six years have passed since PA03-220 was enacted and we still do not have an effective reporting process to track compliance with the law. For many years ConnFESS has diligently attempted to improve the School Facilities Survey and the reports generated from it. (See attached timeline.) We still believe as Senator McKinney wrote in a letter to Commissioner McQuillan in support of our efforts that, "An effective reporting process is central to the overall initiative set out in PA03-220."

Our insistence on an effective reporting system has been confirmed by the experiences of the members of the National Coalition for Healthier Schools and research conducted by the Environmental Law Institute in Washington, D.C. (See attached notes for Tobie Bernstein's presentation from December 2008.)

Rather than further weakening an already ailing reporting process, we ask you, the members of the Education Committee to:

1. Drop Section 6 of Raised Bill 1142.
2. Read the ConnFESS reports on ways to improve the implementation of IAQ legislation in Connecticut. These reports can be found at: <http://pollutionfreeschools.org/connfess/reports/> .
(See page 12 from the 2006 report for a list of ongoing problems.)
3. Reassess:
 - a) The purposes for this reporting process
 - b) The most useful information for the CT General Assembly and the public
 - c) Best ways to collect and use such information
4. Work with ConnFESS and its supporters to put in place an effective reporting mechanism that is accurate, accessible, meaningful, verifiable and current.

Thank you for this opportunity to testify.

Timeline for Reporting Process for PA03-220

1. PA03-220 enacted in July 2003
2. The first ED050 School Facilities Survey to include an IAQ (Indoor Air Quality) section was distributed to local school officials with a filing deadline of October 15, 2003.
3. The first State Dept. of Education report on the condition of school facilities to include an IAQ section based on the ED060 School Facilities Survey was released in December 2004 (1 year and 2 months after filing deadline).
4. ConnFESS informed key legislators before and during 2005 legislative session that 2003 ED050 and the report it generated had numerous problems. Actions taken to implement an IAQ program were not addressed. ConnFESS released first report on the implementation/enforcement of PA03-220 in June 2005.
5. The second ED050 Schools Facilities Survey to include an IAQ section was revised to incorporate questions dealing with actions taken to implement an IAQ program.

In August 2005 ConnFESS was provided a copy of the 2005 ED050 version before it was distributed to local school officials. Although ConnFESS praised improvements in the form, concern was expressed about the wording of question #34 that implied schools did not have to have any IAQ program until 2008. SDE staff disregarded suggestions to reword question #34. Soon after the distribution of the survey, school districts began cancelling previously scheduled Tools for Schools trainings. In March 2006, a letter cosigned by the Commissioners of Education and Public Health had to be sent to local school officials to clarify that all school districts had been required to adopt and implement an IAQ program since 2003.

6. The second SDE report on the condition of school facilities to include an IAQ section was released to the public in March 2006. (The cover of this report is dated December 2005.) This was 1 year and 3 months after the first SDE report in December 2003.
7. In May 2006, PA 06-158, An Act Concerning the Authorization of State Grant Commitment for School Building Projects and Other Construction Provisions was passed. An amendment added to this very lengthy bill does nothing to improve the quality of reports, but changes the annual requirement to other every year. In fact, up to that point reports were released on a biennial and not annual basis. A public hearing was never held to discuss the pros and cons of this change.
8. ConnFESS released a follow up report on the implementation and enforcement of PA03-220 in October 2006. Copies of these reports were distributed to legislators during 2007 legislative session. The report outlined serious flaws in reporting process conducted by the State Dept. of Education as well as recommendations to solve these problems.
9. May 31, 2007 ConnFESS was told that the 2007 ED050 would be distributed to local officials without changes with a filing deadline of July 16, 2007.
10. June 22, 2007 ConnFESS sent a letter requesting a meeting with the Commissioner of Education.

1. The School Facilities Survey section on IAQ does not ask the most pertinent questions needed to determine how well local boards of education are in compliance with the law.
2. SDE staff has not adequately proofread or corrected obvious errors before recording raw data that was used to generate the report to the Education Committee. The 2005 report contained more of these errors and therefore was even more obviously flawed than the 2003 report.
3. A significant number of school officials have not followed directions or were confused by the instructions when filling out the ED050 School Facilities Survey.
4. The overall IAQ criteria used to rate each school remains too vague and subjective to be meaningful. Yet, this questionable score plays a predominant role in the SDE report summary.
5. SDE staff and officials have written and distributed information that misrepresents both the letter and intent of the law. The SDE website still erroneously states "...at this point no school district is required to conduct inspections and evaluations" in the March 2006 report on school building conditions.
6. Biennial reporting of IAQ issues complicates compliance with Section Two mandates scheduled to begin in 2008. Clarification of basic versus comprehensive inspections is needed.
7. Biennial reporting of school IAQ issues does not keep pace with the public's need to know when IAQ issues are identified and corrected. Research shows long term health consequences (development of multiple allergies and lung diseases) can result from short term exposure to poor IAQ.
8. There still is no mechanism for validating or following up on the ratings and reports filed by school officials. Some of these reports are very different from those of teachers and parents.
9. The original language of PA 03-220 still needs to clarify:
 - What an acceptable IAQ program should include or look like
 - By what deadline all schools must have adopted and implemented such a program
 - What recourse the public has if an effective IAQ program is not in place
 - Who is ultimately responsible at the state and local level for guaranteeing an effective IAQ program is in place

Moms and Dads in the Trenches

By Joellen Lawson

My appreciation of the critical importance of indoor air quality evolved from my experiences as a special education teacher at McKinley Elementary School in affluent Fairfield, Ct. In 1991, shortly after joining the staff, I developed a chronic cough, migraine headaches and a burning sensation in my eyes. As time went on I began to experience muscle spasms, tremors and visible hair loss. The doctors I consulted with were unable to pinpoint a cause despite numerous blood tests and X rays. None of us even considered the possibility that my work environment might be involved.

June 1, 1998 my health problems reached a climax. I awoke in the middle of the night drenched in sweat. The room was spinning so violently that my vision was completely blurred. After ten hours of relentless vomiting, diarrhea, vertigo and tremors I ended up in a hospital emergency room. I told the attending physician that I had spent four days removing twenty bags of mold contaminated materials from classroom closets and wondered if there could be a connection. She assured me that the likely culprit was food poisoning or a virus and I would be fine in a few days. Unfortunately, that was over, five years ago and my life has never been the same. Ultimately, I had to accept a disability retirement. It was devastating to abruptly end my twenty-three year career, twenty years ahead of schedule. My anguish would be further compounded a few years later when I realized what happened to me and others was completely preventable.

In October 2000, McKinley was permanently shut down but not before fifty people became ill and two children had to be hospitalized for severe first time asthma attacks directly linked to poor air quality at the school. Eventually testing confirmed that the air quality was such a health hazard that the building had to be dismantled and rebuilt. For years deferred maintenance allowed mycotoxin-producing species of mold to fester at exceedingly high levels.

Since then my case has been documented in peer reviewed medical journals and profiled in regional and national newspapers, magazines and television news programs. Of all of these a National Education Association Today article (Nov. 2001) and CBS Evening News segment received the greatest response. Quickly, I became aware that my case was not isolated as parents and teachers throughout the U.S. contacted me to share similar scenarios, seeking solutions.

In July 2002 the Canary Committee as in "canaries in the coal mine" was formed. The primary goal of this grassroots organization was to push for passage of effective indoor air quality legislation. Previous attempts in CT in 2001 and 2002 had failed as more and more cases of illnesses caused by poor environmental conditions in schools were reported. At that time I contacted CHEC for advice and began a series of ongoing consultations with Maureen Marchetta. In October 2002, I was glad to finally meet her when she served as an eloquent speaker at a public forum we presented at Danbury Hospital.

When I was invited by Claire Barnett (Healthy Schools Network) to attend the first ever U.S. Senate hearing on Healthy High Performance Schools in Washington, I didn't think I could manage such a trip due to financial and health issues. Fortunately through

CHEC I had met Anne Robertson, one of their most dedicated volunteers. She generously offered to provide my transportation and pay for my travel expenses. Due to ongoing problems with my equilibrium and balance I am not able to fly or drive. So Anne drove me to and from the hearing. October 1, 2002 we were privileged to represent the Canary Committee at this hearing presided over by Senators Jim Jeffords and Hillary Clinton.

Later In March 2003 Anne was among the thirty Canary Committee members to testify on behalf of HB6426 at a public hearing in Hartford. Nine courageous children presented compelling accounts of how indoor air pollution in schools had adversely affected their lives. Members from across CT consistently and passionately showed their support via phone calls, e-mails, letters and weekly visits to the legislative office building. Finally, our efforts were rewarded when An Act Concerning the Indoor Air Quality in Schools was passed overwhelmingly in the House (147 to 1) and Senate (35 to 1).

For full text go to:
cga.state.ct.us/2003/act/Pa/2003PA-00220-R00HB-06426-PA.htm

For more information go to:
canarycommittee.com



Anne Robertson, Joellen Lawson, Garyling White, Hillary Clinton, Will, Bill and Judy Sozanski, Claire Barnett at U.S. Senate Hearing in Washington

State Policies Addressing IAQ in Existing School Facilities

Tobie Bernstein
Environmental Law Institute
December 1, 2008

State policies can help ensure that schools employ sound IAQ maintenance and management practices. To be effective, state policies should: set clear requirements, provide resources for implementation, and establish adequate oversight mechanisms. Some state laws and regulations address IAQ in schools by tackling specific pollutants or practices – e.g., exposure to radon, pesticides, or cleaning products. Other laws aim to address IAQ more broadly. Following are some notable examples of laws that take a broader approach to improving IAQ in existing school facilities.

IAQ and School Health/Safety Inspections

Most states already have laws that authorize a state agency to require school health and safety inspections. However, only a small number of states have used this authority to create robust inspection programs and to establish IAQ-specific requirements.

- **Ohio** recently enacted a law requiring *annual school inspections by the local health department*. Regulations under the law set forth specific procedures and requirements, including those relating to IAQ.
- **Washington** has been engaged in a multi-year process to revise and expand its school inspection program, which is carried out by local health agencies.
- **New York** law requires *annual inspections conducted by school districts*. The law establishes certain IAQ-specific criteria and reporting requirements.

IAQ and School Occupational Safety and Health

About half of the states have laws regulating occupational safety and health in public workplaces, including schools. These laws typically authorize state inspections upon employee complaint. Most do not include requirements that relate directly to IAQ in school settings.

- **New Jersey** regulations establish a variety of IAQ-specific maintenance and management requirements for public workplaces, with an emphasis on HVAC and moisture issues.
- **California** regulations also include certain requirements related to HVAC operation and moisture control in public workplaces.

School IAQ Management Plans

One state has approached IAQ in schools broadly by requiring that school districts adopt comprehensive IAQ Management Plans. A few other states have laws that promote (voluntary) IAQ Management Plans or that require plans that are less comprehensive or IAQ-specific.

- **Minnesota** enacted a law requiring that school districts develop an IAQ Management Plan similar to the EPA's *IAQ Tools for Schools* model -- as a condition for receiving annual state capital funding for health and safety improvements.

IAQ and Renovation of Occupied Buildings

A few states have established requirements for addressing a broad range of IAQ issues that may arise during renovation of occupied school facilities.

- **Massachusetts** has adopted regulations that require state-funded construction projects to use pollutant containment procedures consistent with the SMACMA guidelines.
- **New York** also has regulations that set forth certain minimum standards for protecting occupants during construction.

ELI reports and other written materials on state and local IAQ policies are available at: http://www.eli.org/Program_Areas/indoor_environments.cfm. Included in these materials is a Database of State Indoor Air Quality Laws, which is updated annually and which contains a section devoted to IAQ in Schools.



Healthy Schools
Network, Inc.

Guiding Principles of School Environmental Quality

- Every child and school employee has a right to an environmentally safe and healthy learning environment which is clean and in good repair.
- Every child, parent and school employee has a "right to know" about environmental health issues and hazards in their school environment.
- School officials and appropriate public agencies should be held accountable for environmentally safe and healthy school facilities.
- Schools should serve as role models for environmentally responsible behavior.
- Federal, State, local and private sector entities should work together to ensure that resources are used effectively and efficiently to address environmental health and safety conditions.

This message sponsored by participants of the Healthy Schools Network, Inc.



773 Madison Avenue, Albany, NY

Phone: 518-462-0632

Phone: 212-482-0204

www.healthyschools.org



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