

September 27, 2019

Manuel Da Silva, Interim CEO
Schools Development Authority
32 E Front Street
Trenton, NJ 08608

Lamont Repollet, Commissioner
Department of Education
200 Riverview Plaza
Trenton, NJ 08625

Re: Lead Remediation in NJ Schools

Dear Mr. Da Silva and Commissioner Repollet:

Education Law Center (ELC) advocates to enforce the legal rights of New Jersey public school children and serves as counsel to the urban school children in the Abbott v. Burke litigation. On their behalf, we write to bring to your attention the need to make funding immediately available to remediate elevated levels of lead in the water in urban, or “SDA,” district schools and other school buildings across the state.

Recent [news reports](#) on testing completed by districts since 2016 to comply with state regulations indicate that as many as 480 public schools and charter schools found elevated lead levels in water fountains, sink faucets and other water fixtures.

Given the well-known negative health effects of ingesting lead, particularly for children, these elevated levels clearly constitute a health and safety condition that must be addressed by the Department of Education (DOE) and the Schools Development Authority (SDA) under the school facilities construction and improvement program established in the Education Facilities Construction and Financing Act (EFCFA), N.J.S.A. 18A:7G-1 et seq.

In addition to the requirements in EFCFA, under the mandates in the Abbott v. Burke litigation, the State is required to fully fund and provide safe and educationally adequate school facilities for all students in districts classified as “SDA districts” to ensure students in those districts a constitutional “thorough and efficient” education under the Education Clause. EFCFA delegates the responsibility to the DOE and SDA to take appropriate steps in a timely fashion to provide safe, healthy and educationally adequate facilities for students in both SDA and other districts.

Given these basic constitutional and statutory obligations, the DOE and SDA must act whenever hazardous conditions in school facilities pose an imminent threat to the health and safety of students. The reports of elevated lead levels in the water infrastructure in hundreds of schools clearly compels immediate action by the DOE and SDA to fulfill their responsibility to fund and remediate this threat.

Although school construction funding through SDA bond financing under EFCFA has been exhausted -- and there is a pressing need for additional funds -- New Jersey voters in 2018 approved the "Securing Our Children's Future Bond Act," which included \$100 million for school district water infrastructure improvement. This funding is available for the DOE and SDA to quickly establish an initiative, similar to prior emergent projects programs, to solicit applications from districts for remediation of lead in drinking fountains, sinks, bathrooms, other water infrastructure. We, therefore, request that the DOE and SDA immediately issue notice to school districts of the availability of funding and the process to apply for it.

We stand ready to work with the DOE and SDA to take immediate action to put an emergency lead remediation initiative in place and to work with SDA and other school districts in need of funding to reduce and remove lead from the water infrastructure in their school buildings. ELC is currently representing students in the Flint, Michigan, public schools over the impacts of the lead exposure crisis on the students and schools in that community. Thus, we have gained a deep understanding of the immediate threat of lead to the health, well-being, learning development and educational progress of school children exposed to lead at any level, and the actions that can be taken to address and remedy such impacts.

I will be calling your respective offices to request a meeting to discuss this matter, and I look forward to your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "David Sciarra". The signature is fluid and cursive, with a large initial "D" and "S".

David Sciarra, Esq.