

# The ABCs of PCBs:

## What you need to know about PCBs in school buildings

**Kevin Miller, Ph.D.**  
**President, Fuss & O'Neill EnviroScience**  
**Derek Mogck, Esq.**  
**Attorney, Shipman & Goodwin**

For years, school officials planning renovation or demolition projects worried about the discovery of asbestos within a school building. However, recent studies by the federal Environmental Protection Agency show that educational leaders should also be concerned about the possible presence of PCBs.

PCBs, or polychlorinated biphenyls, are a group of man-made chemicals. Until the late 1970s, they were used in a variety of building materials because they are heat- and fire-resistant. When added to caulk, PCBs also made that universal sealant softer and more pliable.

PCBs are a health concern because they may cause cancer or affect the body's immune, hormone, nervous or enzyme systems. Consequently, in 1978 Congress passed the Toxic Substances Control Act (TSCA). Together with related federal regulations, TSCA establishes protocols for managing, remediating and disposing of PCBs and PCB-containing building materials.

Generally, building materials such as

caulk with PCB levels over 50 parts per million ("ppm") must be disposed of at a special facility. Other building materials touching PCB-containing caulk must also

be tested. If those materials have PCB levels over 1 ppm, TSCA requires building owners to also remove and dispose of them.

Therefore, school officials considering the renovation or demolition of a facility built between 1950 and 1978 must consider the potential impact of PCB testing and remediation. This work could require removing a significant amount of building material, increasing a project's cost and extending its schedule.

Predictably, PCBs' presence in schools has prompted lawsuits. The first such case appears to be *Yorktown Central School District v. Monsanto*. Although it settled in June 2009, this case reflects the

type of lawsuit that may proliferate as communities increasingly focus on PCBs in schools.

In Yorktown, a New York school district claimed that chemical manufacturers and suppliers should reimburse its PCB remediation costs. The district also asked the court to order the defendants to defend and pay any judgment entered against the district in any lawsuits brought by employees or students because

of PCBs.

In November 2009, the court dismissed three of the district's claims, but allowed it to pursue several others. The June 2009 settlement's terms are confidential.

School leaders must also anticipate the possible need to defend lawsuits by staff and students concerning PCBs. These claims might allege harm from contact with

PCBs leaching through building components or from a release of PCBs during school renovation projects.

TSCA expressly authorizes individual citizens to bring such lawsuits. These claims could include demands that school officials test for or remediate PCB-contaminated materials. For example, in *Gonzalez v. New York City Department of Education*, a parent used TSCA to sue the New York City's education department and school construction authority. She demanded that the city remediate PCBs discovered in caulk inside her children's school. She withdrew her claims in early 2010 after the defendants agreed to a city-wide testing and remediation program. Like the Yorktown case, however, this lawsuit is likely the first of many so-called private enforcement claims to come. School leaders must therefore be proactive in addressing both the underlying issue of possible PCBs within school buildings and anticipating related litigation.

*Kevin W. Miller, Ph.D. is President of Fuss & O'Neill EnviroScience, LLC. He can be reached at kmiller@FandO.com. Derek Mogck is an attorney at Shipman & Goodwin, LLP. He can be reached at dmogck@goodwin.com.*

### Civil Rights commission releases advisory report

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Below are the recommendations of the committee. They have been submitted to the U.S. Commission on Civil Rights.

- Incentives such as higher salaries or generous retirement plans may help retain teachers. As their numbers increase, other high-quality teachers will join them, improving the support systems for these teachers.
- Local school districts and the State Department of Education (SDE) should establish a rigorous, college-ready program of study for all students and identify exemplar programs to extend to local school districts in order to cultivate a strong district and school culture of belonging through mentoring, extracurricular programming, leadership opportunities, college preparation, and supportive, highly-engaging classroom environments.
- Schools need high-quality district leadership to make progress and thrive. The SDE should explore exemplary leadership preparation programs from across the nation to ensure that certification requirements and educational leadership programming are structured to fully prepare pre-service administrators for positions of leadership. Additionally, school districts should create support structures for school leaders that provide coaching,

feedback, and training according to the Common Core of Learning. Such plans should be comprehensive in design and shared among school districts. The SDE should also explore ways to promote the Superintendent's networks so that leadership practices between and among suburban and urban school districts are more collaborative and less isolating.

- Access to high-quality teachers remains a crucial component of academic success. Quality instruction delivered by competent, motivated teachers invested in their students' success is key to high school graduation, and to students' future success in college, careers, and citizenship. Placing and retaining high-quality teachers in underperforming schools and school districts can improve high school attainment rates.
- Often, urban school districts are not able to retain high-quality teachers. Fatigue and burnout often lead high-quality teachers to flee from these districts for more supportive suburban environments. Therefore, the schools with the greatest challenges are often staffed with the least experienced teachers. The SDE should consider incentives to keep high-quality teachers in these districts. One suggested incentive is

to allow teachers who work in such districts for a period of time to retire earlier. For example, teachers who work at least 10 years in underperforming or troubled schools could retire after 30 instead of 37 years of service.

- There is a correlation between parental involvement in a child's education and scholastic success. The Connecticut SDE should consider approaches to facilitating parental involvement in school governance structures, such as advisory councils and boards of governance. Teachers and administrators should clearly communicate their expectations to parents and students and should encourage open lines of communication with parents. Parents should be actively encouraged to participate at home in their children's growth toward proficiency in reading, writing, and mathematics.
- The Connecticut SDE has made significant progress towards improving its mechanisms for measuring high school graduation rates by adopting the National Governors' Association Compact and implementing a longitudinal data system and a unique student identifier. It should, however, enhance its measures to exercise quality control on the data it receives from school districts to ensure that data is provided consistently across districts.
- English Language Learners (ELL) represent a large and growing part of Connecticut's student population. They are often at a greater risk of failing to complete school than their English-speaking classmates. Connecticut does not have a statewide, comprehensive policy to address the unique needs of ELL students. Therefore, the Connecticut Legislature, Connecticut SDE, and school districts should take steps to ensure that Connecticut teachers are adequately prepared to teach ELL students. Among such measures should be the hiring of more ELL teachers.
- The Connecticut State Board of Education should ensure that GED completion and high school graduation are not treated as equivalent when reporting longitudinal data on student outcomes, and school districts should emphasize to students and their parents that failing to graduate from high school leaves them with fewer opportunities later in life, and that the completion of the GED program does not serve as a substitute for a high school diploma.