

February 14, 2020

To: Dr. Lamont Repollet, Commissioner
New Jersey Department of Education

Re: Proposed Regulations: Securing Our Children's Future - Water Infrastructure

We, the undersigned, request the following changes to the New Jersey Department of Education's (NJDOE) proposed regulations to the Securing Our Children's Future program, as published on December 16, 2019, with specific reference to the portion concerning water infrastructure improvements.

New Jersey's schools need to provide students with clean drinking water, and the funds available through the Securing Our Children's Future program are important to ensure schools have the infrastructure necessary to meet this need. The proposed regulations recognize that younger students are most susceptible to the effects of lead contamination and prioritize elementary schools and those with the highest levels of contamination for funds. The regulations also encourage the use of building-wide, automated flushing systems to remove lead while prohibiting major renovations to remove indoor lead plumbing and work on drinking outlets not cited in the most recent water quality testing reports. Additionally, the proposed regulations discourage the broad application of water filters to address lead in drinking water. These provisions help maximize the impact of the available funds.

In order to ensure environmental justice and to protect children's health, the proposed regulations should be altered to reflect the following:

- **Prioritize funding distribution in environmental justice communities.** Fiscally-stressed communities with a high percentage of children with elevated blood lead levels should receive top priority for funding. The school buildings in many of New Jersey's urban school districts are very old—the average age of these buildings in Newark, for example, is 90 years—and they often contain extensive lead plumbing. These districts typically have severe budget constraints and are likely to rely principally on the state to adequately fund the work required to address lead in drinking water.
- **Specify a process for cost reimbursement.** School districts that previously spent local funds to remediate lead/water contamination should not be eligible for reimbursement until NJDOE verifies that the existing needs of school districts (and particularly those that are fiscally distressed) are adequately addressed.
- **Set and clarify spending caps.** The Department should not adopt a spending cap for individual school buildings without first providing an analysis that demonstrates the impact of the cap on high-need school districts. The department should be required to collect public comments on the proposed cap before adopting it. Alternatively, in fiscally-distressed school districts, spending on high-cost, individual school buildings could be capped if an alternative plan is established between the school district and

NJDOE for those buildings or the Department clarifies how the balance of costs will be addressed.

- **Revisit ineligible costs.** Capital spending to upgrade internal plumbing should be clearly specified as an ineligible cost. (I.e., The proposed regulations indicate that “upgrades to the water system piping within a school building” are ineligible. NJDOE should clarify that that reference means that major indoor plumbing renovations are not eligible.) Sequential testing, a method of testing water to determine the source of lead contamination, has been successfully used in school districts in other states and should be an eligible cost here.

These changes will help ensure that all New Jersey students have access to clean, safe water in their schools. If you have any questions, please contact Gary Brune, Policy Manager (gbrune@njfuture.org).

Sincerely,

Staci Berger, President and Chief Executive Officer, Housing and Community Development Network of New Jersey

Elyse Pivnick, Senior Director of Environmental Health, Isles, Inc.

Ruth Ann Norton, President and Chief Executive Officer, Green and Healthy Homes Initiative

Marie Mascherin, Chief Operating Officer, New Jersey Community Capital

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Elena Peoples, Program Director, East Trenton Collaborative

Peter Kasabach, Executive Director, New Jersey Future

Cc: Catherine R. McCabe, DEP Commissioner

Judith M. Persichilli, DOH Commissioner