

TESTIMONY PROVIDED TO: House Education Committee; Senate Education Committee

BY: Mark Tucker, Superintendent, Caledonia Central Supervisory Union

TOPIC: **Impact of the PCB Source Testing, Mitigation, and Remediation Cost Share on School Districts**

Date: February 28, 2023

Thank you for giving me an opportunity to testify today. My name is Mark Tucker, and I am the Superintendent for Caledonia Central SU. CCSU comprises five districts and seven schools, including the Cabot School, one of the first two schools where airborne PCBs were detected during the Legislature-mandated testing. That happened as a result of testing conducted during July 2022. Some of the people in this room are familiar with the difficulties that befell Cabot School as a result of being a PCB pioneer:

- Summer testing that was conducted with no HVAC systems running in the buildings;
- an initial report of test results that provided us with a test data dump but no immediate clarity on where the problems were;
- a need to close the school gymnasium because the initial airborne testing indicated it was unsafe for children in grades PK-6. We closed the gym for everyone because it wasn't worthwhile trying to explain to a family that their 7th grader could be in the gym but not their 6th grader;
- an subsequent acknowledgement that the initial testing should not have occurred in a stagnant air environment;
- a second round of airborne testing, done in conjunction with source testing, that delivered results that, had they resulted from the July testing, would not have forced us to close the gymnasium to student use in the first place. The cost of this repeat airborne testing was not covered by DEC but was included in the overall cost for the source testing.

Source testing in the gymnasium identified some likely sources of the airborne PCBs. One of those appears to be ceiling paint in the gymnasium that is original to the building's construction in 1971. That finding has caused our assigned engineer to recommend a second round of source testing meant to determine whether any of the ceiling paint has permeated the exposed trusses, the wood slat ceiling material, and perhaps even the roofing material above the ceiling. This last outcome would be discouraging, as we just installed a new roof on the gym in 2017 at a cost of approximately \$225,000.

I don't mention any of this to be critical of our partners at DEC or the engineer they hired to do this work. As frustrating as it has been at times to be on the receiving end of a process being done *to us*, a process that is guided by others, I have come to accept the fact that being a PCB-pioneer means that I had to experience the effects of someone else's learning curve. It's not the process, per se, that has made this difficult. My frustrations stem from communication challenges that we might have predicted given that chemists and engineers speak a very different language from the language we use when we talk to our families, had we had the time to plan for this together. DEC and our assigned engineer have been receptive to our feedback, and I know from my own observations with testing conducted at three of the four other schools in my SU that were flagged for PCB airborne testing, that they are trying hard to speak our language.

I would like to make two key points with you today about the proposed cost share approach to funding PCB remediation:

- First, there is no predictable end point for this process in any given school, which means we are trying to manage a process with no clear scope. Once the testing uncovers actionable levels of airborne PCBs in your school, you are entered into an iterative process that runs until your remediation efforts eliminate all of the PCB-infested materials that are leaching into the air. So far, my experience, drawn from observing the pace of the work, tells me we will be crossing fiscal

years; we have already crossed district budgeting cycles - twice - and we have been unable so far to conduct prudent financial planning around this issue. This is fundamentally why I think the State should be “owning” the solution by paying 100% of the costs and therefore relieving school districts of the uncertainty of costs related to the remediation of PCBs in their buildings.

- Second, and most important, the proposed cost share method for reimbursing school districts for PCB mitigation and remediation, designed as it was to fit within a constrained funding pool, is by its nature inequitable. The recommendation that AOE and DEC submitted to the Legislature calls for a cost share of 80% paid from the remediation fund and 20% paid by the affected District, with some caps on the total amounts available per District, and monies to be paid on a first come, first serve basis until the remediation fund is exhausted. The 80/20 cost share follows the approach for distribution of the \$2.5M Emergency Fund approved by the Emergency Board last fall. It is worth noting here that the cost share imposed by the Emergency Board was a unilateral determination by the Emergency Board, without the benefit of consideration by the full General Assembly. In my opinion that should not be used as the standard by which the larger pool of funds should be allocated.

The proposed reimbursement cost share does not acknowledge the fact that the presence of PCBs in building materials and the requirement to remove them is not constrained by the size or age of the school. There is simply no way to predict on a school-by-school basis how easy or complex the remediation effort will be. Additionally, the proposed reimbursement process is *impact-blind*, by which I mean it doesn't take into account the capacity of any given district to raise the proportional 20% share of the mitigation and remediation costs.

To the first point, it has been eight months since we first learned the Cabot test results, and I still don't know what I have to do to fix the problem. For that matter, I still don't know how bad the problem is. We are now waiting for a second round of source testing in the gymnasium. The first round identified the primary culprit being the paint on the ceiling, which to my knowledge is original to when the gym was built in 1971. The engineer gathered and tested ceiling paint flecks from the gym floor, and the paint has PCBs in it. That first round of source testing, which also included the art room in one of the satellite buildings, was estimated at \$32,286 and came in a few dollars below the estimate. That work plan included retesting of the air in the gymnasium and art classroom under real-world conditions – namely, with normal HVAC systems operating as they do whenever school is in session, and as I mentioned at the beginning, the airborne levels in the gym were below the Immediate Action Level, which allowed us to reopen the gymnasium just before the season turned against us.

Here is where iteration reared its ugly head at Cabot. The discovery of PCBs in the ceiling paint opened a new line of technical inquiry – is it possible that the paint has leached PCBs into the structural components of the roof? That question led to the creation of a second \$17,000 source testing work plan for the gymnasium, which will examine exposed trusses, the wood slat ceiling itself, and also the 5-year old insulation and roofing material installed above the ceiling in 2017. If we are lucky, the structural components are not infested, and we can look at a project to remove or seal the existing paint. If we are not lucky, we could be looking at a major renovation of the roof structure itself. How much any of this will cost is undetermined, but a ballpark guess would be \$50,000 if we're just dealing with the ceiling paint, to several hundred thousands of dollars if we have to remove and replace structural components.

Whatever the outcome of this second round of testing, it is my understanding that we are bound by regulatory guidelines that say we must remediate this summer. We need specific guidance to know what to do – do we seal the existing paint, and if so how, or do we dismantle the ceiling entirely to replace trusses and the ceiling boards? We need to know what to do ASAP if there is any hope of getting this work done this summer.

The costs the District is facing just for source testing were not anticipated when we established the FY23 budget in December 2021. The FY24 budget does not include money for anticipated remediation cost shares because, aside from the fact we don't think there should be a cost share, we have no idea what the remediation costs will be and what our share will be if this 80/20 cost share proposal stands. So, as a practical matter, we are looking at deficit spending in FY23 approaching \$10,000 and deficit spending in FY24 in the tens of thousands if the worst-case analysis proves true. I will say more about the difficulties this presents when I address my second point.

To the second point - **A fixed rate cost share model is by its very nature a violation of basic equity principles.** PCB remediation costs, as I already noted, are blind to the financial capability of any particular school district, and those costs, whatever they turn out to be, will fall more heavily on the smaller, rural school districts that I serve in CCSU.

The challenge is acute in Cabot. Cabot has a long history of difficulties passing school budgets. In my seven years working with Cabot, two years as Special Services Director in Washington Northeast SU (WNESU) and five-plus as Superintendent of WNESU and CCSU, I have only seen one year where the school budget passed on the first vote. Last year it took two votes to pass a budget, the other years it has taken three votes each year. Much of this difficulty has stemmed from resistance in the community to passing budgets that included an Excess Spending Penalty, but the school has reconfigured its operations three times to adjust staffing to levels that would result in an acceptable budget while maintaining programmatic integrity. Many will say that is precisely why there used to be an excess spending penalty, but the net effect of this has been to cause many voters in the town to reflexively vote 'no' at least once in hopes of forcing additional spending cuts, even in years where the homestead tax rate did not go up. My point is that there will be resistance in the Cabot community to any requests for major capital spending to address PCB remediation; the expectation will instead be to "find the money elsewhere" which means cutting staff and other programs that benefit students. That expectation will arise despite the fact that we are utilizing every staff member we have to address the lingering effects of the Covid-19 pandemic. Ironically, as we present budgets to the voters next week, Cabot's frugality, achieved largely by program redesign, and benefitting this year from a slight uptick in enrollment, results in Cabot having the lowest cost-per-equalized-pupil among the five districts in CCSU. It hurts my heart to think that all of this hard work and restructuring may be undone by having to fund PCB remediation costs.

Reflexively, Cabot voters remain laser-focused on homestead tax rate from year to year, and they will want any additional costs related to PCB remediation to come without a proportional increase in their homestead tax rate. **Forcing a small rural community like Cabot to shift instructional money away from kids towards PCB remediation is a clear violation of the basic tenets of equity in education that we all strive to achieve.** Why should the socio-economics of a community determine whether it can remediate PCBs and maintain a strong educational environment, both at the same time?

I have already said that the scope of the PCB problem is dynamic and unpredictable. Once a school is found to have airborne PCBs – at any level – it will be incumbent upon the school to remediate the PCBs at their source until the airborne levels approach zero. I have come to think of this process in terms of "rinse and repeat;" first you find you have airborne PCBs then you identify and remediate the likely source(s), then you test again. If there are still airborne PCBs, you start all over with the source testing and remediation . . . until you've cleaned it all up. Hopefully, if you find yourself in a test and remediate loop, each time the problem gets smaller and smaller . . . but I wouldn't swear that to be the case. The larger point is that the entire process is unpredictable until someone in the DEC or US-EPA says "you're done."

In one sense we have been lucky so far in CCSU – we have test results for four of the five schools scheduled to be tested, and in no case have we faced the need to relocate instructional classrooms. I have spoken of Cabot’s challenge. Source testing at Danville is underway as I speak, with the problem largely isolated to a room containing electrical panels and communications equipment. If the recommendation in that case involves replacement of electrical panels that we already know are beyond their useful life, that is at least an outcome that will add value to and extend the life of part of the building. The testing at Waterford School found no actionable levels of PCBs anywhere in the building; projects to remove and replace old siding, windows and insulation over the past five years probably took care of any PCB materials that might have been in the original construction. And just last Friday, we received test results at Twinfield School that found airborne PCBs in four high school classrooms above the School Action Level but below the Immediate Action Level, so this will not impact instruction in the building. They did find airborne PCBs above the Immediate Action Level in an HVAC “attic” in the building but that attic is accessed rarely, and only by maintenance staff, so again – no impact on instruction. But just as is the case with Cabot, Danville and Twinfield are just entering their own cycle of the unknown, during which time we will be waiting for directions for remediating the PCBs that are the source of the airborne levels. And I expect the same challenges related to unpredictable costs and inability to budget for a share of those costs will apply in Danville and Twinfield, too.

Everything that I have said here about the unpredictability of local costs for PCB remediation applies to the overall State effort, but at exponential levels. I can’t track the progress of this statewide effort, but I hear that 1) the testing is way behind schedule, and 2) about a quarter of those schools that have been tested have some PCB remediation ahead of them. I hope I am wrong, but I’d bet that the \$32M remediation pool will be insufficient to meet the total costs once all of the State’s schools are tested. According to Secretary French, the \$32M fund balance drove the thinking of DEC and AOE when they made their recommendations for allocating the money - they sought a Solomon-like solution in the face of a constrained piece of data. I understand that money came from the Ed Fund surplus, so in a sense the property taxpayers in Vermont have already contributed a share of that \$32M fund. The difficulty that I face out here in the field lies in convincing my local taxpayers, most of whom have a limited understanding of how education funding works, that they should be asked to raise additional money to resolve a problem they didn’t know they had, and that so far as we know has not harmed anyone.

We will address these problems in my schools - we have no choice. I just want to do it in a way that doesn’t do harm to our primary mission - teaching and learning. Every decision we make with the thoughtful guidance of our school boards is made with one aim in mind - how do we maximize our resources for the betterment of the children in our care? As you all work towards a resolution of this financing conundrum, I will leave you with this one last thought: **Our students didn’t put PCBs in the school buildings, and they didn’t tell us to take them out, yet if some communities are forced to solve this problem by taking away funding from our educational mission, it will be our kids who are paying the price.**

Thank you.

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