



STATE OF WASHINGTON  
WASHINGTON STATE BOARD OF HEALTH

*PO Box 47990 • Olympia, Washington 98504-7990*

January 11, 2023

Representative Gerry Pollet  
[Gerry.Pollet@leg.wa.gov](mailto:Gerry.Pollet@leg.wa.gov)

Sent Via Email

Dear Representative Pollet:

Thank you for the rulemaking petition you submitted to the Washington State Board of Health (Board) on December 19, 2022, requesting the Board take action to revise applicable sections of chapter 246-366A WAC, Environmental Health and Safety Standards for Primary and Secondary Schools, to reflect more protective standards for resting and remediation of lead in school drinking water established in E2SHB 1139 (Chapter 154, Laws of 2021).

The Board met on January 9, 2023 and after reviewing and discussing your petition, voted to deny your request, as explained below. The Board shares your desire to update its rules to reflect the latest science and best practices to assure students can learn and thrive in a safe environment. The Board appreciates the leadership you have provided in the legislature to pass E2SHB 1139 (Chapter 154, Laws of 2021) and put in motion needed standards to protect children from lead exposure.

Since the 2009-2011 biennium, the Legislature has put in place budget provisos preventing the Board from implementing any new or amended rules related to school environmental health and safety “until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute.” Because of this, chapter 246-366A WAC is not currently in effect. Based on its interpretation of the budget proviso language, the Board does not believe there is clear direction from the Legislature to allow the Board to revise and implement its rules either in whole or in part. The Board interprets the lack of action by the Legislature to amend or remove the budget proviso as a prohibition of rule revision. This prevents the Board from revising its rules to align with E2SHB 1139. For these reasons, the Board denied your petition for rulemaking.

The Board is confident the specificity of the statute is sufficient to ensure that schools are taking necessary measures to protect children from lead exposure. The Board has been assured by our colleagues at the Department of Health and Office of the Superintendent of Public Instruction that they are working closely with schools to facilitate compliance with the law. The Board is willing to further support these efforts as appropriate.

In addition, the Board is eager to work with you and your colleagues at the Legislature to eliminate or revise the proviso in future operating budgets to allow the Board to update its rules to protect public health in school facilities. The Board feels this action is necessary to revise its rules to guarantee safe and healthy environments for Washington's school populations.

Per RCW 34.05.330, you may appeal the Board's decision to deny your rulemaking petition. An appeal must be made to the Governor within 30 days of the petition denial.

If you require further assistance, please don't hesitate to contact Michelle Davis, Board Executive Director, at (360) 236-4105, or at [Michelle.Davis@sboh.wa.gov](mailto:Michelle.Davis@sboh.wa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Grellner', with a long horizontal flourish extending to the right.

Keith Grellner, Chair