



REGION 5

CHICAGO, IL 60604

JUN 13 2024

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RETURN RECEIPT REQUESTED

Mr. Roy Berlocker, Facilities Director
ACCEL SCHOOLS OHIO LLC
Corporation Service Company
251 Little Falls Drive
Wilmington, Delaware 19808
rberlocker@accelschools.com

Re: **Warning Letter: Notice of Potential Violation(s)**

Dear Mr. Roy Berlocker:

On April 2, 2024, to April 4, 2024, the U.S. Environmental Protection Agency conducted a Toxic Substances Control Act, Asbestos Hazard Emergency Response Act (AHERA) compliance inspection of three ACCEL Charter Schools, also known as ACCEL SCHOOLS OHIO LLC ("Respondent or you"). The following three ACCEL Charter Schools were inspected to determine compliance with the Toxic Substances Control Act, AHERA, 15 U.S.C. §§ 2641-2656, and the Asbestos in Schools Rule, codified at 40 C.F.R. Part 763, Subpart E: (1) Youngstown Academy of Excellence located at 1408 Rigby Street Youngstown, Ohio 44506; (2) Niles Preparatory Academy located at 45 South Chestnut Avenue, Niles, Ohio 44446; and (3) STEAM Academy of Warren located at 261 Elm Road NE, Warren, Ohio 44483.

Information currently available to EPA suggests that Youngstown Academy of Excellence, Niles Preparatory Academy, and STEAM Academy of Warren (collectively known as "the Schools") may be in violation of AHERA. In addition, EPA observed chipping and peeling suspected lead-based paint at the Schools. By this letter, EPA is providing you notice of potential violations and extending to you an opportunity to timely address these potential violations.

EPA requests that you contact us no later than 2 business days from the receipt of this letter by electronic mail addressed to Michael Todd (todd.michael@epa.gov), Sophie Grueterich (Grueterich.sophie@epa.gov), Olivia Bauer (bauer.olivia@epa.gov), and r5lecab@epa.gov to discuss the potential violations and next steps. EPA reserves its right to take additional actions under AHERA without limitation, including issuing an information request, seeking a penalty, and issuing an order.

Respondent is a local education agency in the State of Ohio that owns and manages school buildings that contain asbestos-containing building material (ACBM), suspect or assumed ACBM and suspect lead-based paint. Respondent failed to comply with AHERA's asbestos management plan requirements,

training requirements, recordkeeping requirements, annual notification requirements, periodic surveillance requirements, response action requirements, warning label requirements, and operation and maintenance requirements. Based on the information collected during and after EPA's compliance inspections between April 2-4, 2024, of the Schools under the authority of the Respondent, EPA alleges the following for each of the Schools:

- Respondent failed to designate a person to ensure the requirements of the AHERA regulations are properly implemented and to ensure the designated person has received adequate training to perform his or her duties, in violation of 40 C.F.R. § 763.84(g), including knowledge of:
 - 1) Health effects of asbestos,
 - 2) Detection, identification, and assessment of Asbestos Containing Material (ACM),
 - 3) Options for controlling ACBM,
 - 4) Asbestos management programs, and
 - 5) All applicable federal and state regulations concerning asbestos within schools.
- Respondent failed to notify Respondent's parent, teacher, employee organizations, and relevant organizations in writing, at least once each school year, of the availability of the management plans for the Schools, and failed to include in each management plan a description of the steps taken to notify such organizations and a dated copy of the notification, in violation of 40 C.F.R. § 763.93(g)(4) and 40 C.F.R. § 763.84(f);
- Respondent failed to conduct inspections at the Schools to identify all locations of friable and nonfriable ACBM, in violation of 40 C.F.R. § 763.85(a)(1) and (2);
- Respondent failed to conduct a reinspection of all friable and nonfriable known or assumed ACBM at the Schools that the Respondent leases, owns or otherwise use as a school building, at least once every three years, in violation of 40 C.F.R. § 763.85(b);
- Respondent failed to provide short-term workers who may come in contact with asbestos in the Schools information regarding the location of ACBM and suspect ACBM assumed to be ACM, in violation of 40 C.F.R. § 763.84(d);
- Respondent failed to implement an operations and maintenance (O&M) program when any friable ACBM is present or assumed to be present in a school building that the Respondent leases, owns or otherwise uses as a school building, in violation of 40 C.F.R. § 763.91(a);
- Respondent failed to ensure that all members of its maintenance and custodial staff who may work in a building that contains ACBM receive asbestos awareness training of at least 2 hours, in violation of 40 C.F.R. § 763.92(a)(1);
- Respondent failed to conduct periodic surveillance at least once every six months at the Schools that contain ACBM or are assumed to contain ACBM, in violation of 40 C.F.R. § 763.92(b)(1);
- Respondent failed to maintain in its administrative office a complete and updated copy of the management plan for the Schools under the Respondent's administrative control or direction,

and failed to make the management plans available for inspection to representatives of EPA and the State, the public, including parents, teachers, and other school personnel and their representatives, without cost or restriction, in violation of 40 C.F.R. § 763.93(g)(1) and (2);

- Respondent failed to maintain a complete and updated copy of the management plans in the Schools' administrative office, and failed to make the management plans available for inspection to representatives of EPA; the State; and the public, including parents, teachers, and other school personnel and their representatives, without cost or restriction, in violation of 40 C.F.R. § 763.93(g)(3);
- Respondent failed to include all the items required by 40 C.F.R. § 763.93(e) in each management plan for the Schools, in violation of 40 C.F.R. § 763.93(e);
- Respondent failed to maintain the records required by 40 C.F.R. § 763.94 for the Schools, in violation of 40 C.F.R. § 763.94;
- Respondent failed to attach warning labels immediately adjacent to all friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas (i.e., boiler rooms) and did not contain the language required by 40 C.F.R. § 763.95(c), in violation of 40 C.F.R. § 763.95.

During the inspection of Youngstown Academy of Excellence on April 2-3, 2024, and STEAM Academy of Warren on April 4, 2024, EPA observed Respondent's failure to comply with the following AHERA requirements at both school buildings. EPA's inspection consisted of a visual inspection of all unlocked and accessible areas within the school buildings. The below observations are not meant to be an exhaustive list but only what was observed by EPA during the inspections.

Youngstown Academy of Excellence

- Respondent failed to select and implement in a timely manner the appropriate response actions to protect human health and the environment, in violation of 40 C.F.R. § 763.90, by failing to implement a response action for:
 - Damaged and significantly damaged friable Thermal System Insulation (TSI) ACBM or suspect TSI ACBM;
 - Damaged and significantly damaged friable miscellaneous ACBM or suspect miscellaneous ACBM; and
 - Damaged nonfriable surfacing ACBM or suspect surfacing ACBM.
- Respondent failed to clean all areas of the school building where friable ACBM, damaged or significantly damaged ACBM or friable suspected ACBM assumed to be ACM are present, in accordance with the procedures outlined in 40 C.F.R. § 763.91(c);
- Respondent failed to restrict entry into the areas of a major fiber release (i.e., the falling or dislodging of more than three square feet or linear feet of friable ACBM or suspected ACBM) and post signs to prevent entry into the areas, in violation of 40 C.F.R. § 763.91(f)(2)(i).

STEAM Academy of Warren

- Respondent failed to select and implement in a timely manner the appropriate response actions to protect human health and the environment required by 40 C.F.R. § 763.90, by failing to implement a response action for:
 - Damaged and significantly damaged friable TSI ACBM or suspect TSI ACBM;
 - Damaged and significantly damaged friable miscellaneous ACBM or suspect miscellaneous ACBM; and
 - Damaged nonfriable surfacing ACBM or suspect surfacing ACBM.

- Respondent failed to clean all areas of the school building where friable ACBM, damaged or significantly damaged ACBM or friable suspected ACBM, in accordance with the procedures outlined in 40 C.F.R. § 763.91(c);

- Respondent failed to restrict entry into the area of a major fiber release (i.e., the falling or dislodging of more than three square feet or linear feet of friable ACBM or suspected ACBM) and post signs to prevent entry into the areas, in violation of 40 C.F.R. § 763.91(f)(2)(i).

Actions Requested

In order to ensure compliance, you have 2 business days from the receipt of this letter to contact EPA by electronic mail addressed to Michael Todd (todd.michael@epa.gov), Sophie Grueterich (grueterich.sophie@epa.gov), Olivia Bauer (bauer.olivia@epa.gov), and r5lecab@epa.gov to discuss the potential violations and next steps. If EPA does not receive a response from you within 2 business days of receiving this letter, EPA may consider other enforcement options to ensure Respondent's timely compliance with TSCA and the regulations promulgated thereunder.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Even though EPA may determine, under the criteria provided by 40 C.F.R. § 2.208, that certain information may not be entitled to business confidential treatment, EPA may nevertheless decide that disclosure of this information may constitute an invasion of privacy and, on that basis, may withhold it from disclosure to the general public. Such personal privacy information may include tenant, owner or customer social security numbers, current addresses, or other personal information. It is not necessary for a business confidentiality claim to be made for EPA to withhold personal privacy information. Whether you choose to make a business confidentiality claim or not, please clearly indicate personal privacy information contained in your response so that EPA can evaluate whether the information constitutes an invasion of privacy.

You may not withhold information because you claim it is confidential. However, you may assert a business confidentiality claim covering any part of the submitted information pursuant to the regulations at 40 C.F.R. Part 2, Subpart B. Unless such a confidentiality claim is asserted at the time the required information is submitted, EPA may make the information available to the public without further notice to you. Information subject to a business confidentiality claim may be made available to

the public only to the extent set forth in the above-cited regulations. Any claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b).

Information submitted in your response which is not claimed to be confidential business information (CBI) may be submitted to EPA via email at todd.michael@epa.gov and R5lecab@epa.gov. However, if your response is voluminous or contains large file sizes your response is to be submitted to EPA via the secure managed file transfer system 'GoAnywhere' and you should contact Mr. Michael Todd at 312-886-4843 or by email at todd.michael@epa.gov to request a 'GoAnywhere' file transfer link.

If you are asserting a claim of business confidentiality, your response must be submitted via EPA's [Central Data Exchange \(CDX\)](#) Program Service titled "CSPP: Submissions for Chemical Safety and Pesticide Programs" under the CDX drop-down menu "TSCA Enforcement and Compliance Communications" application. For more information about registering for CDX refer to the CDX [FAQs](#) and [CSPP CDX Registration Guide](#). For additional information regarding CDX and the requirements for making a claim of confidentiality, see Enclosure A and B to this request.

Under Section 14(a) of TSCA, 15 U.S.C. § 2613(a), submitters may claim information submitted to EPA under TSCA as CBI. TSCA CBI claims must be asserted and substantiated concurrently with the submission of the information, except for those types of information exempt under TSCA Section 14(c)(2). There are several procedural requirements that must be followed when asserting CBI claims in TSCA submissions. The authorized official submitting TSCA CBI claims must make several assertions as well as certify that information submitted to substantiate a TSCA CBI claim is true and correct, as required by Sections 14(c)(1)(B) and 14(c)(5) of TSCA, 15 U.S.C. § 2613(c)(1)(B) and (c)(5), and 40 C.F.R. § 2.208. The certification statement in CDX will satisfy these requirements. If a specific chemical identity is claimed as TSCA CBI, a structurally descriptive generic name must be provided. General guidance for what to include in TSCA CBI substantiations, including several sample substantiation templates, are available here: <https://www.epa.gov/tsca-cbi/what-include-cbi-substantiations#substantiationtemplates>.

We may use any information you submit in support of an administrative, civil, or criminal action.

The EPA contact in this matter is Michael Todd. You may call him at (312) 886-4843 or email him at todd.michael@epa.gov, if you have additional questions. For any legal questions, please contact Sophie Grueterich at grueterich.sophie@epa.gov or (312) 353-6481 or Olivia Bauer at bauer.olivia@epa.gov or (312) 886-6436.

Thank you for your prompt attention to these concerns and your cooperation in our efforts to protect human health and the environment.

Sincerely,

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2024.06.13
10:40:19 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Enclosures

Enclosure A: Confidential Business and Personal Privacy Information

Enclosure B: CDX Quick Reference Guide

Enclosure C: Small Business Resource Sheet

cc:

Mr. Roy Berlocker, Senior Director of Procurement and Facilities
ACCEL Schools
rberlocker@accelschools.com

Mr. William Williamson, Facilities Coordinator
ACCEL Schools
wwilliamson@accelschools.com

John Belt, Field Services Section Chief
Ohio Department of Health
John.belt@odh.ohio.gov

Jeff Gerdes, Asbestos Program Supervisor
Ohio Environmental Protection Agency
jeffrey.gerdes@epa.ohio.gov

Erin Bishop, Health Commissioner
City of Youngstown
ebishop@youngstownohio.gov

Ryan Tekac
Mahoning County General Health District
rtekac@mahoninghealth.org

John May, Deputy Health Commissioner
Warren City Health Department
jmay@warren.org

Frank Migliozi
Trumbull County Combined Health District
hemiglio@co.trumbull.oh.us