Public Comments Received January 2023 – April 2025

JLOSC Focused Review: Lead Poisoning Prevention Program

1. Nancy Willing – January 26, 2023.

2. Amy Roe – October 9, 2024.
- a. Childhood Lead Poisoning Prevention Advisory Committee Sunset Review Letter dated October 8, 2024.
- b. Lead-Safe Rental Housing Plan dated December 13, 2023.

3. Fern Goldstein – November 7, 2024.
- a. Letter from Fern Goldstein, President, Learning Disabilities Association of Delaware dated December 1, 2024.

4. Sarah Bucic – December 4, 2024.
- a. Sunset Review Sign on Letter dated December 1, 2024.
- b. Petition for sunset review letter undated.

5. Amy Roe – April 8, 2025.
- a. CLPPAC 2024 Annual Report.
- b. CLPPAC 04.08 JLOSC Comments.

6. Sarah Bucic – April 9, 2025.
- a. Attorney General Opinion No. 25-IB20.
- b. 2025.03.12. – FOIA Response to Petition by Sarah Bucic, et. al.
- c. FOIA Complaint re_JLOSC.

From: Nancy Willing
Sent: Thursday, January 26, 2023 7:40 AM
To: Sunset (Mailbox Resources); Nancy Willing
Subject: Joint Legislative Oversight and Sunset Meeting public comment

ATTN: Joint Legislative Oversight and Sunset Committee

Dear members,

I signed onto a petition from Lead-Free DE that requests an evalutation from this committee on State programs that address childhood lead poisoning. The Civic League for New Castle County also takes this position.

I cannot be in Dover today to stand with Lead-Free Delaware on this issue, but please know these petition signatories are your constituents who need your help. Please consider this request at your meeting today.

Nancy

Nancy Willing
VP and Lobbyist
Civic League for NCC

McAtee, Amanda A (LegHall)

From: Amy Roe <amywroe@gmail.com>
Sent: Wednesday, October 9, 2024 2:04 PM
To: Sunset (Mailbox Resources); DorseyWalker, Sherry (LegHall); Hoffner, Kyra (LegHall); Richardson, Bryant L (LegHall); Gay, Kyle E (LegHall); Huxtable, Russell (LegHall); Pettyjohn, Brian (LegHall); Johnson, Kendra (LegHall); Parker Selby, Stell (LegHall); Collins, Rich G (LegHall); Spiegelman, Jeff (LegHall); Cade, Cerron (OMB); McAtee, Amanda A (LegHall); Kowal, Benjamin V (LegHall)
Cc: Cassell-Carter, Carla M. (OMB); Godfrey, Andrea (OMB); Carling Ryan; Manning, Josette (DHSS); William Bowser
Subject: JLOSC Targeted Review, Childhood Lead Poisoning
Attachments: CLPPAC Sunset Review Letter_2024_10_08.pdf; Lead-Safe Rental Housing Plan.pdf

Dear Rep. Dorsey Walker, Sen. Hoffner, and members of the Joint Legislative Oversight and Sunset Committee,

The Childhood Lead Poisoning Prevention Advisory Committee submits the attached letter for your consideration in your targeted review of childhood lead poisoning prevention. Our letter focuses on the following areas: blood lead screening and testing, safe drinking water in schools, and funding.

We have also attached the Lead Safe Rental Housing Plan (CLPPAC, 2023), which is referenced in the letter, for your convenience.

We look forward to providing any additional information that you may require, and to your analysis.

Confirmation of receipt of this email from your staff would be appreciated.

Thank you,
Amy Roe, Ph.D., Chair
Bill Bowser, Vice-Chair
Childhood Lead Poisoning Prevention Advisory Committee

October 8, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

From: **Childhood Lead Poisoning Prevention Advisory Committee**
Chair: Amy Roe, Ph.D., amywroe@gmail.com
Vice-Chair: Bill Bowser, wbowser@comcast.net

Re: **Childhood Lead Poisoning Prevention Program, Targeted Review**

Cc: Office of Management and Budget
DHSS Secretary Josette Manning

Thank you for the opportunity to provide input into your targeted review of the Childhood Lead Poisoning Prevention Program (the Program), which provides valuable services to Delaware children exposed to lead. The Program is currently undersupported in funds, leading to gaps in intervention for children with lead poisoning.

While we are limiting our comments to the three areas identified for your targeted review (screening, school water, and funding), the committee also believes strongly in the benefits of primary prevention. Lead paint remediation should be performed preemptively in pre-1978 homes in order to avoid additional children being poisoned, as we described in our Lead-Safe Rental Housing Plan, with proposed legislation, that we shared with you in December 2023. Such action will require state funds in addition to those outlined here.

Childhood lead exposure provides numerous cognitive, behavioral, and health impacts that harm a child's ability to succeed in school and in life. Delaware taxpayers are already paying for the costs of lead poisoning in our schools, in healthcare, the workplace, and the legal system. A comprehensive and integrated approach to screening, surveillance, intervention, and prevention is demonstrated to be highly cost-effective. For example, "each dollar invested in lead paint hazard control results in a return of $17-221" in a "conservative estimate" to savings from healthcare costs, special education, and criminal justice, and increases in lifetime earnings (Gould, 2009).

About Lead Poisoning

Lead is a dangerous neurotoxin and childhood lead poisoning is a serious public health issue in Delaware. It is now widely recognized by the global public health community, including the U.S. Centers for Disease Control and Prevention (CDC, 2022), the World Health Organization (WHO, 2023), the American Academy of Pediatrics (AAP, 2016), and the U.S. Preventive Services Task Force (USPSTF, 2019), that there is no safe level of lead in children's blood.

The potential lifelong impacts of lead exposure, including low levels of lead, are described by the AAP (2016) as follows: cognitive deficits, including intellectual deficits, diminished academic abilities, attention deficits, and lower IQ; behavioral problems, including inattention, impulsivity, aggression, hyperactivity, and elevated risk of attention deficit/hyperactivity disorder (ADHD); antisocial behaviors, encompassing conduct disorder, delinquency, and criminal behaviors, including arrests and convictions later in life; reproductive problems, including spontaneous abortion, low birth weight, and reduced growth in children, kidney failure and renal failure; decreased hearing; and cardiovascular effects.

Lead exposure does not always show immediate symptoms, making it difficult for healthcare providers to identify. While lead exposure can present clinical features at lower levels, exposure can also be asymptomatic at higher levels (AAP, 2016; USPSTF, 2019; Wani et. al, 2015). This has necessitated routine universal screening in Delaware's Childhood Lead Poisoning Prevention Act, which since 2021 has required blood lead screening for all children twice by age two: screening at 12 months of age, and again at 24 months of age.

The half-life of lead in blood is short, approximately 40 days, making the narrow window of detection through a blood lead screening or test especially important (Wani et al, 2015: 58, 59). Delays in screening outside the recommended time-frames in the Childhood Lead Poisoning Prevention Act or after a suspected exposure decrease the likelihood that the lead poisoning can be identified and the source of exposure promptly remedied.

While Delaware has not yet published the outcome of Lead Risk Assessments performed in the households of children with blood lead levels at or above the CDC's Blood Lead Reference Value (BLRV) of 3.5 µg/dL, analysis from our neighboring state of Maryland shows that lead paint, including lead dust from deteriorating paint, is the primary source of lead exposure (Maryland Department of Environment, 2020). Lead dust from deteriorated lead paint is also widely recognized in the peer-reviewed

literature as the “major source” of childhood lead poisoning and “the most common pathway of lead exposure” in households in the United States (Needleman, 2004: 218; Garrison and Ashley, 2021).

Other important sources of exposure include contaminated water from lead service lines, leaded fixtures, and premise plumbing; contaminated soil; imported cosmetics; aluminum cookware; consumer products and foods; and various hobbies and occupations of family members who transport lead dust into the home on their clothes, including those that involve firearms, construction, refinishing old furniture, and arts such as stained glass.

The October 2023 the U.S. Food and Drug Administration’s nationwide recall of certain single-serving applesauce pouches, including WanaBana, Weis, and Schnucks Apple Cinnamon Fruit Purée, due to elevated lead levels reveals the importance of rapid public health response to emerging sources of exposure.

Committee Program Review

In January 2024 the Childhood Lead Poisoning Prevention Advisory Committee (Committee) initiated a review of state programs that impact children exposed to lead. This program review has included quarterly reports from the Childhood Lead Poisoning Prevention Program (the Program) and the Lead Based Paint Program in the Division of Public Health (DPH), as well as reports from the DPH Birth to Three Regional Programs, the Renovation, Repair and Painting Program, blood lead screening at public health clinics located at state service centers and the mobile unit, the Division of Medicaid & Medical Assistance, and water sampling in state-funded child care centers by the Department of Education.

While we have not yet completed our program review, we are confident that the information provided here represents a systematic understanding of the services provided and gaps that should be addressed in the three areas identified for the Joint Legislative and Sunset Committee targeted review: blood lead screening and testing, safe drinking water in schools, and funding.

Blood Lead Screening and Testing

Considerable focus in the past five years since the restart of the Committee by the General Assembly in 2019 (HB 89) has been on improving blood lead screening and testing. Screening and testing all Delaware children at the schedule prescribed has benefits. Screening and testing are:

Diagnostic: blood lead screening or testing is the most reliable mechanism to identify children who have elevated blood lead levels and require intervention.

Age-Sensitive: early and repeated screening when children are mobile in the home and engage in hand-to-mouth behaviors is most effective for identifying exposure and improves the ability of the brain to improve some of the long term learning and behavioral effects of lead exposure.

Results in Prevention: screening and testing initiates the process where the source of exposure to lead can be identified and removed, including services provided by the Program, such as case management and Lead Risk Assessment, and the Lead Based Paint Program.

Enables Help: children are eligible for early intervention services through the Birth to Three Regional Programs with a venous blood lead level of 5 µg/dL or above.

Delaware's original Childhood Lead Poisoning Prevention Act, signed in 1994, required universal blood lead screening or testing for all children at 12-months of age. The Act was amended in 2010 (HB 300), which established screening by questionnaire at 24 months of age. Research by the American Academy of Pediatrics (AAP, 2016) and the US Preventive Services Task Force (USPSTF, 2019) determined that questionnaires were unable to capture all of the various areas of lead exposure risk, some of which may not even be known to the parent. Questionnaires were discontinued in Delaware in 2021 (HB 222), and universal blood lead screening or testing for all Delaware children is now required at age 1 and again at age 2, irrespective of risk factors. These new requirements were incorporated into DHSS Regulations 4459A, which also identified the specific age ranges that qualify as a 12-month test and a 24-month test (Delaware Register, August 2023).

In addition, since 1989 all children receiving Medicaid services have been required to have a blood lead screening or test at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program expansion in the Omnibus Budget Reconciliation Act of 1989.

Universal Screening Requirements for Delaware Children

	First Screening or Test	Second Screening or Test
Title 16 Delaware Code Ch 26: Childhood Lead Poisoning Prevention Act	12 months of age	24 months of age
DHSS 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act	9 to 15 months of age	21 to 27 months of age
Medicaid EPSDT Requirements (Bright Futures Guidelines, 2017)	12 months of age	24 months of age

The Childhood Lead Poisoning Prevention Act defines screening and testing as follows:

> Screening: A capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot.
>
> Testing: A venous blood lead test where blood is drawn from a vein.

Confirmatory Testing and Regulatory Consistency: DHSS Regulations 4459A require confirmatory venous tests of all capillary screening results prior to receiving services by the Department of Public Health. Children with a confirmatory venous test ≥ 3.5 µg/dL are therefore eligible for the following services, whereas children who received only capillary screenings are not eligible:

1. Case Management by the Childhood Lead Poisoning Prevention Program
2. Home Risk Assessment to identify the source of exposure
3. Abatement of lead paint hazards by the Lead Based Paint Program
4. Early intervention services through the Birth to Three Regional Programs

The existing requirement for a venous confirmatory test creates a barrier for addressing childhood lead poisoning. Barriers identified by the Committee include:

1. Venous testing is much more difficult for the child, especially for the young children who are required to be screened at ages one and two.
2. Parents are not consistent in taking their children to a laboratory for venous blood draws, even if a healthcare provider writes a prescription, due to various reasons including fear of the blood draw, transportation, and the time required for the test.
3. Lack of awareness of the importance of a confirmatory test, by both parents and healthcare providers.
4. Children who do not have a healthcare provider or do not attend wellcare visits are unlikely to be screened or to receive confirmatory testing.

5. Children without health insurance coverage may confront additional barriers to accessing a healthcare provider or affording the cost of a venous blood lead test.

Instead of requiring a venous blood lead test, the CDC Case Definition for Lead in Blood (CDC, 2023) permits the use of two capillary blood lead screenings performed within 12 weeks of each other to confirm the result. Bringing Delaware policy for confirmatory testing in line with the CDC Case Definition would reduce the medical burden for venous blood lead testing, which is much more difficult for the child and time-consuming for the parent, while maintaining rigor in the method of analysis and confirming the result with federally-approved methods.

Verification of Screening: Since 1994, the Childhood Lead Poisoning Prevention Act has required that child care facilities and public and private nursery schools, preschools, and kindergartens shall require proof of screening for lead poisoning upon admission or continued enrollment.

In August 2022, the Department of Education updated Office of Childcare Licensing regulations and required proof of lead screening by their regulations to conform to the screening requirements of the Childhood Lead Poisoning Prevention Act (934 Regulations for Family and Large Family Child Care Homes, Delaware Register, August 2022).

To assist school nurses with verifying screening, the General Assembly required the Program to share screening data with school nurses in 2023 (HB 227) and blood lead level results in 2024 (HB 401). The Memorandum of Understanding for the implementation of HB 401 is underway, and data transfers are expected to begin by January 2025.

There are challenges to the enforcement of the Childhood Lead Poisoning Prevention Act though the verification of screening by licensed child care facilities and school nurses:

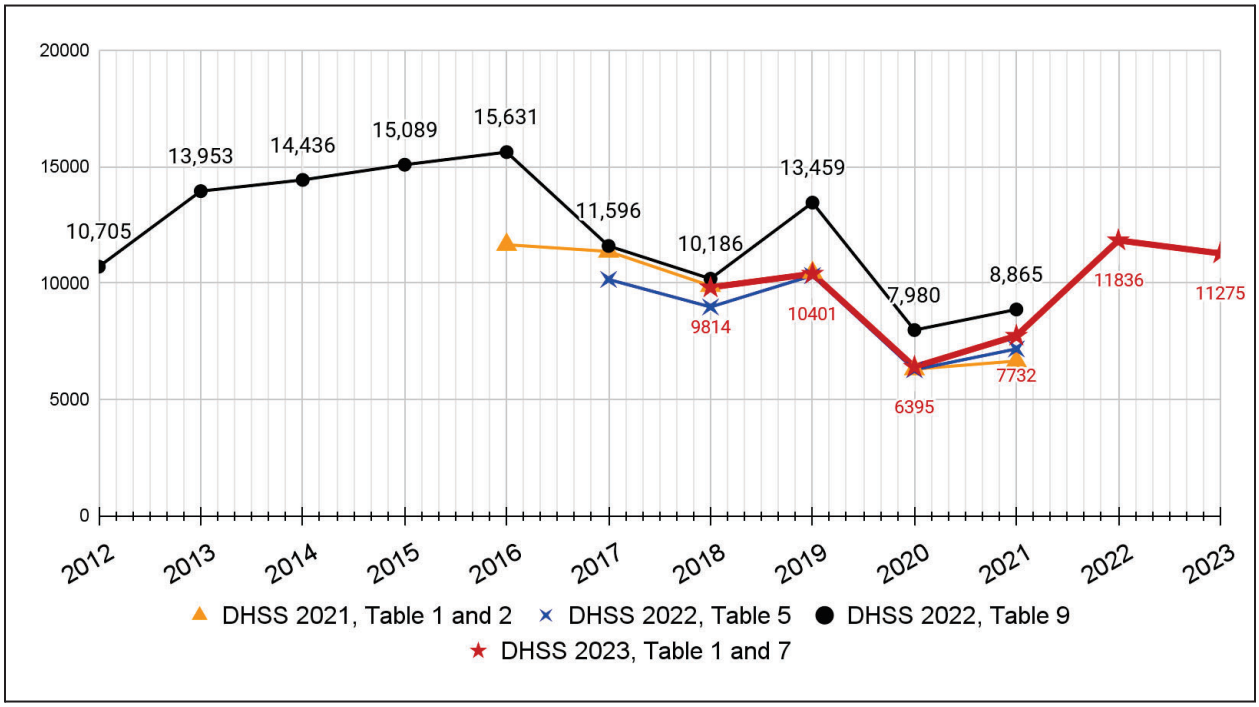
1. Healthcare providers often do not include blood lead screening on medical records submitted for child care or kindergarten enrollment.
2. Child care facilities verify a medical screening that they do not have the ability to perform, and are therefore in the unfortunate position of having to educate healthcare providers of their responsibilities to perform, document, and report the screening.
3. Those licensed child care facilities that do not verify blood lead screening upon enrollment risk losing their license.

4. There are a number of child care facilities that are exempt from licensure, which are listed in Title 14 Admin Code 933 DELACARE: Regulations for Early Care and Education and School-Age Centers § 4.3. There is no verification of screening for exempt facilities.
5. While school nurses had historically been able to contact DPH to request screening information from their database, in January 2023 this practice was discontinued. HB 227 (2023) restored school nurse access to lead screening information directly from DPH, though this process is currently cumbersome.
6. Child cares do not have any direct access to blood lead screening information maintained by DPH.
7. Licensed child care facilities and school nurses are not provided with resources or materials to assist them in the task of verifying screening.

As critical partners in providing for the needs of Delaware children, school nurses and childcare providers deserve robust support. School nurses and childcare facilities need the information necessary to verify screening and, where appropriate, provide care in the school or childcare environment, make referrals to Birth to Three or 619 Programs, recommend nutritional support, collaborate with special education coordinators, and assist children with ongoing or past exposure.

Screening and Testing Rates: Following HB 222 in 2021, DHSS now provides annual reports to the General Assembly, and has published reports for 2021, 2022, and 2023. Screening and testing data reported in these Blood Lead Surveillance Reports (DHSS 2022a, 2022b, and 2023) show that screening and testing **peaked in 2016** with 15,631 children screened or tested.

DHSS Blood Lead Surveillance Reports: Delaware Children who Received a Blood Lead Screening or Test, Birth to Age 6



Data sources: DHSS 2022a, 2022b, and 2023. Data from 2012 to 2022 represent calendar year totals. 2023 data represent Fiscal Year 2023, not calendar year 2023.

The significant decline in blood lead screening following the 2016 peak in screening resulted, in part, from the following challenges:

1. Lack of Program oversight due to the discontinuation of the Committee in 2012 (the Committee was restarted by HB 89 in 2019).
2. Need for funding for education of healthcare providers and parents about screening and testing.
3. The recent COVID-19 pandemic, where children were not attending well-care visits in person and therefore did not have access to point-of-care screening.
4. The Magellan recall of the LeadCare II Analyzer from July 2021 to February 2022, which is the principle method for capillary blood lead screening.
5. Temporary discontinuation of data access to school nurses that enabled them to verify screening in 2023.

The rebound in screening that began in 2022 and 2023 is believed to benefit from:

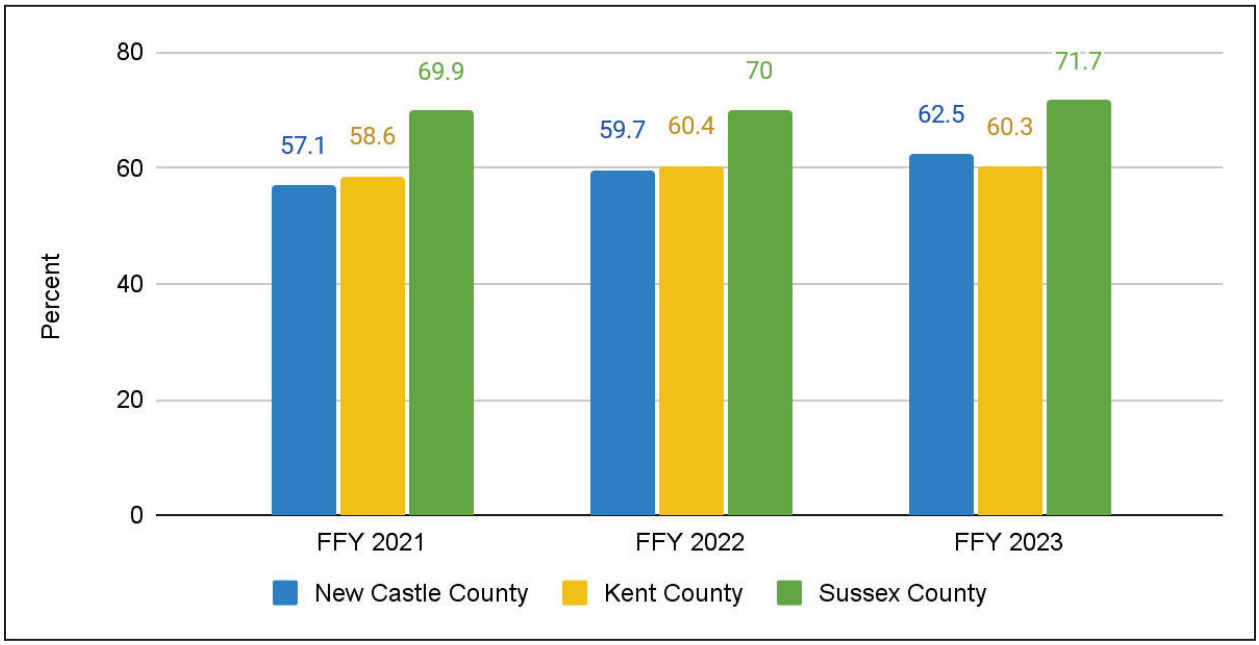
1. Expanded universal screening to all children at age 2, in addition to age one, in 2021 (HB 222).

2. Targeted approach by Delaware MCOs to improve blood lead screening rates for members receiving Medicaid services.
3. Updated regulations by the Office of Childcare Licensing in 2022 that tie screening verification to licensure.
4. The efforts of school nurses to verify screening upon kindergarten enrollment.

All children receiving Medicaid services are also required to receive a blood lead screening or test at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. Delaware's Division of Medicaid and Medical Assistance (DMMA) tracks blood lead screening for children receiving Medicaid services.

Screening rates in Sussex County exceed those of Kent and New Castle County by approximately 10%. Screening rates for children receiving Medicaid services in Delaware are on par with the national average, which from 2008 to 2022 has ranged from 59.4% to 70%.[1]

Blood Lead Screening Rate (Percent) for Children Receiving Medicaid Services by County and Federal Fiscal Year (FFY) 2021-2023.



New Castle, Kent, and Sussex County data: Health-Care Effectiveness Data and Information Set (HEDIS); provided by the Division of Medicaid and Medical Assistance, August 20, 2024.

[1] National average data represent the percentage of children 2 years of age who had one or more capillary or venous lead blood test for lead poisoning by their second birthday; provided by National Committee for Quality Assurance (NCQA, 2024).

DHSS provides capillary blood lead screening through two programs, at Public Health Clinics located in six State Service Centers, two of which are in each county, and through Mobile Units deployed in October 2022 in all three counties.

DHSS Public Health Clinics

New Castle County	Kent County	Sussex County
Hudson State Service Center 501 Ogletown Rd., Newark 302-283-7587	Williams State Service Center 805 River Rd., Dover 302-857-5140	Thurman Adams State Service Center 544 S. Bedford St., Georgetown 302-515-3174
Porter State Service Center 509 W. 8th St., Wilmington 302-777-2860	Milford State Service Center at the Riverwalk 253 NE Front St., Milford 302-424-7140	Anna C. Shipley State Service Center 530 Virginia Ave., Seaford 302-628-6772

While the Mobile Unit is only able to perform capillary blood lead screening using the Magellan LeadCare II analyzers, the Public Health Clinics are also able to refer to Labcorp for a venous blood lead test.

Mobile Units operate typically during business hours on weekdays, though sometimes on evenings and weekends. The location and times of the Mobile Units are not well publicized, though pdf flyers for each week are now posted online.[2]

In March 2024 we requested data from DPH about the number of blood lead screenings performed by the Public Health Clinics and the Mobile Unit, but that data are not yet available to be included here. As a result, the success of the Mobile Unit at performing lead screenings is not something we have been able to determine, though we do believe it would benefit from:

1. Easy to access schedules more than a few days in advance,
2. Expanded partnerships with schools, childcare facilities, community organizations, and special events,
3. Evening and weekend hours, and
4. Greater publicity, including press releases and social media.

Complicating screening is the reliance of some healthcare providers on Filter Paper, which is a controversial screening method[3] currently accepted by the Program, even

[2] https://coronavirus.delaware.gov/vaccine/where-can-i-get-my-vaccine/

[3] Information we received earlier this year directly from the Dr. Matt Karwowski, Chief Medical Officer of the Division of Laboratory Sciences at the National Center for Environmental Health at CDC, informed us that the limitations of filter paper can lead to “false positives (over-reporting), which draws down limited

though it is not approved for blood lead analysis by the FDA or waived under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88), and has been banned in the State of California (CDPH, 2023). From 2019 to 2023, **2486 Delaware children** were screened with Filter Paper. The Program should therefore carefully gauge the negative impacts of using unreliable screening methods if it moves to a federally-recommended confirmation of laboratory analysis (CDC Case Definition for Lead in Blood), especially given that CLIA-waived screening methods are available at the point of care, and pharmacies also have the ability to perform CLIA-waived screenings in Delaware since 2022 (HB 399).

Recent Program Activities: To improve blood lead screening and testing rates, the Program funded a healthcare provider training program that was conducted virtually in October 2023 and successfully applied for a capacity-building grant from HUD in 2024. The program has also more recently begun partnering with Delaware Readiness Teams and the Latin-American Community Center to improve training, education, and outreach.

Challenges and Needs: Efforts should be made to improve statewide blood lead screening and testing to at least 2016 levels in the immediate future. Overcoming barriers to improve screening should be a data-driven process. The Program would benefit from substantial improvements to the following:

> *Data Validation and Surveillance Reporting:* The accuracy and quality of data collected and reported by the Program about childhood lead poisoning would benefit by ongoing oversight by the State Epidemiologist to ensure that best practices for data management and collection are maintained, quality control measures are performed, and reporting is clear and complete. The Committee has requested the assistance of the State Epidemiologist in developing a template for annual Blood Lead Surveillance Reports to ensure they provide the information of interest to the Committee in overseeing programs and advising on policy.
>
> *DELI*: Childhood lead poisoning data are slated to merge into the new Delaware Epi Lab Insight (DELI) data management program in 2025. The use of the current data management tool, Healthy Homes and Lead Poisoning Surveillance System (HHLPSS), has contributed to substantial problems in the ability to track and manage data with the needed level of complexity.

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public health resources, and false negatives (under-reporting), which has the potential to negatively impact patient care".

Data Transfers to DHIN: Due to the lifelong effects of childhood lead poisoning, patient care would benefit from healthcare provider-access to blood lead results throughout a patient's lifetime. DHSS has been collecting lead poisoning data in its universal reporting system since the original Childhood Lead Poisoning Prevention Act went into effect in 1995. Making this blood lead level information available to primary healthcare providers is especially valuable when individuals change healthcare providers or are considering pregnancy or the decision to breastfeed, have broken bones or osteoporosis, or when treating the cardiovascular and physiological effects of lead exposure later in life, which may require followup lead testing in adults.

Enforcement: While the Childhood Lead Poisoning Prevention Act (Title 16 § 2616) enables DHSS to adopt regulations to administer, implement, and enforce the Act, enforcement duties have instead fallen on school nurses and licensed child care facilities. This creates a tremendous burden on already over-extended service-providers, and also contributes to delays in screening, as many children are not screened until they register for kindergarten. Delays in screening can mean years of ongoing lead exposure, which could otherwise be addressed. Delaware should examine alternatives that can assist child cares and school nurses in performing the duties necessary to verify screening, including providing data access to child cares as was recently provided to school nurses (HB 227 in 2023 and HB 401 in 2024), or assuming some of the verification responsibilities directly.

Healthcare Provider Education and Outreach: Healthcare provider education, including the screening and testing requirements and medical care during case management, is critical to reducing the duration of exposure for children with lead poisoning and facilitates prompt recovery to reduce long-term impacts. Complicating treatment, childhood lead poisoning is often subclinical, meaning that no symptoms are shown until it is too late. Ongoing and consistent healthcare provider education and outreach are necessary, including:

1. Prompt notification of changes to regulations, requirements, and product recalls that impact the pediatric healthcare community,
2. Annual trainings on childhood lead poisoning available free of charge,
3. Distribution of materials for use in healthcare provider offices for clinical care and for distribution to families, and
4. Improved coordination between the Program's case management team and healthcare providers beginning at the point of first blood lead screening to detect lead exposure at or above the CDC BLRV (3.5 µg/dL).

Statewide Screening Plan: Delaware would benefit from a Statewide Screening Plan to guide policy and action to improve screening rates. The Committee is in the research phase of developing a Statewide Screening Plan for Delaware to improve childhood blood lead screening and testing in the state. Our efforts involve a careful review of state data, policies, and practices, and an evaluation of best practices from other states and the peer-reviewed literature. To date, our focus has considered the following elements: baseline screening and testing information, screening and testing opportunities, screening barriers, verification of screening, blood lead result validity, screening goals, and children at greatest risk. When our research is complete, which we anticipate will occur in 2025, we would appreciate the opportunity for the Joint Legislative and Sunset Committee to review our plan and potentially assist in its implementation.

Safe Drinking Water in Schools

The safe drinking water in schools issue is a project undertaken by the Department of Education (DOE). In 2020, the DOE was awarded a $209,000 grant from the U.S. Environmental Protection Agency (EPA) for testing lead in drinking water in schools. In 2022, as results began to show concerning levels of lead, and with the encouragement of Committee members and the public, the Department of Education initiated a resampling program using state funds. The EPA advised Delaware to use an action level of 7.5 ppb. Sampling was completed in 2023, and the results of those samples are available on a public data dashboard[4] and are summarized in the DOE Summary Report.[5]

Childcare Water Testing: In 2024 DOE announced they would soon begin water sampling for lead in 50 state-funded child care centers using Water Infrastructure Improvements for the Nation Act (WIIN) grant funds administered by the Environmental Protection Agency (EPA).

As with the 2022-2023 water sampling in public schools, samples will follow the EPA's 3Ts protocols, which require stagnation times of 8-18 hours. Fixtures with results at or above 5 ppb will be immediately shut off and subject to remediation. Remediation options include removal and/or replacement of the fixture or installation of appropriate filtration, and fixtures used for consumption will not be returned to service until additional sampling confirms levels below the 5 ppb action level.

[4] https://data.delaware.gov/stories/s/2023-Lead-in-Drinking-Water-Sampling-Results-Dashb/pc3b-a6j3

[5] https://publichealthalerts.delaware.gov/wp-content/blogs.dir/203/files/sites/203/2023/09/Lead-Sampling-Report-w-attachment-1-REV.pdf

The General Assembly can support safe drinking water in schools with the following:

Funding for Filter First in Schools: DOE has already committed to a Filter First strategy for safe drinking water in schools. The "Filter First" strategy is more effective for addressing lead in water used for drinking and food preparation, instead of a "test and chase" approach. Testing is an unreliable method for detecting lead contamination in drinking water; samples can vary widely from one to another based on water chemistry and temperature, pipe condition, vibrations from nearby roads and construction, and intermittent water flow. The installation and maintenance of certified lead-reducing filters (ANSI 42 and 53) take the guesswork out of water quality and provide an immediate source of safe water for children.

Filter first will take dedicated funding. A comprehensive filter first strategy would involve one filtered drinking water station for each 100 students in public schools, as well as 1 per each pre-kindergarten classroom, school nurses office, and teachers lounge, in addition to filters in kitchen, food lab, and food preparation areas. Filters require maintenance, including replacement, which would be determined by the model selected.

Health-Based Standard: The General Assembly should establish a health-based standard for lead in drinking water. The American Academy of Pediatrics (AAP, 2016) recommends the following:

> *State and local governments should take steps to ensure that water fountains in schools do not exceed water lead concentrations of 1 ppb.*

Monitoring: Long-term monitoring of the drinking water in schools, including sampling and confirmation that filters are changed as required, should be included in the maintenance of drinking water in schools to verify water safety in the future.

Funding for Childhood Lead Poisoning Prevention

State of Delaware Budget: The Delaware General Assembly first allocated state funds for the Childhood Lead Poisoning Prevention Program in FY 2024. Previously, the program operated exclusively on federal grants. In addition, residential lead remediation funds were allocated to the Lead-Based Paint Program, which was established in 2023 (SB 9) for the abatement of housing with lead paint hazards for children with blood lead levels at or above the CDC BLRV (3.5 µg/dL). Budget requests for FY 2024 and FY 2025 were made as "one-time items", indicating a need for a more sustainable, long-term approach to funding.

Fiscal Year	Childhood Lead Poisoning Prevention	Residential Lead Remediation
FY 2024	$924,700	$2,000,000
FY 2025	$1,100,000	$2,500,000

Funding Received through Federal Grants: DHSS also receives funding through federal grants for childhood lead poisoning surveillance, capacity building, and to implement the EPA Renovation, Repair, and Painting Program.

Program	Funding
CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children	$540,000/year
CDC Lead Capacity Building Grant	$1,500,000 over 3 years
EPA Renovation, Repair, and Painting Program	$340,000/year

CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children: provides grant funds for Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children for the monitoring of screening of children for lead poisoning. DHSS has been a grant recipient of these funds since the Program was established in 1995. The current performance period for these funds extends from Fall 2021-2026 with an annual budget of $540,000 and focuses on three strategies: 1) ensure blood lead testing and reporting, 2) ensure blood lead surveillance, and 3) improve linkages of lead-exposed children to recommended sites or services.

HUD Lead Hazard Reduction and Capacity-Building Grant: provides funding for applicants to develop and expand the infrastructure necessary to undertake comprehensive programs to identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing. DHSS's 2024 application was approved and grant funds are expected to be awarded later this year.

EPA Renovation, Repair, and Painting Program: provides funding for the training, certification, and enforcement of renovation, repair, and painting contractors. Contractors that perform work that disturbs lead-based paint,

including the replacement of windows or other home repairs, must be certified by the Division of Public Health.

Additional Federal Grant Opportunities: DHSS does not receive funds from the following federal grants. Successful application of these grants would supplement the state's ability to respond to childhood lead poisoning needs, and DHSS should apply for these funds as soon as feasible.

Children's Health Insurance Program (CHIP): provides funds for lead-abatement activities with an eligible Health Services Initiative (HSI). Nineteen states already have HSI programs approved under CHIP, which are available for lead hazard abatement work under Title XXI of the Social Security Act. Delaware has not yet determined whether it is eligible for these funds.

HUD Lead Hazard Control and Healthy Homes: provides funding for the remediation of lead paint hazards in homes. The last successful DHSS application was for $3,288,728 for the 2014-2017 grant cycle. Using these funds, DHSS completed lead abatement in 952 housing units. DHSS applied on May 5, 2023 but funds were not awarded. DHSS intends to apply again in 2027, following completion of the HUD Lead Hazard Reduction and Capacity-Building Grant. Currently, New Castle County is Delaware's sole grantee.

Housing Units Abated for Lead Hazards in Delaware Using HUD Lead Hazard Control and Healthy Homes Grant Funds

Grant Years	Housing Units Completed	Location
1999-2010	779	Wilmington
2014-2017	173	Kent and Sussex Counties

Additional Annual Funding Needs

The budget allocated in FY 2024 and FY 2025 are insufficient to meet the basic needs of the Childhood Lead Poisoning Prevention Program and the Lead Based Paint Program. Because of improvements in screening rates, and anticipated changes to confirmatory testing, the number of children requiring services is expected to increase. The danger of a waiting list that will backlog programs and overwhelm capacity has the potential to bury the Program in the near future.

In addition to maintaining the existing funding allocated for FY 2024 and 2025, we propose the following as sustainable program funding to meet the program needs:

Program	Funding Request
Case Management	$535,500
Lead Risk Assessments	$542,500
Lead Paint Hazard Control and Abatement	$5,827,500
Filter First in Homes	$35,000
Interim Controls	$188,500
Public Education and Outreach	$250,000
Total	$7,379,000

Case Management: The Program's ability to perform case management is currently underfunded, which has limited its impact. Case managers work with families to bring blood lead levels down, coordinate with healthcare providers for follow-up testing, and make referrals to the Birth to Three Regional Program. Case managers only initiate their involvement when a venous blood lead test confirms a blood lead level at or above the CDC BLRV (3.5 µg/dL). Case managers are not public health nurses, even though they provide health guidance to families with confirmed cases of lead poisoning. Bringing case managers to a higher standard with the use of public health nurses, and expanding case management to all children with a blood lead level result at or above the BLRV, irrespective of confirmatory test, is recommended to ensure that families are receiving appropriate health advice from a healthcare professional, are aware of the health risks of lead poisoning, understand the need for followup screening or testing, and are able to take the steps necessary to bring blood lead levels down, as well as coordinate efforts between the Program and the family and to be a point of contact. Expanding case management to an estimated 700 children per year at **$765 per child** (15 hours/child at a public health nurse's average wage of $51/hour) suggests Delaware should budget **$535,500** for case management.

Lead Risk Assessments (LRA): LRAs cost the program **$1200 each** for the Lead Based Paint Hazard Assessment and **$300 to $400** for water sampling, depending on which contractor is used. Identifying the source of exposure is critical to preventing longer-term damage to the child and other members of the household, and the Program is required by SB 9 (2023) to perform a LRA for all children with a blood lead level at or above the CDC's BLRV (3.5 µg/dL) that live in housing built prior to 1978. Because screening and testing rates are improving, and the State is taking steps to adopt the CDC Case Definition for confirmation of results, the number of households identified

who may need a LRA may also increase. The State of Delaware should prepare for the need to perform 350 LRAs per year in the near future, and should therefore budget **$542,500**.

Lead Paint Hazard Control and Abatement: Delaware does not yet have baseline information on the cost of lead hazard control and abatement, making it difficult to predict how much is needed. Costs from nearby Baltimore show that "per unit cost for lead hazard control work is between $10,000 and $17,000, and the per-unit cost of abatement is between $30,000 and $50,000 (Scrivener, 2022: 10). Delaware should prepare for a conservative estimate of **$17,000 per unit** for an approximate 315 units, as well as an additional **$1500 per unit** for relocation during abatement required by SB 9 (2023), and should therefore budget **$5,827,500**.

Filter First in Homes: The Program has identified the health-based standard of 1 ppb recommended by the American Academy of Pediatrics (AAP 2016) as the target for lead in water when performing LRAs, which began in July 2024. We have no comparable reference for the level of need for the removal of lead hazards in water in Delaware, and also understand that water could be contaminated in premise plumbing that would need to be replaced, or also in lead service lines.

Improving the safety of drinking water has become a federal priority due to its profound impacts on lead poisoning. On May 2, 2024, the Environmental Protection Agency announced that Delaware would receive $28,650,000 for lead pipe replacement, as part of President Biden's Bipartisan Infrastructure Law, which is investing $15 Billion in lead service line replacement nationwide (EPA, 2024).

The "Filter First" approach to addressing lead in water is considered an affordable best practice that protects drinking water at the point of consumption while acknowledging that testing at the tap is an imperfect method due to variability of water chemistry and temperature, pipe condition, vibrations from nearby roads and construction, and intermittent water flow from one day to the next (Masters et al., 2016; Triantafyllidou et al, 2007). Filter First makes the drinking water safe immediately, instead of waiting for extensive testing and repairs.

Pitcher filters are recommended in homes, as many modern kitchen faucets are not suited for traditional faucet-mounted filters, and lead is removed prior to consumption. The National Sanitation Foundation (NSF) oversees certifications for water filters, and NSF/ANSI 53 water filters are certified to remove 99% of lead (NSF, 2024; ANSI 2024). Pour-through water filters have been demonstrated to perform as designed (Tully et al., 2024).

Delaware should distribute NSF/ANSI 53 pour-through water pitchers with a one year supply of filters for each household with a child with a blood lead level at or above the CDC BLRV (3.5 µg/dL), irrespective of the type of screening or test. At **$50 per household** for NSF/ANSI 53-certified pour-through water filtration, Delaware should budget **$35,000** to provide safe drinking water to each lead-poisoned child.

Interim Controls: Interim controls are "a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporarily containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs" (Title X, quoted in HUD, 2012: 1-12).

While specialized cleaning alone is not sufficient to reduce lead paint and dust hazards in a home, and cleaning interventions need to be repeated frequently, they can serve an immediate need of addressing lead hazards while abatement is scheduled, though the benefits are "short-lived" (Ettinger et al., 20002). Improper cleaning raises the risk that lead dust and particles can be spread over a greater surface area, and from one room to another, increasing the lead hazard.

Estimates of expected costs for Interim Controls include a total of **$188,500** for the following:

> Professional cleaning services: Professional cleaning services are documented to immediately reduce lead dust levels in children's homes, but dust levels return to pre-cleaning levels after three to six months, indicating that frequent, repeated cleanings are required to maintain lead dust hazards (Campbell et al., 2003). For those children with blood lead levels at or above **10 µg/dL**, professional cleaning services should be procured for each household every three months until the Lead Based Paint Program is able to complete its work.
>
> We estimate professional cleaning services for an estimated **31 households** with a child with a blood lead level at or above 10 µg/dL, using the 6-year average from 2016-2021 reported in Table 2 of the 2021 Blood Lead Surveillance Report (DHSS 2022a). The Lead-Safe Cleveland Coalition (2024) reports that Interim Controls cost between $500 and $5,000 based on property condition. Using a conservative estimate of **$1500 per household**, Delaware should budget **$46,500** for Interim Controls for households with children with blood lead levels at or above 10 µg/dL.

Cleaning education and supplies: To facilitate immediate temporary reduction in lead hazards during the interim period between identifying lead-poisoned children and more permanent measures undertaken through the Lead Based Paint Program, we suggest that the Program proactively educate families on interim controls and distribute appropriate cleaning materials in sufficient quantities for repeat use. This includes cleaning supplies, such as those that contain trisodium phosphate (TSP), and proper instruction on how to use them. We estimate the need for cleaning instruction consultation estimated at **$400 each** and supplies at **$100 each** for **284 households**,[6] leading to a total budget need of **$142,000**.

Education and Outreach: Public education and outreach for prevention of lead poisoning and response for those who are exposed have largely been driven by federal grants. While greater focus on educating healthcare providers has been initiated, Delaware needs a holistic public education and outreach program that can provide general education and targeted information.

Public education is an area of particular need, especially in raising general awareness that childhood lead poisoning remains a public health risk that is also preventable. In 2019 DHSS launched a billboard campaign, but the messaging was somewhat confusing. Public education should be well thought-out with clear messaging and actionable steps that families can take to protect their children, including a focus on screening all children twice by age two, the importance of primary prevention, product recalls and emergency health alerts, follow up steps for children who are exposed, and the resources that are available. Messaging delivery should include public libraries, schools, child cares, community partners, as well as social media and the press.

[6] See Lead Paint Hazard Control and Abatement above for justification of the estimated number of households, which is 315. Subtracting the 31 estimated to require professional cleaning leads to a total of 284 households requiring cleaning education and supplies.

DHSS billboard for childhood lead poisoning in downtown Wilmington, September 2, 2019.

The Program would benefit from improved use of existing public education and outreach platforms, including social media, and explore the potential for multimedia educational content and partnerships with community organizations to share the message on lead poisoning prevention, the importance of screening "twice by age two", and common lead hazards, particularly degrading lead paint.

Healthcare providers would also benefit from regular updates from the Program about screening and testing requirements, the responsibilities of providers to provide care, and emerging issues, such as product recalls that impact Delaware. Healthcare providers should never decline to perform a blood lead screening when it is requested by a parent and should proactively provide care when blood lead levels approach the BLRV.

Delaware should budget **$250,000** to be used specifically for public education and healthcare provider outreach.

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Lead-Safe Rental Housing Plan

Prepared for Governor John Carney and the Delaware General Assembly by the Childhood Lead Poisoning Prevention Advisory Committee

State of Delaware

December 13, 2023

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Background

The Childhood Lead Poisoning Prevention Advisory Committee (CLPPAC) is pleased to present to the Governor and General Assembly our proposal for a statutory requirement for lead-safe rental housing.

The CLPPAC was tasked by SB 9 with developing a plan to ensure that rental housing is lead safe and does not pose a health hazard to tenants, to be submitted to the Governor and General Assembly by January 1, 2024, which must include:

1. A plan for a statutory requirement that all rental properties built before January 1, 1978, be screened for the presence of lead based paint hazards, as defined at 40 C.F.R. § 745.65, before the rental properties are made available to a new tenant, and at least once before January 1, 2026, even if the rental properties are not made available to a new tenant, and that all lead based paint hazards are abated or remediated promptly on discovery.

2. Provisions for the state to augment, where appropriate, the cost of lead abatement or remediation based on an objective eligibility standard, through the use of state or federal funds.

3. Specific recommendations to ensure that an adequate work force is available to perform all screening, remediation, and abatement work required by the adoption of the statutory requirement under paragraph (2)a. of this Section.

In the 45 years since the sale of lead paint for residential use was banned in the United States, 19 states and many more counties and municipalities have taken steps to prevent lead poisoning in rental housing.[1] Delaware, in comparison, has fallen behind. The age of our housing stock, paired with our enduring neglect of lead-poisoning hazards in rental housing, has harmed generations of Delaware children. This will continue until fundamental changes are made to ensure that rental housing is safe.

Primary prevention, the removal of lead hazards before a child is exposed, is recognized as the "most reliable and cost-effective measure" to ensure that children do not experience harmful effects from lead poisoning. Primary prevention is superior to all other methods, including parent education, hand-washing, and cleaning to control dust (AAP, 2016; Garrison and Ashley, 2021: 555), and "yields large economic benefits" (Needleman, 2004: 219).

[1] State-level lead abatement mandates and enactment year: Connecticut 1992, Washington D.C. 1983, Georgia, 2000, Illinois, 1992, Kentucky, 1974, Louisiana, 1988, Massachusetts, 1971, Maryland 1995, Maine 1991, Michigan 2005, Minnesota 1991, Missouri 1993, North Carolina 1989, New Hampshire 1993, vermontNew Jersey 1971, Ohio 2003, Rhode Island 2002, South Carolina 1979, and Vermont 1996 (Gazze, 2021: 30).

This Lead-Safe Rental Housing Plan is a deliberate strategy to prevent childhood lead poisoning in Delaware.

What is Lead Poisoning?

"The scientific community and many political leaders now recognize that lead poisoning has been among the most important epidemics affecting children in the United States in the last century" (Markowitz and Rosner, 2013: 16).

While child blood lead levels are documented to have declined over the past several decades, it is now widely recognized by the global public health community, including the U.S. Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), the American Academy of Pediatrics (AAP), and the U.S. Preventive Services Task Force (USPSTF), that there is no safe level of lead in children's blood:

> *"No safe blood lead level in children has been identified"* (CDC, 2022).
>
> *"There is no level of exposure to lead that is known to be without harmful effects"* (WHO, 2023).
>
> *"There is no identified threshold or safe level of lead in blood"* (AAP, 2016).
>
> *"No safe level of lead exposure has been established"* (USPSTF, 2019).

The potential impacts of lead exposure, including low levels of lead, are described by the AAP (2016) as follows:

- Cognitive deficits, including intellectual deficits, diminished academic abilities, attention deficits, and lower IQ
- Behavioral problems, including inattention, impulsivity, aggression, hyperactivity, and elevated risk of attention deficit/hyperactivity disorder (ADHD)
- Antisocial behaviors, encompassing conduct disorder, delinquency, and criminal behaviors, including arrests and convictions later in life
- Reproductive problems, including spontaneous abortion, low birth weight, and reduced growth in children
- Kidney failure and renal failure
- Decreased hearing
- Cardiovascular effects

Lead exposure does not always show symptoms, making it difficult for healthcare providers to identify. While lead exposure can present clinical features at lower levels, exposure can also be asymptomatic at higher levels (AAP, 2016; USPSTF, 2019; Wani et. al, 2015). This has necessitated routine universal screening in Delaware's Childhood Lead Poisoning Prevention Act, which since 2021 has required blood lead screening for all children at 12 months of age, and again at 24 months of age.

Lead exposure can occur through three pathways into the body: inhalation, ingestion, or through skin contact. The amount of lead absorbed by the body depends upon several factors, including lead chemistry and the metabolism of the individual, which is impacted by their age, stresses on the body, and degree of malnutrition for certain minerals, including iron and calcium. Lead has a half-life in blood of approximately 40 days, and is either excreted or stored in bone, teeth and soft tissue, including the brain, spleen, kidney, liver, and lungs (Wani et al, 2015: 58, 59).

While health effects of lead were known for many centuries, toxic neurological effects of lead poisoning were only first described in modern medical literature in 1839 in France (Walusinski, 2021). Cases of childhood lead poisoning were first reported in the United States in 1887, and by the 1930s childhood lead poisoning was considered common in urban areas with older housing, with Baltimore being the first U.S. city to offer free blood lead testing to children in 1935 (Markowitz and Rosner, 2002: 41; 55).

Pursuit of an acceptable threshold of lead in children's blood was initially based on observations made by industrial hygienists about symptomatic exposure among adult workers in factories where lead paint and other lead-based products were manufactured. The threshold of acceptable lead in blood has been regularly lowered since the 1960s,[2] with no safe level of lead now widely recognized in the medical literature (ibid). In more recent decades, research has provided evidence of disproportionate, cumulative, neurological, and behavioral effects of low levels of exposure among children, which has prompted a greater policy response to prevent childhood lead poisoning across the U.S. and other countries (Markowitz and Rosner, 2002; 2013; Bellinger and Bellinger, 2006).

Understanding Childhood Lead Poisoning Rates in Delaware

Childhood lead poisoning is a serious public health issue in Delaware. Using reported screening and testing[3] data, Delaware Department of Health and Social Services (DHSS) tracks blood lead levels and has documented that in the 10-year period between 2012 and 2021, 5212 Delaware children up to 72 months of age were identified with a blood lead level at or above the

[2] Definitions for interpreting children's blood lead levels in the United States: 1960 = 60 µg/dL; 1970 = 40 µg/dL for undue or increased lead absorption; 1975 = 30 µg/dL for undue or increased lead absorption; 1978 = 30 µg/dL for elevated blood lead level; 1985 = 25 µg/dL for elevated blood lead level; 1991 = 10 µg/dl for level of concern; 2012 = 5 µg/dL for reference value; and 2021 = 3.5 µg/dL for reference value (Ruckhart, 2021: 1509).

[3] Federal law has required lead poisoning assessments for children receiving Medicaid services since 1989. Universal screening for lead poisoning was initiated in Delaware with SB 78 in 1994, which mandated a blood lead screening for all children at 12 months of age. In 2010, a second screening at 24 months of age through the use of a risk questionnaire was added by SB 300. The use of risk questionnaires were discontinued in 2021 when HB 222 expanded the universal blood screening requirements for all children at 24 months of age. The regulations implementing HB 222 were finalized and appeared in the Delaware Register on August 1, 2023.

CDC's 2021 Blood Lead Reference Value of 3.5 µg/dL,[4] as shown in Figure 1 (DHSS, 2022b: 17). This Blood Lead Reference Value is not a health-based standard to determine a level of safety, and CDC acknowledges that there is no safe level of lead in children's blood (Ruckhart et al., 2021).

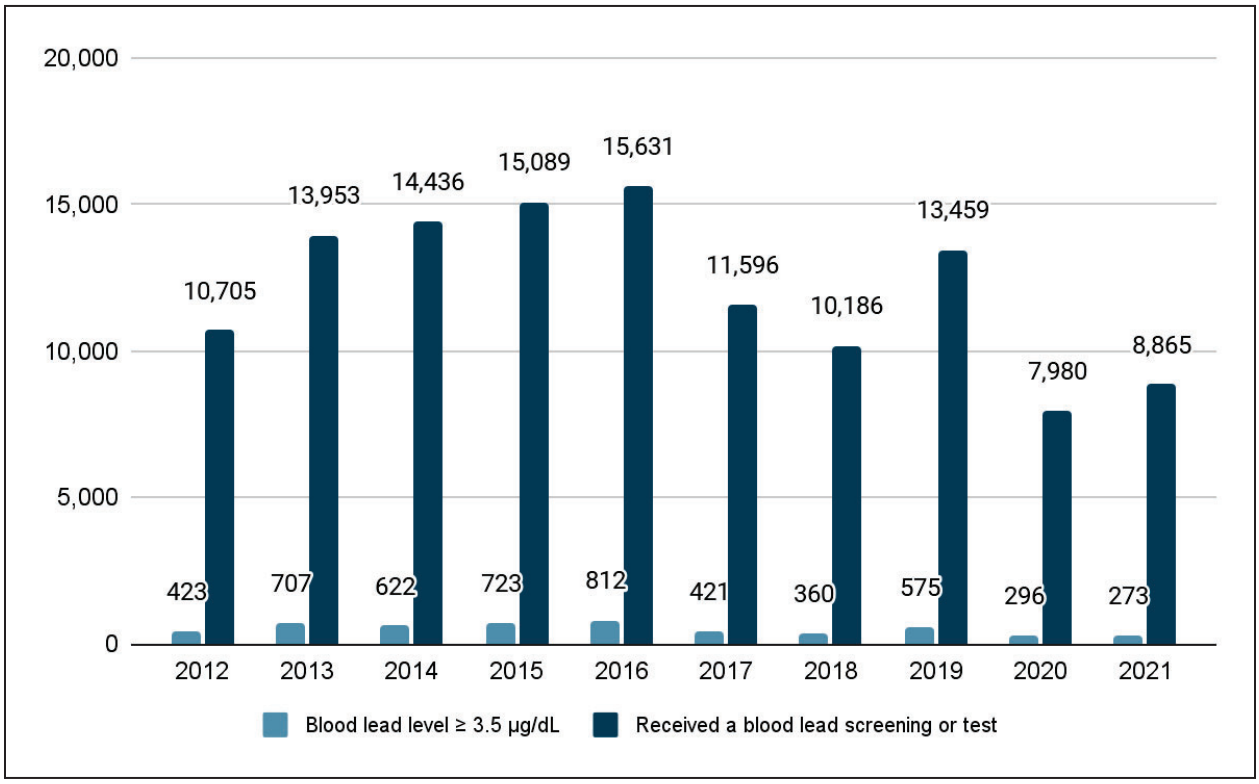

Figure 1. Delaware children up to 6 years of age who received a blood lead screening or test, and with blood lead levels at or above the 2021 CDC Blood Lead Reference Value of 3.5 µg/dL (DHSS, 2022b: 17).

Childhood lead poisoning is a statewide problem in Delaware, with blood lead levels documented in all three counties. Kids Count in Delaware (2022) reports the incidence of lead exposures at or above the CDC's Blood Lead Reference Value for children up to 6 years of age on a map by zip code, which is shown in Figure 2.

[4] The CDC lowered the Blood Lead Reference Value (BLRV) from 5 µg/dL to 3.5 µg/dL in October 2021. The BLRV is intended to assist in the identification of children with higher levels of lead in their blood compared to most children and is based on the 97.5th percentile of the blood lead values among U.S. children ages 1-5 years (Ruckhart et al., 2021).

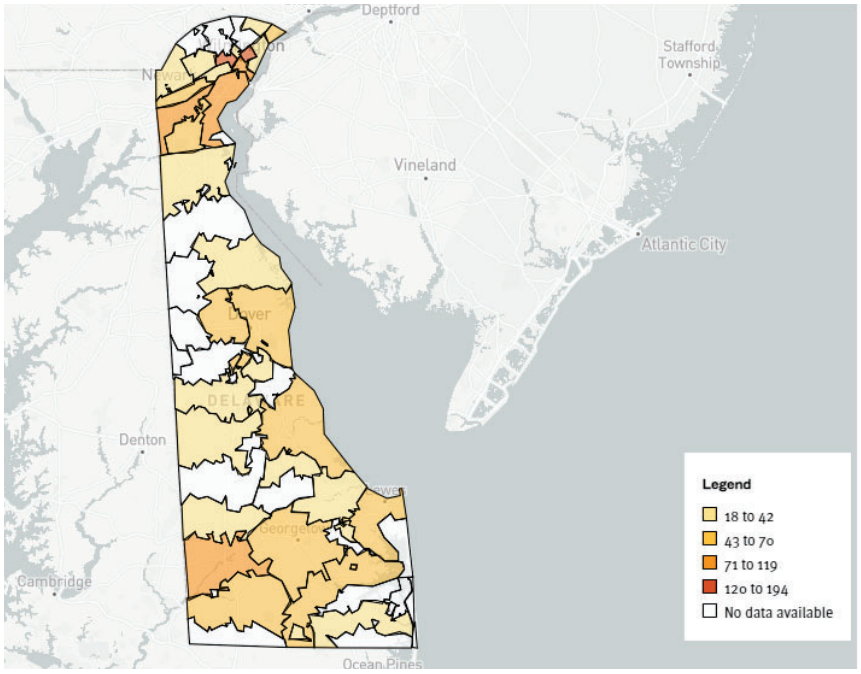

Figure 2. Statewide map of children up to 6 years of age with blood lead levels at or above the CDC Blood Lead Reference Value of 3.5 µg/dL from 2016-2021 by zip code (Kids Count in Delaware, 2022).

While Delaware has collected blood lead screening and testing data in a universal reporting system since the original Childhood Lead Poisoning Prevention Act was passed and signed into law in 1994 (SB 78), DHSS describes blood lead screening and testing as an underrepresentation of the true scale of the problem of childhood lead poisoning in Delaware:

> *It is evident that the number of lead-poisoned children in Delaware is underrepresented due to low compliance rates in testing. As efforts to increase the testing percentage continue, along with testing now required at 24 months of age, it is anticipated that the number of lead-poisoned children identified will drastically increase* (2022a: 22).[5]

Compliance with screening and testing was compromised by the COVID-19 pandemic, which dramatically reduced blood lead screening and testing in Delaware when medical provider offices were closed or limited to urgent care, and well-child visits transitioned to a telehealth model (DHSS 2022a: 12). While the full impacts of the COVID-19 pandemic on lead poisoning are still being researched, "stay-at-home orders may have increased household exposure" to

[5] Screening and testing rates will need to overcome the following barriers, which have been identified through DHSS's Performance Improvement Project in 2022; they include: knowledge deficit, lack of transportation for routine care and lead testing, difficulty communicating with providers because of language and/or reading preferences/abilities, non-adherence with preventive care visits, provider lack of knowledge of screening requirements, provider distrust of LeadCare Analyzer results (due to false positives), competing priorities during patients' office visits, lack of point of care testing resources, lack of resources for patient follow-up, and inability to coordinate care with the targeted population (DHSS 2022c: 5, 6).

lead (Anthes, 2021). This is thought to be largely due to the greater time children spent during the pandemic in lead-contaminated homes instead of in lead-safe school and childcare environments.

Further complicating blood lead screening during the COVID-19 pandemic, on July 6, 2021, the CDC issued a recall of the reagent used in some blood lead screening equipment due to falsely low results, preventing the use of finger-stick testing for lead poisoning across the country (CDC, 2021). Manufacturing resumed in February 2022.

While available evidence indicates urgency, the true size of the problem has been masked by these inadequacies in screening and testing. Improving lead screening rates is a priority for Delaware. For the 2021 CDC National Center for Environmental Health grant requirements for Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children (CDC-RFA-EH21-2102; funding for 2021-2026), Delaware is obligated to develop, update, and implement an appropriate statewide screening and testing plan in collaboration with the CLPPAC.

Blood Lead Screening Alone is Insufficient to Protect Delaware's Children

While screening is an important diagnostic and public health tool in the identification of children with lead poisoning, Bruce Lanphear and Richard Hornung, two of the most experienced and influential researchers on the topic of childhood lead poisoning, have identified the deficiencies in the blood lead screening-only approach, and have stressed housing inspection or assessment as the most valuable tool in primary prevention:

> *Unfortunately, this [blood testing] strategy fails to prevent the adverse consequences of lead exposure because the child with an elevated blood lead concentration is used as a trigger to control lead hazards. In contrast, screening housing to identify those that contain lead hazards should focus our efforts on the prevention of lead toxicity* (Lanphear and Hornung, 2005: 306).

Lead-contaminated floor dust, the condition of housing, and rental status are offered as the best available diagnostic tools to target resources for lead hazard control "prior to occupancy" and before a child becomes exposed. This will prevent the lifelong debilitating health, neurological, and behavioral impacts of lead poisoning (Lanphear and Hornung, 2005: 308, 310).

Rental Housing and Lead Poisoning Hazards

When the American Academy of Pediatrics published their most recent policy statement on the prevention of childhood lead toxicity in 2016, they emphasized the severity of the problem of lead paint in housing in their very first sentence:

> *[T]oo many children still live in housing with deteriorated lead-based paint and are at risk for lead exposure with resulting lead-associated cognitive impairment and behavioral problems* (AAP, 2016: 1).

Lead dust from deteriorated lead paint is widely recognized in the peer-reviewed literature as the "major source" of childhood lead poisoning (Needleman, 2004: 218) and "the most common pathway of lead exposure" in households in the United States. The urgency of addressing the problem of lead paint in housing on public health, specifically for children, cannot be overstated:

> *Exposure to residential lead dust will continue to be a public health problem until housing with deteriorated lead paint and lead contaminated soil is remediated* (Garrison and Ashley, 2021: 555).

Lead paint hazards are created through both chips and dust that can be ingested or inhaled. These hazards may or may not be visible to the naked eye and can result in exposures that are either unknown or undetected until it is too late. Lead dust and lead chips are created by deteriorating lead paint and in areas under friction and impact, such as doors and windows that are opened and closed, painted floors or stairs that are walked upon, and handrails and painted door handles that are handled regularly. In addition to lead-painted surfaces that can generate chips and dust, all surfaces that are able to be reached by children are of particular concern (EPA, 2021).

The connection between lead paint and childhood lead poisoning has been recognized for more than a century. As early as 1909, countries in Europe[6] began banning lead paint for interior painting (Markowitz and Rosner, 2002: 16). In 1910 the U.S. House of Representatives held the first congressional hearing on lead paint, in which witness testimony proclaimed lead paint "is a poison" (Warren, 2000: 44). The City of Baltimore, Maryland began sampling loose paint for lead in 1935, established its first housing ordinance for lead paint removal or abatement in 1941, and banned the new application of lead paint on the interiors of dwellings in 1951 (Markowitz and Rosner, 2002: 31, 32, 56, 143). Congress passed the Lead-Based Paint Poisoning Prevention Act of 1971, which prohibited lead paint in residences constructed or rehabilitated with federal funds, and the 1987 Housing Act directed HUD to perform a lead inspection in all public housing developments (Markowitz and Rosner, 2013: 125, 133).

An astonishing amount of lead was in house paint. Painters who followed the 1945 government-recommended recipe in the U.S. Department of Commerce's Paint Manual (Walker and Hickson, 1945) mixed 100 pounds of white lead (lead carbonate) with two to three gallons of linseed oil. The prescribed formulas represent 1.4 ounces to 1.9 ounces of pure lead applied per square foot on interior surfaces for each layer of paint.[7] While professional painters were

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[6] France, Belgium, and Austria banned white lead for interior painting in 1909, followed by Tunisia and Greece in 1922, Czechoslovakia in 1924, Great Britain, Sweden and Belgium in 1926, Poland in 1927, Spain and Yugoslavia in 1931, and Cuba in 1934 (Markowitz and Rosner, 2002: 16).

[7] The mixing ratios for paint applied to interior plaster and wallboard included 100 pounds of "white lead paste" (89% lead carbonate) to cover areas of 600 to 800 square feet of painted surface, depending upon whether it was an unpainted surface, a second coat, or repainting a previously-painted surface (Walker and Hickson, 1945: 5, 12, 14). Based on atomic mass, lead carbonate is 77% pure lead.

mixing paints, ready-to-apply and premixed paints were becoming popular in the 20th century. Even ready-to-apply lead paint contained "about 16 pounds of white lead" per gallon (Markowitz and Rosner, 2002: 52; 2013, 8). The layers of lead paint that remain on the walls of housing units constructed prior to 1978 have the potential to contain tremendous quantities of pure lead, with exposure to miniscule amounts of lead dust contributing to dangerous levels of exposure.

Housing constructed prior to 1978 is one of the leading sources of childhood lead poisoning in the United States today; the U.S. Consumer Product Safety Commission's ban on the sale of lead paint for use in residential and child-occupied facilities became effective on February 28, 1978. Even this initial ban still allowed lead in paint. In 2008, the definition of the permissible level of lead in paint was lowered from 600 to 90 parts per million (ppm) (Federal Register 1977, 42(170), 43957-44210; Federal Register 2009, 74(164), 43031–43042).

The prevalence of lead paint in the U.S. housing stock is assessed by the U.S. Department of Housing and Urban Development, which reports the following percentages of homes with Lead-Based Paint by construction year in the United States: before 1940 = 87%, 1940-1959 = 69%, and 1960-1977 = 30% (HUD 2021). Significantly, renter-occupied households are nearly twice more likely to have deteriorated paint than owner-occupied housing (Garrison and Ashley, 2021: 549).[8]

Delaware State Housing Authority estimated that 108,662 (28.5%) housing units in the state are renter occupied, and of these, 5,534 are estimated to be substandard[9] (DSHA, 2023). The National Center for Healthy Housing estimated that "45% of housing in Delaware was built prior to 1978 and may contain lead-based paint" (NCCH, 2022). At the county level, New Castle County has the oldest housing inventory; "68% of rental homes were built before 1979 [sic.] and 20% were constructed before 1950" (DHSS, 2022a: 14). Analysis of lead paint hazards in housing by census tract found the predicted risk rate for household exposure to large areas of deteriorated lead paint in Delaware to be between 1.23 and 1.42 percent (Garrison and Ashley, 2021: 552). DHSS's *Childhood Blood Lead Surveillance in Delaware 2021 Annual Report* also noted that "many Delawareans live in rental properties, and do not have the financial ability or legal authority to remediate the presence of lead" (DHSS 2022a: 7).

Title X of the Housing and Community Development Act, which passed Congress in 1992, requires disclosure of known lead hazards upon lease or sale. Since 1996, regulations to implement Title X have mandated disclosure of known lead hazards to tenants prior to signing a lease (Federal Register 1996, 61(45), 9064-9088). These policies have not led to sweeping improvements in lead hazard reduction, as described by Jacobs and Brown (2023: 236):

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[8] Rental housing status as a household characteristic is a significant predictor of deteriorated paint and has an adjusted odds ratio of 1.82 times, with a 95% confidence interval 1.82-1.83, compared to owner-occupied housing (Garrison and Ashley, 2021: 549).

[9] Substandard housing was defined in 2000 in Title 24 CFR §5.425 as dilapidated, does not have operable indoor plumbing, does not have a usable flush toilet, does not have a usable bathtub, does not have electricity, does not have a safe or adequate source of heat, should but does not have a kitchen, or has been declared as unfit for habitation by a local government.

Most homes remain uninspected for lead. The current law is limited to disclosure of "known lead paint and/or lead-based paint hazards," which allows most sellers or landlords to simply check a "don't know" box on a form, denying buyers and renters the knowledge of whether lead paint hazards are present. This loophole means that parents usually do not have the information they need to protect their children because they do not know exactly where the lead is located in their homes, and landlords, property managers, and owners do not know where their maintenance and capital improvements should be focused.

Housing with lead hazards is unfit for habitation due to its potential to poison tenants. Without action by the federal government, states must correct the shortcomings of Title X. Risk assessments or inspections of lead paint hazards prior to rental unit occupancy, and after lead hazard removal to prevent lead poisoning, are long overdue and have been identified as a priority by lead poisoning researchers for decades (Jacobs and Brown, 2023; Lamphear and Hornung, 2005; and Needleman, 1998).

By emphasizing the value of eliminating the lead hazard compared to other methods of lead poisoning prevention in the home, the AAP (2016: 1) maintained that "lead poisoning prevention education directed at hand-washing or dust control fails to reduce children's blood lead concentrations." Dust control efforts that focus on parent education about the importance of cleaning have not effectively reduced blood lead levels in children (Nussbaumer-Streit et al., 2000). Lead dust is particularly tenacious; cleaning-only efforts have the potential to simply spread the lead around. The past effort to encourage parents to better clean their homes instead of addressing the source of exposure has resulted in many lead-poisoned children.

Lead Paint Hazard Control is a Wise Public Investment

Childhood lead exposure provides numerous cognitive, behavioral, and health impacts that harm a child's ability to succeed in school and in life. Delaware taxpayers are already paying for the costs of inaction and the state should responsibly shift from a reactionary spending paradigm that only funds activities for children after they are lead-poisoned to greater investment in primary prevention.[10] "Each dollar invested in lead paint hazard control results in a return of $17-221" in a "conservative estimate" to savings from healthcare costs, special education, and criminal justice, and increases in lifetime earnings (Gould, 2009).

[10] Existing state programs for children with lead poisoning include early intervention services funded through IDEA Part C for all children age birth to three years with a blood lead venous test at or above 5 µg/dL; case management and a home lead paint risk assessment by the Department of Public Health for all children with a blood lead level at or above the CDC's 2021 Blood Lead Reference Value of 3.5 µg/dL; as well as other programs, including school-based special education services (some of which may be funded by IDEA Part B); school-based behavior programs, including increased need for school resource officers; additional pressure on the criminal justice system; and the new Lead Based Paint Program established by SB 9 in 2023.

Arguments against the economics of primary prevention have been described by University of Pittsburgh pediatrician Herbert Needleman, who was among the first researchers to document the neurological harm caused by low levels of exposure, twenty-five years ago: "The belief that we cannot afford primary prevention coexists in a mutual paradox with another powerful fiction: that the struggle to eliminate lead poisoning has been won" (Needleman, 1998: 1876). The struggle to eliminate childhood lead poisoning is far from over in Delaware, and the need for serious consideration and funding for primary prevention is long overdue.

This Lead-Safe Rental Housing Plan supplements the Delaware Lead Based Paint Program, also created by SB 9, which addresses lead paint hazards in homes of children with identified blood lead levels at or above CDC's Blood Lead Reference Value. This is a secondary prevention measure, which is essential to stop ongoing exposure and to protect other current and future residents of the household.

Existing Data Gaps

While progress has been made in the collection of data and reporting on childhood lead poisoning in recent years,[11] Delaware continues to operate in a data-poor environment with respect to many of the aspects of childhood lead poisoning within rental housing. Data gaps we identified are as follows:

1. **How many rental properties would be covered by this proposal?** Because there is no statewide registration for rental housing, we do not know how many rental units are in the state and how many were constructed prior to the 1978 U.S. Consumer Product Safety Commission ban on the sale of lead paint for residential use. Some municipalities provide rental licenses and track rental properties, and New Castle County has a seemingly optional rental registration system. Rental license or registration is not universally performed across the state, and the municipalities that do track rental properties have their own exemptions from when a rental license is needed. We can make estimates based upon other data sources, but do not have a firm number on how many residential rental units were constructed prior to 1978.

2. **How many Delaware children are lead-poisoned due to lead paint in rental housing?** DHSS has performed home lead-paint risk assessments for children with blood lead levels at or above 10 µg/dL until mid-2022, when it lowered the threshold to 7.5 µg/dL. SB 9 mandated a home assessment for all children with a blood lead level at or above CDC's Blood Lead Reference Value of 3.5 µg/dL, which went into effect on November 14, 2023. DHSS has not yet reported the results of any of its home risk assessments and did not begin entering data from these assessments into its tracking software (HHLPSS) until earlier this year. We therefore cannot parse out how many

[11] Progress to date includes the requirement that the Childhood Lead Poisoning Prevention Program produce annual reports in 2021 (HB 222), the transition of the data management of children with lead screening, testing, or case management to the CDC-supported Healthy Homes and Lead Poisoning Surveillance System (HHLPSS) in 2015, and the transition to electronic reporting of all lead screening and test results to the department of Public Health (DHSS, 2022a).

children with lead poisoning were exposed due to lead paint in their home, and how many resided in rental housing. Because the DHSS risk assessment can be declined by the tenant, there are also some households that lack a risk assessment, the numbers of which also have not been reported. Instead of having this data, we have had to rely upon national datasets and analysis.

3. **Are there rental units that have repeatedly exposed children to lead over time?** The potential exists for the same rental unit to have exposed numerous children over a period of years, with subsequent occupants exposed to lead-paint hazards. The ability to identify rental units that have repeatedly exposed children would greatly assist in prioritizing enforcement. However, this Lead-Safe Rental Housing Plan, which requires that lead-based paint hazards are eliminated, will prevent repeated poisoning of children.

4. **Are occupational exposures among lead-paint contractors a current health risk in our state?** While DHSS receives all blood lead test results, including adult blood lead test results, Delaware is one of the few remaining states that does not yet participate in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program, and does not report on the results of adult blood lead tests. The ability to develop recommendations for appropriate and health-protective training certification of lead assessors, inspectors, or contractors would be greatly assisted by information on the impact of this type of work on the lead exposure of the workforce.

Methodology for Plan Recommendations

The CLPPAC developed this Lead-Safe Rental Housing Plan over a series of public meetings[12] using a program evaluation model that incorporated the following steps:

1. Problem identification and scope: these were defined for us by SB 9.

2. Literature review: the extensive literature on this subject is incorporated throughout this document.

3. Program comparison: we identified programs in surrounding states and other jurisdictions, and compared these based upon consistent policy themes and performance measures. We specifically looked at the following programs, which are described in detail in Appendix C:

    a. Maryland's Lead Law (1994)

    b. New Jersey's Lead-Based Paint Inspections in Rental Dwellings (1971, 2023)

    c. Philadelphia, PA's Lead Paint Disclosure and Certification Law (2011, 2020)

[12] CLPPAC public meetings devoted to this Lead-Safe Rental Housing Plan were held on August 17, 2023, September 28, 2023, October 17, 2023, November 15, 2023, November 29, 2023, December 5, 2023, December 7, 2023 Listening Session, and December 13, 2023.

d. Buffalo, NY's Proactive Rental Inspection (2020)

e. Detroit, MI's Lead Paint Inspections for Rental Properties (2010)

f. Burlington, VT's Lead Poisoning Prevention Law (1996, 2022)

4. Identification of barriers: we documented the challenges we are presented with, including data gaps, which we describe in this report.

5. Draft development: we developed a preliminary set of priorities for stakeholder feedback.

6. Stakeholder engagement: we invited stakeholders to our meetings throughout the process, and held a virtual listening session on December 7, 2023 to specifically listen to stakeholder concerns.

7. Draft review: we reviewed and refined draft language, continuing to hone ideas and document their justification.

8. Final report: we voted on this final report on December 13, 2023.

Deficiencies With Programs in Other Jurisdictions

Through our literature review and program comparison we have identified some program deficiencies that have guided our decision-making. These are cautionary tales of how we do not want the program to proceed in Delaware.

1. Policies that have poor compliance: the program comparison found varying rates of compliance that indicate that reliance on existing municipal rental housing inspectors to inspect all rental units constructed before 1978, as required by SB 9, will overwhelm capacity. Programs using this approach, such as in Detroit and Buffalo, have failed to inspect most rental units, and have taken years to appropriately staff themselves, exposing many children to potential lead poisoning. As a result, instead of engaging in the prescribed activities of lead-free or lead-safe certification, landlords in many of the jurisdictions with rental unit requirements simply absorb the depreciation in the value of their properties (Gazze, 2021). Maintaining a vibrant rental housing market without decreased property values requires a systematic approach that includes the assistance and enforcement components included here.

2. Policies that lead to housing discrimination: the approach taken by some states, such as Ohio and Massachusetts, require inspections and lead-safe certification only in instances where the rental unit houses a tenant less than the age of 6 years old. In the case of Ohio, it has led to a "statistically significant, sizable, and economically meaningful" increase in targeted evictions. "To combat this unintended consequence while also taking advantage of the societal benefit of lead abatement, a preferable policy would be for states to enact lead abatement laws forcing *all* rental properties to be fully abated, as is the current case in Maryland, Rhode Island, and Vermont. Passage of this type of

lead abatement law may lead to the full capture of benefits of lead abatement without the unintended consequence of increased evictions" (Fesko, 2023).

3. Policies that pass the costs of lead abatement on to renters: Based on their analysis of Ohio's lead policies, Fesko (2023) identified that "states should also fund lead poisoning prevention funds, not only to provide education and support to renters, but to support landlords in abating the lead in their properties, resolving the incentive compatibility problem."

Plan Recommendations Summary

The following list summarizes our recommendations, which are provided in full detail in the next section.

Recommendation 1. The Delaware General Assembly should amend the Residential Landlord-Tenant Code (Title 25 Delaware Code) to include the provisions of the Lead-Safe Rental Housing Plan.

Recommendation 2. A comprehensive statewide system for the registration of all residential rental units within the Department of Health and Social Services to document all residential rental units and to identify which rental units are in need of lead hazard certification, to be completed with all rental units registered by January 1, 2025, and the establishment of a state database to manage rental unit registration and certification that is publicly accessible through an internet portal.

Recommendation 3. Non-discrimination requirements to prevent retaliation against a tenant as a result of the new Lead-Safe Rental Housing Plan.

Recommendation 4. Requirements for lead-free and lead-safe certification and registration for all residential rental housing units constructed prior to January 1, 1978, with a schedule for reinspection when lead paint is not completely removed, and the establishment of supporting regulations, all which should be operating and with full compliance by January 1, 2026.

Recommendation 5. Standardized education and disclosure requirements to be provided by landlords to tenants.

Recommendation 6. Tenant protection measures to ensure that tenants are not exposed during lead paint hazard removal work.

Recommendation 7. Administrative warrants and enforcement mechanisms to provide the process of lead hazard assessment or inspection and hazard removal for those rental units that are out of compliance.

Recommendation 8. Penalties for rental unit owners that fail to comply with the Lead-Safe Rental Housing Plan.

Recommendation 9. Establish a Lead Paint Hazard Control Grant Program and apply for federal funds.

Recommendation 10. Support market-based mechanisms to encourage workforce development.

Recommendation 11. Provide the Childhood Lead Poisoning Prevention Program within the Division of Public Health with adequate staffing and support to accomplish the goals of SB 9 and the Childhood Lead Poisoning Prevention Act.

Recommendations for a Lead-Safe Rental Housing Plan

Recommendation 1. Residential Landlord-Tenant Code

The Delaware General Assembly should amend the Residential Landlord-Tenant Code (Title 25 Delaware Code) to include the provisions of the Lead-Safe Rental Housing Plan.

We selected the Residential Landlord-Tenant Code as the most appropriate location for the Lead-Safe Rental Housing Plan for several reasons: it provides reasonable parameters within which the Lead-Safe Rental Housing Plan can be effectively implemented, the definition of rental unit is comprehensive, existing exemptions are reasonable, and access to the courts are practical for this particular policy need. Adding the Lead-Safe Rental Housing Plan to the Residential Landlord-Tenant Code will provide the best structure for successful implementation, particularly in comparison to placement elsewhere in the Delaware Code.

Health, safety, and welfare: DHSS's ability to ensure lead-safe rental housing in those units where a child is lead-poisoned has been hampered by the existing language in the Residential Landlord Tenant Code. Landlord obligations relating to the rental unit (Title 25 Del. Code § 5305) require landlords to "provide a rental unit which shall not endanger the health safety and welfare of the tenants or occupants" and is "kept in a clean and sanitary condition."

DHSS has reported to the primary prevention subcommittee of the CLPPAC that at least one municipality, Georgetown, updated their municipal code to enhance enforcement, but because the Residential Landlord Tenant Code does not specifically mention lead paint hazards as a component of health, welfare, safety, clean, or sanitary, their hands are tied and they cannot require landlords to implement lead hazard correction activities. We therefore recommend that the terminology that already exists in the Residential Landlord Tenant Code for "health, welfare or safety" and "clean and sanitary" be clarified to include lead paint hazards.

No new exemptions for public housing: As a result of our analysis of other jurisdictions and the federal reviews of lead hazards in federally-subsidized housing, the Lead-Safe Rental Housing Plan implementation should not exempt public housing or subsidized housing.

Some jurisdictions that we examined, for example Philadelphia's Lead Paint Disclosure and Certification Law, provided exemptions for housing authorities in certain zip codes, while other jurisdictions, such as Maryland's Lead Law and New Jersey's Lead-Based Paint Inspections in Rental Dwellings, do not exempt federally-subsidized housing.

While there have been requirements for lead-safe housing specific to federally-subsidized housing since the Lead-Based Paint Poisoning Prevention Act of 1971 and the 1987 Housing Act, these initiatives have not provided universal protection from lead hazards. The Office of the Inspector General (2022) of the U.S. Department of Housing and Urban Development found lead paint hazards remain a concern in public housing, and also noted in their analysis that Delaware did not provide complete data about blood lead levels. The U.S. Government Accountability Office (2021) further found that while federal standards for lead paint safety exist, the evaluation methods for the housing choice voucher program were inadequate and left approximately 229,000 young children under 6 years of age at risk of lead exposure.[13]

The lack of lead-safe federally-subsidized housing, and the need to address this need, prompted $5 million in HUD grant funding awarded to the Wilmington Housing Authority in 2023 to begin the process of identifying and addressing lead paint hazards in the City of Wilmington. The press release of this award by Senator Chris Coons (2023) stated:

> *"The grant will give the Wilmington Housing Authority the ability to expedite identifying and eliminating lead-based paint hazards much faster than we were previously able and will enhance our efforts to provide affordable and safe housing to the people we serve," said Wilmington Housing Authority Executive Director Ray Fitzgerald.*

Existing exemptions in the Landlord-Tenant code may need to be revised in future: The current exemptions in the Residential Landlord-Tenant Code provide an appropriate framework for prioritizing implementation of lead-safe and lead-free certification. Because there is no safe level of lead in children's blood (ibid.), and the potential for lead hazards in some of the exempt rental units from the Residential Landlord-Tenant Code could leave children exposed to lead hazards, we recommend that exemptions be revisited within the next 5 years.

Recommendation 2. Universal Registration

A comprehensive statewide system for the registration of all residential rental units within the Department of Health and Social Services to document all residential rental units and to identify which rental units are in need of lead hazard certification, to be completed with all rental units registered by January 1, 2025, and the establishment of a

[13] Section 8 inspections (HUD, 2023) allow for 2 square feet of deteriorated paint per room or 10% of a component and do not assess lead dust hazards.

state database to manage rental unit registration and certification that is easily publicly accessible through an internet portal.

The complexity of establishing a system in which all rental housing with the potential for lead paint hazards based on construction year to be made lead-safe is more challenging in Delaware in comparison to other jurisdictions with similar policies because Delaware lacks comprehensive state oversight over residential rental housing registration. We examined Delaware's local governments for an indication of those that tracked rental housing and found that of Delaware's 57 municipalities, only 31 require rental permits of some kind. Of Delaware's three counties, only New Castle County has a seemingly-voluntary rental unit registration. The data tracking of information that does exist for housing construction year is also fragmented and distributed across Delaware's three counties.

The large proportion of residential rental units that are currently estimated to be constructed prior to the U.S. Consumer Product Safety Commission's ban on lead paint for residential use means that Delaware would require lead hazard inspections and certification for an estimated 48,898 housing units that are both renter-occupied and built prior to 1978.[14]

The landlord is the most appropriate party to identify the housing characteristics of their rental units and universal registration is the most efficient use of state resources to gather the necessary data to monitor compliance and program metrics. Identification of all residential rental units, and having that registration process identify the construction year of the rental unit, would create the most efficient use of state resources, particularly when instances arise when enforcement may need to verify the construction year of a known rental unit to determine if the property owner is delinquent in providing certification.

The Department of Health and Social Services is the most appropriate agency for the responsibility to manage and enforce the provisions of the Lead-Paint Rental Housing Plan because of its comprehensive approach to childhood lead poisoning prevention. DHSS already oversees the certification for other businesses for health and safety standards, including restaurant inspections, and issues permits for food establishments. DHSS is already responsible for overseeing monitoring and compliance of other statewide resources for lead hazards, specifically drinking water. DHSS houses and enforces Delaware's regulations for Lead-Based Paint Hazards (Title 16 Administrative Code 4459), and since 2014 has been authorized by the EPA to administer and enforce the lead-based paint Renovation, Repair and Painting (RRP) program, including certification for lead-based paint activities (EPA, 2014). DHSS also houses the new Lead Based Paint Program established by SB 9 in 2023.

We also considered the Delaware State Housing Authority (DSHA) and Department of Natural Resources and Environmental Control (DNREC) for program oversight responsibilities. While DSHA could make sense from a housing-only perspective, and DNREC from a pollution-only

[14] Delaware State Housing Authority estimated that 108,662 housing units are renter occupied in Delaware (DSHA, 2023), and The National Center for Healthy Housing estimated that "45% of housing in Delaware was built prior to 1978 and may contain lead-based paint" (NCCH, 2022).

perspective, we excluded them due to their lack of existing oversight and expertise on the issue of lead paint hazards in housing in favor of DHSS.

Registration Database: We envision the registration as internet-based, and therefore a matter of database management for the state government. To increase transparency over lead hazards by prospective tenants and the public, the state database to manage rental unit registration and certification should be kept current and easily publicly accessible through an internet portal.

The registration portal should include parameters for monitoring and enforcement of the Lead-Safe Rental Housing Plan, including the address of the rental unit, the date the rental unit was constructed, and the terms of any existing rental agreement. The database should be searchable by the name and address of the landlord, the address of the rental unit, the date the rental unit was constructed, the terms of any lease, and whether the rental unit and premises have been certified as lead-safe or lead-free.

We understand that the timeline for the creation and population of this database with registrants is aggressive, and note that due to the deadline for full lead-safe certification and remediation of lead paint hazards provided to the CLPPAC by SB 9, we believe that the process of a year between registration and the completion of all certification and lead hazard remediation is needed.

Recommendation 3. Non-Discrimination

Non-discrimination requirements to prevent retaliation against a tenant as a result of the new Lead-Safe Rental Housing Plan.

While DHSS has not reported results on lead paint risk assessments that are performed as part of the current Childhood Lead Poisoning Prevention Program, anecdotal evidence of tenants declining a risk assessment for fear of eviction, and research in the peer-reviewed literature (Fesko, 2023), reveals retaliation against tenants to be a concern.

To prevent this from occurring, the Residential Landlord-Tenant Code should include specific language to prevent discrimination, including non-discrimination:

1. For filing a complaint, testifying about a lead hazard, or assisting in an investigation.
2. For becoming lead poisoned or having a child who has blood lead screening or test that indicates exposure to lead.
3. For having children under the age of 6 or for becoming pregnant.
4. Arbitrary acts of discrimination pertaining to lead poisoning.

Recommendation 4. Lead-Free and Lead-Safe Certification

Requirements for lead-free and lead-safe certification and registration for all residential rental housing units constructed prior to January 1, 1978, with a schedule for reinspection when lead paint is not completely removed, and the establishment of supporting regulations, all which should be operating and with full compliance by January 1, 2026.

We propose that the General Assembly amend the Residential Landlord-Tenant Code to require lead-safe or lead-free certification for all residential rental units constructed prior to January 1, 1978; these residential rental units cannot be rented without such certification.

We were impressed with the distinction made between lead-safe and lead-free rental units by other jurisdictions, including Maryland and Philadelphia, to distinguish between those rental units that do not have lead paint at all from those that do have lead paint remaining, but this paint has been treated in such a manner that it does not create a lead dust hazard or has the potential to poison children.

This is also consistent with the guidance from the peer-reviewed literature (ibid.), that identifying and addressing lead-contaminated floor dust, the condition of housing, and rental status are the best available diagnostic tools to target resources for lead hazard control and childhood lead poisoning prevention.

The Residential Landlord-Tenant Code should be amended to require the following:

1. Define the term “rental unit constructed before January 1, 1978” to mean a rental unit in which a construction permit was obtained before January 1, 1978 or when construction of the rental unit was started before January 1, 1978.

2. Lead hazard assessment or inspection of all rental units constructed prior to January 1, 1978.

3. Lead-safe or lead-free certification required for all rental units constructed prior to January 1, 1978 before a rental agreement or lease is signed. If a rental unit is unable to receive a certification due to a lead hazard, the hazard must be eliminated in order for the rental unit to receive certification before occupancy.

4. Lead-free certification, which provides certification that there is no lead paint in the rental unit, should be performed using x-ray fluorescence technology on all painted surfaces in each room and in common areas. Lead-free certification should not expire for the rental unit, and should not require renewal at any time, unless a child receives a blood lead level at or above the CDC’s Blood Lead Reference Value, or if lead paint or a lead paint hazard are discovered in the unit or premises.

5. Lead-safe certification, which provides certification that there are no lead paint hazards in the rental unit, or common areas, including the following for all painted surfaces within all rooms within the rental unit and all common areas on the premises:

    a. all lead-painted surfaces are appropriately encased or repainted;

    b. no exposed lead paint surfaces;

    c. no peeling, flaking, or chipping lead paint; and

    d. no lead dust.

    Lead-safe certification should expire and rental units should be recertified every four years. This is consistent with neighboring jurisdictions and is necessary due to the continuous emergence of lead hazards and lead dust from existing lead paint from normal wear and tear. For example, Philadelphia's lead-safe rental housing program requires reinspection for lead-safe certificates every four years, and New Jersey requires re-inspection every 3 years or upon tenant turnover, whichever comes first.

6. Require the Department of Health and Social Services to establish regulations that define terminology, some of which already exists in the DHSS Regulations.

    a. DHSS Regulations 4459 Lead-Based Paint Hazards already define abatement, certified inspector, clearance levels, common area, component or building component, deteriorated paint, dust wipe sample, encapsulant and encapsulation, friction surface, impact surface, lead-based paint, lead-based paint hazard, lead-contaminated dust, lead hazard screen, paint in poor condition, risk assessment, visual inspection for clearance testing, visual inspection for risk assessment, and window trough.

    b. DHSS should be instructed to establish regulations that define the following terms before January 1, 2025: lead-safe certification, lead-free certification, lead-safe certification assessor or inspector, and lead-free certification assessor or inspector.

<u>Alternative inspection methods should not be included</u>: While it was suggested during our stakeholder listening session that Section 8 housing inspections should be accepted as a lead safe inspection, the Section 8 inspection checklist does not certify that a rental unit is lead-safe. Section 8 inspections allow for 2 square feet of deteriorated paint per room or 10% of a component (HUD, 2023) and do not assess lead dust hazards. We therefore recommend that the use of alternate inspection methods, such as those that currently exist for Section 8, that are not comprehensive in their assessment of lead paint hazards or lead dust, not be allowed.

Recommendation 5. Education

Standardized education and disclosure requirements to be provided by landlords to tenants.

Title X of the 1992 Housing and Community Development Act requires disclosure of known lead hazards to tenants when they sign their lease. Unfortunately, because there are no existing federal or state requirements in Delaware that landlords must inspect their rental units for lead hazards, this provision has been largely ignored (ibid.). Incorporating federal education requirements in Title X into the Residential Landlord-Tenant Code provides additional opportunities for education of lead poisoning prevention, and the already federally-required distribution by landlords to tenants of an EPA pamphlet entitled *Protect Your Family from Lead in Your Home*. This is considered a best-practice and is incorporated into Maryland's and Philadelphia's lead safe rental housing policies.

The lead-free or lead-safe certification is an additional opportunity to educate tenants on lead hazards and how to avoid them. Standardized forms designed by DHSS for use by landlords should be in place well before the January 1, 2026 deadline.

Recommendation 6. Tenant Protection Measures

Tenant protection measures to ensure that tenants are not exposed during lead paint hazard removal work.

A period of greatest risk for exposure is during any abatement, renovation, remediation, or repair of lead paint hazards, where lead dust is disturbed or created:

> *[H]ousehold interventions lead to a significant increase in blood lead concentrations for young children, especially six-month old infants. Compared with children over 40 months of age, the odds of having an increase in blood lead levels of 5.0 µg/dL or higher following abatement were high* (Nussbaumer-Streit et al., 2000).

To prevent lead poisoning of tenants during activities intended to correct lead hazards, we recommend the following:

1. Only those certified to work with lead paint hazards by DHSS should perform any work, and not tenants.
2. Tenants should be temporarily relocated until the unit is able to pass a lead-safe certification inspection, which is especially important in those instances where lead hazards could be created, such as disturbing lead paint or generating lead dust through scraping and sanding, or when a lead-painted building component is removed.
3. Landlords and tenants should also be able to terminate a lease through mutual agreement instead of requiring relocation during the remediation of lead hazards.

Temporary relocation of tenants while lead hazard work is performed is also required in Maryland, while Philadelphia and New Jersey do not have specific requirements. The health

risks of exposure due to inhalation or ingestion during any renovation warrant extreme caution, prompting our recommendation of temporary relocation.

Labor certification requirements are common practice in other jurisdictions with similar policies. Maryland requires any work that disturbs painted surfaces in affected properties to be certified by the Maryland Department of Environment and EPA. Philadelphia requires Pennsylvania state certification and EPA certification. New Jersey also requires state and federal certifications of all workers who are inspectors, risk assessors, and abatement contractors.

Recommendation 7. Administrative Warrants

Administrative warrants and enforcement mechanisms to provide the process of lead hazard assessment or inspection and hazard removal for those rental units that are out of compliance.

Resistance to compliance with an assessment or inspection for certification, either by the property owner or the tenant out of fear of retaliation, is a concern that has the potential to undermine the entire effort to provide lead-safe rental housing. In Newark, for example, a large proportion of rental units receive no inspection at all, despite municipal requirements for rental permits, because their inspectors are turned away at the door. Families with a lead-poisoned child that are eligible for a home lead paint risk assessment with the Childhood Lead Poisoning Prevention Program sometimes decline the assessment for fear of retaliation from their landlord.[15]

The public health hazard of lead poisoning, which was described as one of the most important epidemics impacting children in the last century (Markowitz and Rosner, 2013: 16), warrants complete commitment by the Governor and the General Assembly and the establishment of policies that prevent loopholes and guarantee enforcement.

The General Assembly has already established administrative warrants for other public health crises, such as for controlled substances (Title 16 Delaware Code § 4782). We propose an identical process for administrative warrants for the identification of lead paint hazards in rental housing constructed prior to January 1, 1978. Certificates of exemption for a period of six months should be available to be applied for in those instances where good-faith efforts are made to comply.

Recommendation 8. Penalties

Penalties for rental unit owners that fail to comply with the Lead-Safe Rental Housing Plan.

We recommend that the General Assembly amend the Residential Landlord-Tenant Code to include the following penalties for failure to comply:

[15] DHSS has not published data on the rates at which assessments are declined in their annual reports, though a rate of 5% has been discussed in our meetings.

1. Civil penalty of $20/day for all rental units that are not registered with the state.
2. Civil penalty of $500/day for rental units that fail to file a Lead-Safe or Lead-Free Certification.
3. Suspension of access to summary possession for rental units that fail to file a Lead-Safe or Lead-Free Certification as required by law.
4. Consideration should be given to extend the deadlines for penalties for acts of good faith to provide lead hazard inspection/assessment or hazard control within a reasonable time frame.

Enforcement mechanisms are taken extremely seriously in neighboring jurisdictions. Maryland requires a $20/day fine for failure to register or renew a rental unit, $500/day fine for failure to file lead-safe certification, and civil penalties up to $25,000. Philadelphia requires a $2,000/day fine/day for failure to file lead-safe certification, a refund of all rent for the period without a certification, allows for private lawsuits and damages, and will revoke housing licenses. New Jersey assesses fines of $1,000/week, and because New Jersey has also allocated the responsibility of enforcement to municipalities, municipalities are also subject to fines of $1,000/week. Detroit offered the most aggressive penalties we reviewed, which can be assessed in amounts up to $8,000/day.

Recommendation 9. Grants and Funding Support

Establish a Lead Paint Hazard Control Grant Program and apply for federal funds.

The General Assembly should establish grant funds in support of landlords to comply with the assessment/inspection, certification, and removal of lead hazards in their rental units that are required by the Lead-Safe Rental Housing Plan. This should prioritize rental units for families with children, are visited regularly by children, or with a pregnant tenant. The distribution of funds in the grant program should be overseen by the CLPPAC.

These grants should be prioritized for designated funding in the state budget for the 2024-2025 fiscal year to stimulate compliance and provide meaningful support to the impacted rental unit owners; the General Assembly should not wait until the inspection deadline of January 1, 2026 to encourage rental housing inspections or assessments through grant funds.

Pursuit of sustainable funding for lead-safe housing is imperative. In addition to designated emergency funding to assist landlords in the needed lead hazard inspections or assessments, and to make rental units lead-safe, DHSS should also:

1. Apply for funds through the HUD Office of Lead Hazard Control and Healthy Homes for the remediation of lead paint hazards in homes. The last successful DHSS application was for $3,288,728 for the 2014-2017 grant cycle. DHSS applied on May 5, 2023 but funds were not awarded. Currently, New Castle County is Delaware's sole grantee.

2. If at all feasible, establish a Health Services Initiative (HSI) to leverage the Children's Health Insurance Program (CHIP) to provide funds for lead-abatement activities. Nineteen states already have HSI programs approved under CHIP, which are available for lead hazard abatement work under Title XXI of the Social Security Act. The application process is described as "straightforward" and requires states to develop a proposed lead abatement initiative (Mann et. al., 2017).

Recommendation 10. Workforce Development

Support market-based mechanisms to encourage workforce development.

Strengthening the workforce that is needed to perform assessments, inspections, and hazard control must be aggressive. As evidenced by our comparison of policies in other jurisdictions, allowing for the market to respond to the need for assessment/inspection, certification, and lead-hazard removal, instead of swelling the size of government to accomplish tasks, such as in Detroit and Buffalo, seems to be most successful.

The ability of rental unit owners to comply with the requirements for lead-safe housing could be impinged by local access to an inadequate workforce and could also contribute to price-gouging in the market. While Delaware is bordered by jurisdictions that already require lead-safe certification requirements for rental housing and therefore resides within a region that has developed and maintained a trained workforce, ramping up a workforce within Delaware to the scale required to accommodate the necessary tasks is no small undertaking. We therefore support the establishment of incentives for workforce training, with particular emphasis on training individuals in impacted communities.

In the November 1, 2023 Delaware Register, DHSS proposed amendments to Title 16 regulations 4459 Lead-Based Paint Hazards to permit those abatement workers certified outside of Delaware with which Delaware does not already have reciprocity to apply for a provisional certification in Delaware for one year. Such measures should be expanded to include inspectors and assessors to enable a greater workforce for performing inspections or assessments.

In the national effort to make rental housing lead-safe, there is a longstanding and robust relationship demonstrated in the research that workforce training for lead hazard inspection and control reduces unemployment and underemployment in lead-impacted communities, and strengthens communities by providing income alternatives that reduce homelessness (Needleman, 1989; Markowitz and Rosner, 2013).

In light of these benefits, it is also imperative that we not create a cohort of lead-poisoned adults who are performing lead-hazard removal work. We therefore recommend that DHSS participate in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program and provide annual reports to the General Assembly with the results of adult blood lead surveillance efforts in the state.

To facilitate health-protective and adequate workforce development, we therefore recommend the General Assembly to direct DHSS to:

1. Expand training for lead paint assessment, inspection, lead hazard removal, and abatement certification in partnership with community-based organizations in zip codes with higher rates of housing constructed prior to 1978.
2. Offer this training at a reduced cost for a period of 6 years.
3. Enable those certified in other states to apply for provisional certification in Delaware.
4. Enroll Delaware in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program and annually report adult blood lead data to the General Assembly.

Recommendation 11. State Agency Staffing

Provide the Childhood Lead Poisoning Prevention Program within the Division of Public Health with adequate staffing and support to accomplish the goals of SB 9 and the Childhood Lead Poisoning Prevention Act.

The Childhood Lead Poisoning Prevention Program operates on a shoestring budget and relies heavily on contract and part-time employees to perform tasks which, even before SB 9, were substantial. SB 9 has added additional responsibilities, including the new requirements for case management and home risk assessments for all children with blood lead levels at or above the CDC's Blood Lead Reference Value of 3.5 µg/dL, and to establish the new Lead Based Paint Program.

DHSS must maintain the ability to competitively apply for federal funds, including the Lead Hazard Control and Healthy Home grants and CHIP lead abatement funds, to provide sustainable federal funding for lead abatement.

This proposed Lead Safe Rental Housing Plan will continue to add responsibilities in data management and reporting, as well as other burdens to the agency, in addition to the proposed requirements for landlords. The proper government structure and support for childhood lead poisoning prevention activities as a whole is required, including a shift from seasonal and contract employees to a sustainably-funded staffing structure with full-time positions to perform the needed work.

Program Challenges and Future Considerations

Challenges we identified in our literature and program comparison, through our discussions, and in listening to stakeholders reveal that the commitment by all involved to overcome the following challenges is imperative to the future success of this concept.

1. Aggressive timeline for implementation: SB 9 provided the guardrails that guided our thinking on the timeline for implementation of this plan, which required that all rental housing constructed prior to January 1, 1978 be certified safe from lead paint hazards for inhabitants by January 1, 2026. The size of this undertaking, which requires universal registration of all rental housing units, assessments and inspections of an estimated 48,898 housing units within the next two years has frustrated stakeholders, particularly landlords. At approximately 260 work days per calendar year, this represents an assessment inspection rate of 188 units/day if performed in a one-year period, or 94 units/day if performed over a two-year period.

   Care should be given to a timeline in a final proposal that can be successful without adding further delays and prolonging the conditions of lead poisoning for tenants. Delaware is already decades late in addressing a problem that has garnered national attention for close to a century, has prompted a federal ban 45 years ago, and has inspired action in surrounding states and across the country.

2. Program costs: While successful programs for lead-safe certification and hazard control in rental units have been in place in neighboring jurisdictions for decades and have demonstrated success, developing a new and similar program will have costs that must be absorbed by government, including registration, data tracking, and enforcement, as well as costs that should be offset by government, including some of the costs to landlords, so that Delaware maintains a vibrant and productive rental housing market and is able to provide safe, affordable housing into the future. The nature of this problem is at the core of public health; housing should not poison its inhabitants. A robust financial support system for landlords to accelerate implementation of lead-safe rental housing should be explored. The state has a responsibility to appropriately support the program costs with the proposals outlined here.

3. Fully rehabilitated rental units: Comments at the stakeholder listening session requested consideration that rental units that are fully gutted and completely rehabilitated should qualify as post-1978. This is somewhat complicated, because it would need to be demonstrated that all painted components of the rental unit and common areas were completely removed and replaced, and renovation activities did not generate lead dust or create hazards that could pose a hazard to tenants. Such documentation does not appear to be included in building permits, certificates of occupancy, or the International Building Code. Providing a mechanism for fully gutted buildings to demonstrate that they have removed all lead hazards and obtained a lead dust clearance sufficient to warrant an exemption would require further modification of how lead paint removal is documented and inspected for buildings that are completely rehabilitated.

4. Insurance coverage for lead hazards: Feedback received during the stakeholder listening session indicated that obtaining lead insurance is cost-prohibitive. EPA and HUD rules on Renovation, Repair and Painting establish a standard on methods and training of employees which also allows the insurance market to assess the risk and

offer coverage. The General Assembly may wish to consider policies like those in Rhode Island to make lead hazard liability insurance more accessible for rental housing. For example, the State of Rhode Island Lead Mitigation Act specifically provides guidance on insurance coverage and requires insurance companies to provide lead paint liability insurance to owners of pre-1978 residential rental properties that are in compliance with the Housing Resources Commission Lead Mitigation Regulations.

5. Certification for Real-Estate Transactions: Because we are proposing lead-safe certification to expire after 4 years, it was recommended that qualifying inspections performed as part of a real-estate transaction within the past 4 years should also be eligible for the certification of the rental unit, so long as they meet the criteria established by DHSS for certification. The current process for housing inspection for real estate sales is not something that we examined, and would warrant further research.

6. Sensitive Information in a Public Database: A suggestion was made that the public-facing portion of the registration database should not include information that could be used in fraudulent scams, including fraudulent deed transfers. It should be noted that the City of Newark already provides a public database of all of its rental licenses that include owner information. This is something that should be looked at carefully.

7. Landlord-Certification to Perform Inspections: We received feedback requesting that the plan include the ability for landlords and property managers to have access to lead hazard training and certification to assist in keeping their costs down, with appropriate oversight inspections to ensure that inspections and clearance are thorough. The importance of independent third-party inspectors is well-documented in other jurisdictions and could create additional oversight needs for DHSS to ensure that inspections or assessments are performed correctly and documented accurately.

Stakeholder Impact and Feedback

The CLPPAC sought stakeholder feedback, particularly from housing providers, throughout the development of the plan, including a stakeholder listening session on December 7, 2023 to listen to feedback on the plan. While stakeholder engagement was not required for us by SB 9, we felt that this engagement could help us to understand the challenges of making all rental housing built before 1978 lead-safe and identify opportunities to improve the plan.

Feedback collected throughout this process was categorized by theme and then compared to the programs in our evaluation model and existing peer-reviewed research on this topic. Some of the recommendations from stakeholders were incorporated into this document, while others, which were found to be either inconsistent with best practice, contrary to the objectives of the plan as required by SB 9, or had the potential to cause harm and perpetuate childhood lead poisoning, were not included in the plan.

While we did receive positive feedback about the tenant protections included in the plan, general comments from housing providers about the plan overall were negative, and included the following criticisms: the timeline was suggested to be unrealistic; the costs borne by landlords were considered too high; an adequate workforce to implement the necessary tasks does not exist; and the plan would result in increased vacancy rates, shortages in rental housing, decreased availability and affordability of rental housing, and increased rents. These criticisms are consistent with those documented in the historical record for landlord opposition to primary prevention over the past 90 years (Markowitz and Rosner, 2002; 2013; Needleman, 1998; and Warren, 2000) and have not negatively impacted the other jurisdictions with similar programs that we reviewed.

Recommendations for plan improvement that we received that were incorporated into the plan include the following: administrative warrants would enable the ability to perform inspections and lead hazard control work in those instances where access to the rental unit is denied by the landlord or tenant; mutual agreement between tenants and landlords to terminate a lease in addition to temporary relocation requirements should be allowed; delay of penalties and extension of the compliance timeline for those landlords who had, in good faith, attempted to comply with the certification requirements and any needed repairs; and alternate funding sources for lead abatement, including CHIP funding, should be pursued by the state.

Recommendations that we feel may have merit but warrant further consideration beyond our ability to meet the January 1, 2024 deadline established by SB 9 were included in the Program Challenges and Future Considerations section of this plan, and include: dwellings that are fully gutted and rehabilitated should be able to qualify as post-1978 and therefore be exempt from inspection; rental hazard insurance should be made more affordable; a lookback period for those rental properties that have already received a qualifying inspection, such as for a real-estate transaction; the public-facing side of the rental unit registry should be sensitive to the type of information that is provided to prevent fraudulent activities; and landlords should be eligible to receive training and certification so that they can perform the inspections. Recommendations that we did not incorporate into this plan, and our reasoning, are provided in Appendix B.

Conclusions

In this plan, the CLPPAC presents a comprehensive approach to eliminate childhood lead poisoning from lead paint hazards in rental housing. Our research has demonstrated that pre-1978 rental housing is the most significant cause of childhood lead poisoning in the United States, and that rental unit assessment or inspection and lead-hazard removal are the most responsible and cost-effective approaches to primary prevention available. This is not a controversial idea; it has proven to be effective in other jurisdictions where similar policies have been implemented, including by our immediate neighbors in Maryland and Philadelphia.

Childhood lead poisoning is not a problem that has already been solved. It remains a serious public health threat in Delaware, with hundreds of children identified with lead poisoning each

year, and likely many more who are not identified. The passive approach that Delaware has used to address lead poisoning for the past decades, surveillance and offering services only after a child has a lead exposure documented on a blood lead test, has failed to prevent children from becoming lead-poisoned. A new proactive approach described here emphasizes primary prevention, is urgent, and demands the complete commitment of the Governor and the General Assembly to provide the necessary authority, funding, and support to ensure that all rental housing is safe for its inhabitants.

The plan we present, while containing critical details that are essential to its successful implementation, is really quite simple: rental housing must emerge from the shadows, it must be counted and accounted for, it must be inspected for the invisible lead hazards that poison children, and it must be made safe for habitation.

Delaware's Residential Landlord Tenant Code already requires rental housing to be healthy and safe, and to not endanger the welfare of occupants. Somehow along the way, lead poisoning got left out of the interpretation of these words. Our research has shown that as a whole, pre-1978 rental housing is not safe from lead hazards, is nearly twice as likely to have deteriorated paint than owner-occupied housing, and is widely regarded as the most important source of childhood lead poisoning. Because Delaware has not yet addressed this risk, any particular pre-1978 rental housing unit may not be healthy, may not be safe, and may truly endanger the welfare of occupants, and should therefore be inspected or assessed and lead hazards promptly corrected.

We hope that the Governor, the General Assembly, and others who read this document will seriously consider the contents of this plan and assist in its implementation.

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Appendix A. Proposed Legislation

SPONSOR: Sen. XXXXXX

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. XX

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

WHEREAS, lead exposure poses significant health risks, particularly to young children, causing developmental delays, learning difficulties, and other severe health issues;

WHEREAS, rental housing built before 1978 may contain lead-based paint, which can deteriorate over time, leading to potential exposure through peeling, chipping, or flaking paint;

WHEREAS, establishing certification requirements for rental housing as lead-free or lead-safe will safeguard the health and well-being of tenants, especially children;

WHEREAS, creating a certification program will encourage landlords to undertake necessary measures to eliminate lead hazards, thereby reducing the prevalence of lead poisoning cases; and

WHEREAS, it is in the public interest to enact legislation that promotes safe and healthy living environments by addressing the hazards associated with lead exposure in rental housing.

NOW, THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1: Amend Part III, Title 25 by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 54. Lead-Based Paint Hazard Reduction.

§ 5401. Definitions.

For purpose of this chapter:

(1) The term “alternative housing” shall be as defined by the regulations of the Department and shall include reasonable out-of-pocket expenses incurred as a result of relocating the tenant to alternative housing such as rent charged for the alternative housing above the cost of the tenant’s existing unit, costs to move back and forth from the alternative housing, and storage costs for personal belongings.
(2) The term “constructed” shall mean the date on which a construction permit was obtained. If no construction permit was obtained, it shall mean the date that construction was started.

(3) The term “Department” shall mean the Department of Health and Social Services.
(4) The term “lead-based paint hazard” shall be as defined by the regulations of the Department.
(5) The term “lead free” means that lead is not present in any form anywhere in the rental unit or premises.
(6) The term “lead inspector” shall be as defined in the regulations of the Department.
(7) The term “lead safe” means a designation made after an inspection by a lead inspector that a rental unit and premises do not have a lead-based paint hazard at the time of the inspection.
(8) The term “regularly visited” shall mean at least two (2) times a week for three (3) or more hours at least ten (10) weeks per year.
(9) The term “rental unit constructed before January 1, 1978” shall mean a rental unit for which a construction permit was obtained before January 1, 1978. If no permit was obtained, it shall mean that construction of the rental unit was started before January 1, 1978.

§ 5402. Registration of Rental Units.

(a) Effective January 1, 2025, every rental unit shall be registered with the Department prior to the commencement of a rental agreement on such rental unit.

(b) The registration shall include the name and address of the landlord and any property manager, the address of the rental unit, the date the rental unit was constructed, and the expiration of the term of any existing rental agreement.

(c) The failure to register a rental unit shall be punishable as follows: a civil penalty of $20 per day per rental unit until the unit is registered.

§ 5403. Rental Unit Registry.

(a) The Department shall establish and maintain a registry of all rental units by September 1, 2024.

(b) The registry shall be kept current and made available to the public in a format that is searchable by the name and address of the landlord and any property manager, the address of the rental unit, the date the rental unit was constructed, the term of any existing lease, and when and whether the rental unit and premises have been certified as lead safe or lead free.

§ 5404. Certification of Rental Units as Lead Free or Lead Safe.

(a) Effective January 1, 2026, a certificate for any rental unit constructed before January 1, 1978, shall be required. The certificate shall certify that the rental unit and premises are “lead free” or “lead safe.” The certificate shall be filed with the Department prior to January 1, 2026 and prior to the commencement of any rental agreement on such rental unit after January 1, 2026. The certificate shall include the name and address of the landlord and any property manager, the address of the rental unit, the lead inspector issuing the certificate, the date the certificate was issued, the date of the inspection of the rental unit and premises, and whether the rental unit and premises are certified as lead free or lead safe. The information provided in the certificate shall be included in the rental unit registry created by the Department as required by this chapter.

(b) Only individuals approved as lead inspectors by the Department shall issue certificates. No individual shall be approved by the Department as a lead inspector unless such individual has successfully completed a training program established by the Department on the identification and evaluation of lead paint hazards or a training program of another state that the Department has determined to be as stringent as the program established by the Department.

(c) No certificate shall be issued unless the lead inspector conducts an inspection and evaluation of the rental unit and premises in a manner required by the regulations of the Department.

(d) The Department shall establish and maintain a list of all lead inspectors. Such list shall be available to the public.

(e) The failure to obtain and file a certificate prior to January 1, 2026 or the commencement of a rental agreement shall be punishable as follows: a civil penalty not to exceed $500 per day per rental unit until the required certificate is obtained and filed with the Department. No civil penalty shall be imposed if a certificate exemption is issued by the Department prior to January 1, 2026, or the commencement of a rental agreement after January 1, 2026. A certificate exemption shall only be issued upon a showing that it is not possible to timely obtain a certificate. The length of the certificate exemption shall not exceed six (6) months. No certificate exemption shall be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(f) The tenant shall permit reasonable access to the rental unit and premises for an inspection and evaluation by a lead inspector as required by this chapter.

(g) The failure to obtain and file a certificate shall preclude the landlord from bringing an action for summary possession of the rental unit for which a certificate is required. This section shall not apply if the landlord has obtained a certificate exemption issued by the Department prior to January 1, 2026, or the commencement of a rental agreement commencing after January 1, 2026. A certificate exemption shall only be issued upon a showing that it is not possible to timely obtain a certificate. The length of the certificate exemption shall not exceed six (6) months. No certificate exemption shall be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(h) The landlord shall provide for alternative lodging when an inspection and evaluation by a lead inspector, as required by this chapter, reveals that the rental unit is inhabitable as a result of a lead-based paint hazard before or during the abatement or remediation of the rental unit. The landlord shall provide the tenant with reasonable advance notice before the tenant is required to move into or out of the alternative housing. Nothing in this chapter shall preclude a tenant and landlord from agreeing to terminate a rental agreement so long as such agreement is voluntary and not coerced.

(i) The lead inspector shall inform the Department, the landlord, and tenant of any lead-based paint hazard revealed during an inspection and evaluation of a rental unit. The lead inspector shall provide the landlord and tenant with information regarding the safe remediation and abatement of lead-based paint hazards as required by the regulations of the Department.

§5405. Recertification of Rental Units as Lead Free or Lead Safe.

(a) Any rental unit certified as lead safe shall be recertified as follows:
   i. prior to the commencement of any rental agreement more than four years after the date on which such unit was last certified as lead safe;
   ii. if an individual residing in the unit or regularly visiting the rental unit develops an elevated blood level as defined by the regulations of the Department; or
   iii. if a lead-based paint hazard is discovered in the rental unit or premises.

(b) Any rental unit certified as lead free need not be recertified unless:
   i. a lead-based paint hazard is discovered in the rental unit;
   ii. an individual residing in the rental unit or regularly visiting the rental unit develops an elevated blood level as defined by the regulations of the Department; or
   iii. if a lead-based paint hazard is discovered in the rental unit or premises.

§ 5406. Disclosure of Registration and Certification.

(a). Effective January 1, 2026, every rental agreement shall contain a written disclosure that the rental unit has been registered as required by this chapter.

(b). Effective January 1, 2026, every rental agreement on a rental unit constructed prior to January 1, 1978 shall contain a disclosure that the rental unit and premises have been certified as lead safe or lead free, the date of the certification, and the lead inspector issuing the certificate. The landlord shall provide the tenant with a copy of the certificate within seven (7) days of a request for such certificate. Failure to provide such certificate shall be punishable as follows: a civil penalty of $50 per day until the certificate is provided to the tenant.

(c). The Department shall promulgate regulations addressing the format of the disclosures required by this chapter.

§ 5407. Educational Materials.

The landlord shall provide the tenant with any educational materials required to be provided by the regulations of the U.S. Environmental Protection Agency or the Department. Such material shall be provided before the tenant occupies the rental unit. Failure to provide the required educational materials shall be punishable as follows: a civil penalty of $20 per day until the materials are provided to the tenant.

§ 5408. Lead Paint Hazard Control Grant Program.

The Department shall establish and administer a lead paint hazard control grant program to assist eligible landlords in obtaining a required certificate or in the remediation or abatement of lead hazards in a rental unit. Preference for grants shall be given for rental units which are the primary residence for children under six, pregnant individuals, or are regularly visited by a child under six (6) years of age. The program shall also provide grants to assist eligible tenants to obtain temporary alternative lodging while a rental unit serving as their primary residence is undergoing lead paint remediation or abatement.

§ 5409. No Discrimination.

(a). It shall be unlawful to discriminate against an individual because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing relating to the presence of a lead-based paint hazard in a rental unit or premises, the failure to register the rental unit or to obtain or provide a certificate.

(b). It shall be unlawful to discriminate against an individual because the individual or someone residing with such individual in a rental unit has an elevated blood lead level or is perceived as having an elevated blood level. It shall also be unlawful to discriminate against an individual seeking to rent a rental unit because the individual or someone who would be residing in the rental unit has an elevated blood level or is perceived as having an elevated blood level.

(c). It shall be unlawful to discriminate against an individual because the individual or someone who is or would be residing in the rental unit is pregnant or is under six years of age (unless the rental unit is qualified as housing for older persons under the Delaware Fair Housing Act).

(d). Prohibited discriminatory acts shall include, but are not limited to, the following: arbitrary refusal to renew a rental agreement; arbitrary refusal to enter into a rental agreement; termination of tenancy; arbitrary rent increase or decrease in service to which a tenant is entitled; or any constructive eviction.

§5410. Enforcement.

(a) Any officer or employee of the Secretary of Department designated by the Secretary shall:

i. Execute and serve administrative inspection warrants issued under the authority of this State;

ii. Make seizures of property pursuant to this chapter;

iii. Have all powers of constables and other police officers of the State, counties and other subdivisions of the State; and

iv. enforce this chapter.

(b). Issuance and execution of administrative inspection warrants shall be as follows:

i. Any person authorized to issue search warrants in this State may, within the person's jurisdiction and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the rental unit or, premises in the circumstances specified in the application for the warrant.

ii. A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge or justice of the peace and establishing the grounds for issuing the warrant. If the judge or justice of the peace is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge shall issue a warrant identifying the rental unit or premises to be inspected, the purpose of the inspection and, if appropriate, the type of property to be inspected or seized, if any. The warrant shall:

a. State the grounds for its issuance, and the name of each person whose affidavit has been taken in support thereof;

b. Be directed to a person authorized by §5410(a) to execute it;

c. Command the person to whom it is directed to inspect the rental unit or premises identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

d.Identify the item or types of property to be seized, if any; and

e. Direct that it be served during normal business hours and designate the judge or justice of the peace to whom it shall be returned.

iii. A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

iv. The judge or justice of the peace who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the Prothonotary in the county in which the inspection was made.

(c). The Secretary may make administrative inspections of rental units in accordance with the following provisions:

i. When authorized by an administrative inspection warrant issued pursuant to this section, an officer or employee designated by the Secretary, upon presenting the warrant and appropriate credentials to the tenant may enter the rental unit for the purpose of conducting an administrative inspection.

ii. This section does not prevent the inspection of a rental unit without a warrant or prevent entries and administrative inspections, including seizures of property, without a warrant:

a. If the tenant consents;

b.In situations presenting imminent danger to health or safety;

c. In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

d. In all other situations in which a warrant is not constitutionally required.

§5411. Regulations.

The Department shall promulgate regulations to effectuate this chapter.

Section 2: Amend Part III, Title 25, §5305 by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5305. Landlord obligations relating to the rental unit.

(a) The landlord shall, at all times during the tenancy:

(1) Comply with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the rental unit and the property of which it is a part;

(2) Provide a rental unit which shall not endanger the health, welfare or safety of the tenants or occupants, is free of lead and certified as lead safe or lead free as required by chapter 54, and which is fit for the purpose for which it is expressly rented;

(3) Keep in a clean and sanitary condition, free of lead and certified as lead safe or lead free as required by chapter 54, all common areas of the buildings, grounds, facilities and appurtenances thereto which are maintained by the landlord;

(4) Make all repairs and arrangements necessary to put and keep the rental unit and the appurtenances thereto in as good a condition as they were, or ought by law or agreement to have been, at the commencement of the tenancy; and

(5) Maintain all electrical, plumbing and other facilities supplied by the landlord in good working order.

SYNOPSIS

This bill requires all rental units to be registered with the Department by January 1, 2025 and all rental units constructed before January 1, 1978 to be assessed by an approved lead inspector by January 1, 2026 and all lead hazards promptly corrected . It requires rental units certified as lead safe to be recertified every four (4) years.

This bill requires the Department to establish and maintain a registry of all rental units and their status as lead-free or lead safe.

This bill requires the landlord to provide alternative housing to tenants while a rental unit is made lead-free or lead safe.

This bill also requires every rental agreement on a rental unit constructed prior to January 1, 1978 contain a disclosure that the unit has been certified as lead-free or lead safe.

This bill requires landlords to provide the tenant with educational materials about lead-based paint hazard prior to tenancy.

This bill requires the Department to establish and maintain a grant program to assist landlords in obtaining a required certificate or in remediating or abating lead-based hazards in rental units and to assist tenants in obtaining alternative housing while rental units are undergoing remediation or abatement.

This bill prohibits discrimination against individuals who have made a complaint or participated in an investigation, hearing or other proceeding about a lead-based paint hazard in a rental unit or the failure to register or certify a rental unit. It also prohibits discrimination because an individual residing in a rental unit or seeking to rent a rental unit has or is perceived to have an elevated blood level. It prohibits discrimination because an individual who is or would be residing in a rental unit is pregnant or under six (6) years of age unless the rental unit qualifies as housing for older persons under Delaware law.

The bill provides that the Secretary of the Department shall designate individuals who can enforce the chapter and a procedure to obtain administrative warrants.

The bill provides for fines for the failure to timely register or to obtain and file a required certificate, unless an exemption of up to six (6) months is granted by the Department. Fines are also provided for failure to provide the tenant with educational materials or a copy of the required certificate, when requested.

The bill bars landlords who have failed to obtain and file a required certificate from commencing an action for summary possession of the rental unit, unless a certificate exemption of up to six months has been issued by the Department.

The bill directs the Department to promulgate regulations to effectuate the chapter.

The bill amends the landlord obligations under §5305 to include providing a rental unit and common area free of lead and certified as lead free or lead safe.

Author: XXXXXXXX

Appendix B. Stakeholder Suggestions Not Included in the Plan

Stakeholder feedback that was not included in this plan, with our justification for why the suggestion was excluded, include the following:

Suggestion	Justification for Exclusion from the Plan
Tenants should be able to choose to live in lead-contaminated housing, and their choice to do so should release the landlord from liability for any lead poisoning that occurs in the rental unit, if an appropriate lead hazard warning about the dangers is provided to the tenant.	We found this contrary to the direction provided by SB 9, extremely dangerous for health, and problematic ethically.
Households with children should be inspected and abated first; requiring lead-safe certification for households occupied only by adults adds unnecessary costs.	This is counter to anti-discrimination objectives; these types of policies were shown by the research to result in an increase in evictions in other jurisdictions.
Inspections performed for Section 8 should be able to qualify as a lead-safe inspection.	We examined Section 8 inspection protocols and found that they do not currently include lead dust; they also allow for deteriorated paint to continue in the dwelling (2 square feet of deteriorated paint per room or 10% of a component).
Instead of making rental housing lead-safe, focus should be more on public education so people can know how to protect themselves from lead poisoning; lead-safe housing requirements are a poor use of resources.	This is counter to our task assigned by SB 9, our research has also concluded that public education alone is not sufficient to prevent lead hazards, and that the removal of lead hazards from rental housing is the most important mechanism for primary prevention. This has also been a talking-point of the lead industry and housing providers for many years, has been used elsewhere to delay policy action, and has perpetuated the continuation of childhood lead poisoning (Markowitz and Rosner, 2002, 2013; Warren, 2000).
Property owners should be exempt from hiring lead-safe contractors and should be able to perform the work themselves.	We examined the EPA rules for lead hazard work and found this to be counter to federal requirements. Certification exemptions for owners to perform their own work apply only to owner-occupied units and exclude owners if someone outside the immediate family resides in the unit.

Suggestion	Justification for Exclusion from the Plan
Not enough children are lead-poisoned to take action; “why should we care about only a few hundred lead-poisoned children?”	Delaware children are not disposable. Existing data and research demonstrate childhood lead poisoning to be a severe public health crisis warranting immediate action.
Inspections should be limited to rental turnovers; this would assist with addressing lead hazards in occupied units.	This would introduce loopholes that would prevent inspection for long periods of time and could undermine the effort. Best practices from other programs utilized a routine schedule for reinspection to prevent hazards that can continue to develop from lead paint left behind due to wear and tear.
The plan should allow for a visual inspection for lead dust and degrading paint instead of dust sampling.	Lead dust can be invisible to the naked eye and can evade detection until a child becomes lead-poisoned. The only way to detect the presence of lead is through a dust sample.
Liability protection: protections for landlords from lead poisoning claims if they comply with the program.	This is not something we have seen in the research or our program analysis.
Registration of all rental units is outside the scope of SB 9; all rental units should not be required to register in a state database.	The shadow economy of rental housing without adequate health protections and accountability currently perpetuates ongoing childhood lead poisoning in Delaware.
Lead hazards should be a private matter, the state should not be involved, and instead lead hazards should be resolved privately between the landlord and the tenant.	Lead poisoning is a matter of public health that is already regulated and managed by the state and federal governments, including the Environmental Protection Agency, Department of Housing and Urban Development, Food and Drug Administration, and Consumer Product Safety Commission. Toxic exposures to poisons are not a private matter between a property owner and a tenant.
The program should target the oldest housing first, inspect and abate them, and then proceed to newer housing.	This is beyond the scope as outlined in SB 9. Furthermore, lead paint was banned 45 years ago and too much time has passed to justify further delays.

Suggestion	Justification for Exclusion from the Plan
A request by the City of Newark in regard to the tremendous annual turnover in rental housing that occurs at the same time due to the large proportion of rental units for students at the University of Delaware. Providing a mechanism to space the compliance and reporting, particularly if it includes the municipal government, would be appreciated.	The proposed plan would not require any inspections or record-keeping by municipalities, so this should not create a new burden for them that could create a bottle-neck at any particular time of year. If municipalities decided to incorporate new changes to the Delaware Code into their municipal code, this may then become an issue for them.

Appendix C. Programs in Other Jurisdictions

We carefully evaluated the following programs in other jurisdictions, which are also summarized as follows:

State of Maryland: Adopted in 1994, Maryland's Lead Law is considered highly effective at preventing childhood lead poisoning. The Green and Healthy Homes Initiative (2020) which implements Maryland's Lead Law, reports that Maryland's proactive approach to primary prevention, which includes the rental housing program and other prevention initiatives, has resulted in a 98% reduction in childhood lead poisoning since 1993.

The Lead Law is mandatory for all rental dwellings constructed prior to 1978, and includes housing authorities and housing choice voucher programs. All rental properties must be registered with the Maryland Department of Environment as well as with the county where they are located, registration must be renewed annually, and includes a $30 fee. Property owners must obtain a lead risk reduction certificate at every change of tenancy and other triggering events, and provide certification that interior and exterior painted surfaces of the rental unit meet the risk reduction standard for lead paint and dust. Lead hazards that are identified must be corrected within 30 days, include relocation of the tenant during lead hazard reduction work, and educational materials must be provided. Advanced abatement measures are required if a pregnant tenant or child under the age of 5 has a blood lead level at or above 5 µg/dL. All work must be performed by those certified by the state and EPA. Exemptions to the Lead Law include hotels, motels, seasonal, and transient rental facilities. Penalties for violation include $20/day for failure to register, $500/day for failure to file an inspection certificate (not to exceed $100,000), and civil penalties not to exceed $25,000.

City of Philadelphia: Adopted in 2011 and updated in 2020, Philadelphia's Lead Paint Disclosure and Certification Law applies to all rental units constructed prior to March 1978, though it excludes public housing authorities and housing choice voucher programs in specific zip codes. The program is implemented as part of the city's annual rental license and enforced by the City of Philadelphia, and requires lead-safe certificates for all rental units, which must be updated every 4 years. Lead-free certification lasts forever. Lead hazards must be remediated to the extent that the unit can pass inspection prior to tenant occupancy, and educational materials must be provided. All workers must be licensed by the state and EPA. There are no exemptions for temporary housing units, dormitories, or hotels. Penalties include $2,000 per offense per day, with each day constituting a separate offense; refund of rent for the period without a lead inspection certification; landlords may be subject to a private lawsuit for money damages and attorney's fees; and housing licenses may be revoked.

State of New Jersey: While New Jersey's original lead-safe rental housing laws began in 1971, the Lead-Based Paint Inspections in Rental Dwellings was revised in 2023, applies to all rental units constructed prior to 1978, and is enforced by local governments. Lead-safe certification is required within 2 years or with tenant turnover, whichever is sooner, and thereafter every 3 years or upon tenant turnover. Tenant turnover restarts the 3-year clock. The periodic

lead-based paint inspection applies to interior spaces within dwellings and common areas that tenants of a rental dwelling have access to, including hallways and basements. All lead paint hazards must pass clearance, including a lead dust wipe inspection, as part of a post remediation inspection. New Jersey requires all workers to be licensed in the state and by the EPA, and does not have specific education requirements. Seasonal rentals that do not have consecutive leases are exempt. Penalties for both the landlord of $1,000/week and for the local government $1,000/week are assessed.

City of Buffalo: Buffalo, New York added a proactive rental inspection lead screening for rentals to their existing certificate of rental compliance in 2020 and has incorporated a 6-year phased-in approach to full capacity that focuses on areas with a history of childhood lead poisoning. The city schedules inspections with property owners; units that fail inspection are issued an order of remedy with inspection clearance required within 60 days. Units that pass inspection are in good standing for a period of 3-years. Penalties for negligence include fines and loss of rental license.

City of Detroit: Rental properties in Detroit, Michigan must have lead clearance certification before they can be rented. Rental units constructed prior to 1978 must have a lead inspection and risk assessment performed to determine the presence of lead based paint and lead based paint hazards. If lead based paint hazards exist, the hazards must be controlled prior to occupancy, all workers must be licensed, and the rental unit must pass clearance inspection. Penalties range from $500 to $8,000 and can be assessed daily.

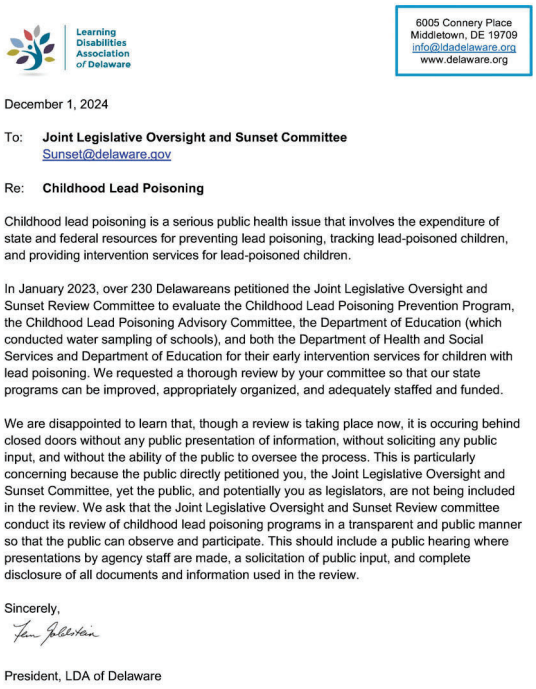
City of Burlington: Burlington, Vermont requires all landlords to certify compliance with the state's Essential Maintenance Practices for lead hazards. Property owners must conduct a visual assessment of each unit annually and upon tenant turnover to detect and remedy deteriorating paint, perform specialized cleaning of all interior surfaces that are subject to lead safe cleaning procedures at tenant turnover, and provide educational materials. City inspectors are authorized to enter into rental homes on the basis of carrying out local, periodic inspections. If refused, Vermont District Court may issue search warrants for unit entry provided probable cause. Failure to observe lead-safe practices may result in a $500 fine and/or a stop work order, loss of occupancy certificate, and civil and/or criminal penalties.

McAtee, Amanda A (LegHall)

From: LDA Delaware
Sent: Thursday, November 7, 2024 10:54 AM
To: Sunset (Mailbox Resources)
Subject: Lead Poisoning
Attachments: Sunset Review Sign On Letter 2024.jpg

Learning Disabilities Association of Delaware

Please see the attached letter below:
Fern Goldstein
President, LDA of Delaware
info@ldadelaware.org
www.ldadelaware.org
302-464-0926



Learning Disabilities Association of Delaware

6005 Connery Place
Middletown, DE 19709
info@ldadelaware.org
www.delaware.org

December 1, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

Re: **Childhood Lead Poisoning**

Childhood lead poisoning is a serious public health issue that involves the expenditure of state and federal resources for preventing lead poisoning, tracking lead-poisoned children, and providing intervention services for lead-poisoned children.

In January 2023, over 230 Delawareans petitioned the Joint Legislative Oversight and Sunset Review Committee to evaluate the Childhood Lead Poisoning Prevention Program, the Childhood Lead Poisoning Advisory Committee, the Department of Education (which conducted water sampling of schools), and both the Department of Health and Social Services and Department of Education for their early intervention services for children with lead poisoning. We requested a thorough review by your committee so that our state programs can be improved, appropriately organized, and adequately staffed and funded.

We are disappointed to learn that, though a review is taking place now, it is occuring behind closed doors without any public presentation of information, without soliciting any public input, and without the ability of the public to oversee the process. This is particularly concerning because the public directly petitioned you, the Joint Legislative Oversight and Sunset Committee, yet the public, and potentially you as legislators, are not being included in the review. We ask that the Joint Legislative Oversight and Sunset Review committee conduct its review of childhood lead poisoning programs in a transparent and public manner so that the public can observe and participate. This should include a public hearing where presentations by agency staff are made, a solicitation of public input, and complete disclosure of all documents and information used in the review.

Sincerely,

President, LDA of Delaware

Learning Disabilities Association of Delaware

6005 Connery Place
Middletown, DE 19709
info@ldadelaware.org
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Sincerely,

Jen Goldstein

President, LDA of Delaware

From: Sarah Bucic
Sent: Wednesday, December 4, 2024 3:25 PM
To: Sunset (Mailbox Resources)
Cc: DorseyWalker, Sherry (LegHall); Hoffner, Kyra (LegHall); Johnson, Kendra (LegHall); Parker Selby, Stell (LegHall); Collins, Rich G (LegHall); Richardson, Bryant L (LegHall); Spiegelman, Jeff (LegHall); Gay, Kyle E (LegHall); Huxtable, Russell (LegHall); Pettyjohn, Brian (LegHall); Amy Roe
Subject: Childhood Lead Poisoning - Sunset Review
Attachments: Sunset Review Sign On Letter 2024.pdf; Petition for sunset review_Final 2023_01_23.pdf

Dear Delaware Sunset Review Committee,

Please find attached a sign on letter asking for a more thorough review of childhood lead poisoning by the Sunset Review Committee. This is a follow up to our petition submitted in January 2023. I'm attaching the original petition and our request.

Thank you for your attention to this important issue impacting Delaware's children and families.

Sincerely,

Sarah Bucic, MSN, RN
Amy Roe, Ph.D.

December 1, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

Re: **Childhood Lead Poisoning**

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We ask that the Joint Legislative Oversight and Sunset Review committee conduct its review of childhood lead poisoning programs in a transparent and public manner so that the public can observe and participate. This should include a public hearing where presentations by agency staff are made, a solicitation of public input, and complete disclosure of all documents and information used in the review.

ACLU of Delaware
Mike Brickner, Executive Director

Black Mothers in Power
Shané Darby, Founder

Central Delaware NAACP Education Committee
Dr. Terri Hodges, Chair Education Committee, NAACP

The Civic League of New Castle County
President - Charles C. Stirk Jr

The Delaware Black Commission
Jakim Mohammed

Delaware Nurses Association
Executive Director, Christopher E. Otto, MSN, RN, CCRN

Delaware School Nurse Association
President Denise Bradley Buffin, RN, MEd, MSN, NCSN, School Nurse, DSNA President

Delaware PTA
President Kelly Coffey

Health Educated, Inc
Founder, Kristin Ball Motley, PharmD, MBA

Lead-Free Delaware
Amy Roe, Ph.D. & Sarah Bucic MSN, RN

Sierra Club Delaware Chapter
Dustyn Thompson, Chapter Director

Sons Health & Safety
Chantae' Vinson

Petition for Sunset Review of the DHSS, DPH, the Lead Poisoning Prevention Program, and the Childhood Lead Poisoning Prevention Program

To: Joint Legislative and Sunset Review Committee: Senators Kyra L. Hoffner, Kyle Evans Gay, Russell Huxtable, Brian Pettyjohn, and Bryant L. Richardson; and Representatives Sherry Dorsey Walker, Kendra Johnson, Stell Parker Selby, Richard G. Collins, and Jeffrey N. Spiegelman.

Joint Legislative Oversight and Sunset Committee,

We, the undersigned, petition the Joint Legislative Oversight and Sunset Committee to act immediately to evaluate the following programs that manage the State of Delaware's childhood lead poisoning issue.

The State's programs are not effective, have not provided required services for children with lead poisoning, have impeded progress on reducing childhood lead poisoning, are not compliant with the Delaware Childhood Lead Poisoning Prevention Act and the federal requirements of the Individuals with Disabilities Education Act (IDEA Part C) and the Safe Drinking Water Act (WIIN Grant).

- Childhood Lead Poisoning Prevention Program, which is responsible for managing childhood lead poisoning prevention, including data and case management.
- Childhood Lead Poisoning Advisory Committee, which was re-established in 2019, for composition of committee members, and completion of required tasks.
- Department of Education Operations Support, which has conducted water sampling for lead utilizing the federal WIIN Grant and state funds of an unknown source, and does also not perform lead risk assessments for public schools
- DHSS/DOE Idea Part C, which provides early child intervention to children with elevated blood lead levels ≥ 5 µg/dL.

Our state programs are challenged in many ways, and have not demonstrated an ability to adequately prevent childhood lead exposure or respond to the needs of children who are exposed to lead.

We therefore request a thorough review by your committee so that our state programs can be improved, appropriately organized, and adequately staffed and funded.

Civic League for New Castle County
Delaware Coalition for Open Government
Delaware Nurses Association
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Sarah Bucic sar[redacted] om 19809
Vanja Bucic var[redacted] m 19809
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Joseph Budd jpb[redacted] 19808
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Knisha Clark r[redacted] 19802
Kelly Coffey c[redacted] m 19707
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Michelle Covais [redacted] 19713
Charles Cowen [redacted] 19806
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Luann D'Agostino [redacted] 19711
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Cc: Campbell, Madeline (LegHall); Southerst, Alexandra (LegHall); Williams, Brandon (LegHall); Hugg, Jacqueline (LegHall); Burke, Amy (LegHall); Hitchens, Heather H. (LegHall); Diaz-Rivera, Felicita (LegHall); Dougherty, Justin (LegHall); Richardson, Annie (LegHall); William Bowser; vanessa
Subject: Childhood Lead Poisoning Prevention Program, Targeted Review
Attachments: CLPPAC 2024 Annual Report.pdf; CLPPAC_04_08 JLOSC Comments.pdf

Dear members of the Joint Legislative Oversight and Sunset Committee,

Enclosed are the updated comments regarding the targeted review of the childhood lead poisoning prevention program from the Childhood Lead Poisoning Prevention Advisory Committee, and our 2024 Annual Report, which is referenced in the comments.

Thank you,
Amy Roe, Ph.D.
Chair, Childhood Lead Poisoning Prevention Advisory Committee

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Enclosed is an update to our prior comments, submitted on October 8, 2024. We have noted from the February 13, 2025 report and presentation that the focus of the review has deviated substantially from objectives identified by the JLOSC in February 2023, which were to 1) evaluate lead poisoning screening for 12 and 24-month-old children, 2) Assess the Water Testing Program in Delaware schools, and 3) Analyze funds available.

We also note the review has been expanded to include other state programs and entities beyond the Childhood Lead Poisoning Prevention Program, one of which did not exist when the program review was initiated in 2023 (Delaware State Lead-Based Paint Program). These include:

Entity	Topics
Childhood Lead Poisoning Prevention Program	Define in the Delaware Code Define the Universal Reporting System Define Public Information
Delaware State Lead Based Paint Program	Reorganize how it is described in the Delaware Code
Childhood Lead Poisoning Prevention Advisory Committee	Consolidate annual report with the surveillance report Remove oversight of the Delaware State Lead Based Paint Program Staff Support (use of Social Contract)
Dept of Education, School Drinking Water	Progress since Department of Education Summary Report (September 13, 2023) and Filter First

We would like to remind JLOSC that it has obligations, outlined in the Delaware Code, to engage with each appropriate entity or organization. These obligations have not been followed as required.

> **Title 25 Delaware Code Chapter 102 Delaware Legislative Oversight and Sunset Act**
> §10212 Focused Review
> (6) In conducting research under this section, **committee staff shall engage the general public and each appropriate entity or organization, including the entity under focused review,** to request written testimony, comment, or other material to aid the Committee in the focused review.

The JLOSC Members should also be aware that the Delaware State Lead-Based Paint Program received less than 24-hours notice prior to the February 13, 2025 meeting that it was subject to review, and we have confirmed the Department of Education received no notice, were not aware of the meeting, and had no invitation to attend. In addition, the Childhood Lead Poisoning Prevention Advisory Committee also received no notice that the review had been expanded to include recommendations impacting us.

We have been notified by the Division of Research staff that they will not engage with our committee, even though the CLPPAC is now a targeted entity in this review (see Appendix A). We were also denied a request to have a copy of the questions by legislators provided at the February meeting (see Appendix B). We see this as a critical procedural flaw that should be corrected.

Our responses to the current JLOSC Recommendations are as follows:

JLOSC Recommendation	**CLPPAC Response and Guidance**
Clarify the State Lead-Based Paint Program	See the following in our CLPPAC 2024 Annual Report: • Page 11: Delaware Lead Based Paint Remediation Fund, required by Title 16 Del. C. § 2613, has not yet been established.
Clarify the Childhood Lead Poisoning Prevention Program	See the following in our CLPPAC 2024 Annual Report: • Pages 5-6: define the role of the Childhood Lead Poisoning Prevention Program and establish program requirements. • Page 11: expanded use of state resources for lead screening. • Pages 11-12: comprehensive review of outreach materials, guidance, and practices.
Clarify the Universal Reporting System used by the Division of Public Health to collect and maintain program data	See the following in our CLPPAC 2024 Annual Report: • Pages 6-7: update screening and testing requirements so that they are consistent with new federal recommendations. • Page 9: establish quality controls for data collection, management, and reporting. • Page 10: establish consistency in reporting blood lead results from laboratories and providers. • Page 11: consistency in practices for data transfers for school nurses. • Page 25: the new data system (DELI) going online in 2025.

	• Pages 28-29: data transfers, including to school nurses and DHIN.
Clarify public information	Public information is already clearly defined by Title 29 Del. C. Ch 100 The Freedom of Information Act.
Consolidate the reports of the CLPPAC and the Lead Poisoning Prevention Program	CLPPAC has not been engaged by JLOSC on this topic, as required by Title 29 Del. C. §10212.
Update the Duties of the CLPPAC	CLPPAC has not been engaged by JLOSC on this topic, as req oh uired by Title 29 Del. C. §10212.
Clarify and update staff and data support for CLPPAC provided by the Division of Public Health	CLPPAC has not been engaged by JLOSC on this topic, as required by Title 29 Del. C. §10212.

We identified several errors in the JLOSC research which we have corrected.

Errors in the JLOSC Report	**Correction**
Page 1: "The CDC established the Childhood Lead Poisoning Prevention Program to reduce lead exposure and provides program guidance and funding support to states."	Delaware's Childhood Lead Poisoning Prevention Program was established in 1994 following a Delaware Task Force on Lead Poisoning Prevention. At the time it was created, it was called the Office of Lead Poisoning Prevention, and was in the Division of Public Health (Healthy Housing Solutions, Inc. 2004. *Strategic Plan to Eliminate Childhood Lead Poisoning by 2010.* Prepared for the State of Delaware Department of Health and Social Services, Division of Public Health.)
Page 1: "Delaware's Childhood Lead Poisoning Prevention Act guides all lead poisoning prevention programs."	Childhood lead poisoning prevention efforts occur in numerous chapters of the Delaware Code and across state programs. These include: • Title 16 Del. Code Chapter 30 *Lead Paint on Outdoor Structures.* • Title 6 Del. Code Code Chapter 25C *Toy Safety.* • 7 Del Admin. Code 1106 *Particulate Emissions From Construction And Materials Handling.* • Title 14 Del. Code Chapter 23 *School Building Program* • Title 14, Del. Admin. Code 934 *Regulations for Family and Large Family Child Care Homes.*
Page 5: 1994 Enactment: Creation of the Delaware's Childhood Lead Poisoning Prevention Act. Includes Prior Screening Requirements (1995 – 2021): Effective on March 1, 1995. Requires blood lead screening for children at 12 months of age to be completed as stated in regulations. Screening consisted of a childhood lead	Screening by questionnaire was established in 2010 (SB 300) for children at 24 months of age, and not in 1995 as noted.

risk questionnaire to determine if the child was at high risk for lead poisoning.	
Page 16, Prior Screening Requirements under the Childhood Lead Poisoning Prevention Act (1995).	The screening questionnaire was not used prior to 2010 (SB 300). In addition, the example provided in the report is not the questionnaire used by the State of Delaware. Delaware's Questionnaire is included below.

In addition, Footnote 33 on page 10 cites the Legislative Task Force website for the Committee. This website was maintained until 2021, until HB 63 which required DHSS to provide staff support for the Childhood Lead Poisoning Prevention Advisory Committee. Since 2021, this webpage has not been updated, and continues to have a contact person listed who retired from DHSS in 2022. Our efforts to have this webpage redirected, corrected, or archived have not been successful. We would appreciate your assistance resolving this problem, as any member of the public who wishes to contact the Committee is connected to a dead email address.

Delaware's Childhood Lead Poisoning Risk Exposure Questionnaire for Children Between the Ages of 22 and 26 Months (discontinued in 2021 by HB 222.

DELAWARE HEALTH AND SOCIAL SERVICES
Division of Public Health
Healthy Homes and Lead Poisoning Prevention

Childhood Lead Poisoning
Risk Exposure Questionnaire for Children Between the Ages of 22-26 Months

Test Date: _____/_____/_____
(Month / Day / Year)

Child's Name: _____ **DOB:** _____/_____/_____
(Last) (First) (Month / Day / Year)

Address: _____
(Street) (City) (ZIP)

Phone No: _____ **Gender:** Male / Female
(circle one)

Health Insurance Type: _____

Medicaid #: _____ **Parent / Guardian:** _____

If the parent/guardian answers "yes" to just one of these questions, a blood lead level test is required again when the child is around 24 months of age.

	Questionnaire Filled Out (Date)	
The Child	**YES**	**NO**
Is suspected by a parent or a health care provider to be at risk for lead exposure or to exhibit the symptoms of lead poisoning.		
Has a sibling or frequent playmate with lead poisoning.		
Lives in or regularly visits a house or day care center (including out buildings) built before 1978, which is the year lead paint was banned for indoor use.		
Is a recent immigrant, refugee, or foreign adoptee.		
Has a household member who uses traditional, folk, or ethnic remedies or cosmetics or who routinely eats food or supplements imported informally (e.g., by a family member) from abroad.		
Lives with an adult whose job or hobby involves exposure to lead (e.g. construction, home renovation/repair, mechanic, battery manufacturer, welding, metal fabricator, plumber, pottery, jeweler, stained glass maker).		
Lives near a major highway, an active lead smelter, battery recycling plant, or other industry likely to release lead.		
Lives in, attends day care in, or visits any of the following zip code areas at least 6 hours a week or 60 hours a year: • 19701, 19702, 19703, 19706, 19709, 19711, 19713, 19720, 19733 • 19801, 19802, 19803, 19804, 19805, 19806, 19808, 19809, 19810 • 19904, 19933, 19934, 19938, 19939, 19940, 19941, 19943, 19945, 19901, 19946, 19947, 19950, 19952, 19953, 19956, 19958, 19960, 19962, 19963, 19966, 19968, 19971, 19973, 19975, 19977		
Blood-lead level performed:		
Results:		

File questionnaire in chart.

Revised 3/06/18

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MAILING ADDRESS: 417 FEDERAL STREET • DOVER • DELAWARE • 19901
TELEPHONE: (302)744-4546 • WEBSITE: LEADSAFEDELAWARE.ORG

DELAWARE HEALTH AND SOCIAL SERVICES
Division of Public Health
Healthy Homes and Lead Poisoning Prevention

Instructions for Completing Childhood Lead Poisoning Risk Exposure Questionnaire for Children Between the Ages of 22-26 Months

I. Purpose

The purpose of the Childhood Lead Poisoning Prevention Risk Assessment Questionnaire form for children between the ages of 22-26 months is to provide documentation of verbal screening and blood lead-level test results for eligible children.

Delaware State law requires that children between the ages of 22-26 months have proof of screening for lead poisoning in addition to blood lead testing at 12 months of age.

1. Complete the information on the upper portion of the form.
2. Complete the date box (MM/DD/YY) and age (in months) box.
3. Screen all children between the ages of **22** and **26** months of age by asking the parent or guardian the eight questions on the form.
4. Put a check mark in the box in the column indicating the parent's or guardian's reponse to each of the eight questions.
5. If the parent or guardian answers **YES** to one or more questions, draw a sample for blood-lead testing.
6. If the parent or guardian answers **NO** to all of the questions, the lead screening is complete.
7. Fill in the test results on the bottom row.
8. File questionnaire in chart.

If the test results are **05 ug/dl or above**, refer to the **CDC Guidelines for Blood Lead Level Testing** for the recommended follow-up testing schedule.

Test results that have been **confirmed by venipuncture that are 20 ug/dl and greater, or confirmed one to three months apart that are 15 – 19 ug/dl** should be reported immediately by telephone to the Division of Public Health's Lead Poisoning Prevention Program at (302)744-4546 ext. 4. This reporting will alert the Lead Poisoning Prevention Program to schedule a home visit by a nurse case manager as well as an environmental lead hazard risk assessment of the home.

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2024 Annual Report

Childhood Lead Poisoning Prevention Advisory Committee

30

years of the Childhood Lead Poisoning Prevention Act

State of Delaware **December 10, 2024**

Table of Contents

Acronyms

ABLES	Adult Blood Lead Epidemiology and Surveillance Program (CDC)
ARPA	American Rescue Plan Act
B23	Birth to Three Program
BLRV	Blood Lead Reference Value (established by CDC, currently 3.5 µg/dL)
CDC	U.S. Centers for Disease Control and Prevention
CHIP	Children's Health Insurance Program
CLPPAC	Childhood Lead Poisoning Prevention Advisory Committee
DHSS	Division of Health and Social Services
DPH	Department of Public Health
DNREC	Department of Natural Resources and Environmental Control
DOE	Department of Education
EPA	U.S. Environmental Protection Agency
HUD	U.S. Department of Housing and Urban Development
DSLBPP	Delaware State Lead-Based Paint Program
CLPPP	Childhood Lead Poisoning Prevention Program
RRP	Renovation, Repair and Painting Program

Introduction

2024 marks 30 years since the passage of the Childhood Lead Poisoning Prevention Act in 1994. The state has maintained a Lead Poisoning Prevention Program during that time, has provided case management to hundreds of children who have been exposed to lead, and has used federal grants for primary prevention and surveillance. Despite the enduring focus on this issue, childhood lead poisoning remains a deeply troubling public health concern that has not yet been adequately addressed, and will require substantial effort and resources to eliminate.

This Childhood Lead Poisoning Prevention Advisory Committee (CLPPAC) 2024 Annual Report addresses the statutory report requirements of the CLPPAC, which include improvements recommended for the Childhood Lead Poisoning Prevention Act, improvements to processes to be followed by agencies, intervention activities, studies of incidence, the state blood lead screening program, monitoring and implementation of regulations, and our oversight of the Delaware State Lead-Based Paint Program and Lead-Based Paint Abatement Fund, including appropriateness of spending and timeliness of remediation and abatement activities.

In addition, this report reviews our activities, including our review of state programs, our ongoing development of a statewide screening program, our investigation into quality control in data management in reporting, our proposal for a community lead screening pilot project, and other activities.

The status of past recommendations from the CLPPAC can be found in Appendix B. A number of recommendations have already been addressed, including mandating universal blood lead screening for all children at age 2, providing school nurses with blood lead results, conducting routine water testing in schools, lowering the blood lead level for automatic eligibility for early intervention services in the Birth to Three Program, lowering the blood lead level for case management in the Lead Poisoning Prevention Program, and distributing point of care screening machines in elementary schools and state service centers.

Other recommendations have not progressed. These will require greater attention, including the urgent need to begin primary prevention in rental housing; to proactively integrate lead dust testing and education in other state programs, such as the Weatherization Assistance Program and the Low Income Home Energy Assistance Program (LIHEAP); to initiate actions to ensure that removal of lead paint and the demolition of outdoor structures that contain lead paint are performed in a safe and health-protective manner; to require the use of lead-safe contractors in schools; to ensure that the water in all child care facilities is tested as a condition for licensure; to enroll Delaware in the CDC Adult Blood Lead Epidemiology and Surveillance (ABLES) Program; and improve lead hazard mapping and reporting.

In a few instances, the state has moved in the opposite direction of recommendations, such as discontinuing the use of registered public health nurses for case management and increasing punitive measures for verification of screening by child care facilities. These actions warrant renewed focus.

This document provides an overview of the ongoing activities of childhood lead poisoning prevention, surveillance, and response in Delaware, and also highlights some of the activities of community partners that assist in implementing the goal of ending childhood lead poisoning in the state.

Key Findings

1. Childhood lead poisoning remains an important public health issue in the state.
2. Blood lead screening rates are low and have not recovered from the pre-COVID 19 pandemic peak in 2016.
3. Due to data management concerns, the incidence of new lead poisoning cases each year is unclear.
4. The programs to address childhood lead poisoning prevention and intervention are underfunded.
5. As a result of renewed focus on childhood lead poisoning, some programs have grown dramatically in the past two years.
6. Greater coordination between programs and agencies would benefit childhood lead poisoning prevention and intervention.
7. The Childhood Lead Poisoning Prevention Act should be amended to provide clear direction from the General Assembly.

Recommended Improvements to the Childhood Lead Poisoning Prevention Act

The Childhood Lead Poisoning Prevention Act was established in 1994, and has since been revised and updated (see Appendix C) to keep pace with best practices and emerging program needs. The Act would benefit from future revision in 2025 to accomplish the following:

1. Define the role of the Lead Poisoning Prevention Program (LPPP) and establish program requirements. While the Act presently assigns the DHSS and DPH with limited requirements[1],

[1] Existing DHSS Responsibilities include: provide staff for the CLPPAC (§ 2605 (g)), Delaware State Delaware State Lead-Based Paint Program and activities (§ 2607, 2612), Delaware Lead-Based Paint Abatement and Remediation Fund (§ 2613), provisional certification of contractors (§ 2614), and adopt regulations to administer, implement, and enforce the Act (§ 2616). Existing DPH Responsibilities include: provide an Annual report (§ 2606), duty to investigate lead paint hazards (§ 2610) and notify the Delaware State Lead-Based Paint Program (§ 2611), establish a universal reporting system for blood lead

the role and responsibilities of the bulk of the activities performed by the LPPP occur outside of the direction of the Act. The Act should be amended to bring the LPPP under its purview, to guide the actions of the program, and should include the following:

A. Define the purpose of the LPPP.
B. Describe the core activities of the program, including:
    a. Collect, manage, report, and share blood lead level data.
    b. Describe case management, including the expectations and parameters of case management.
    c. Establish medical management guidelines and oversee the medical management of all cases.
    d. Improve screening and testing rates, particularly in those communities at a higher risk for lead poisoning.
    e. Expand public education for primary prevention, screening/testing, and intervention services.
    f. Execute program referrals for services.
C. Establish clear guidance for enforcement of the Act.

2. Update screening and testing requirements so that they are consistent with new federal recommendations. The CLPPAC supports updating the requirements for blood lead screening and testing in the Delaware Code and Regulations to:

A. Align with the CDC Case Definition for Lead in Blood (CDC, 2023), which permits either 1) a venous blood lead test, or 2) two capillary screenings within a 12-week period, for confirmatory laboratory evidence;
B. Utilize only those screening and testing methods that are accepted for blood lead analysis through FDA-approval or CLIA-waiver; and
C. Recommend healthcare providers to order or perform screening or testing upon the request of the parent or guardian, irrespective of the age of the child or prior screening or testing.

The CDC Case Definition for Lead in Blood, which was updated in 2023, should be relied upon for which blood lead results are considered "valid," irrespective of the age of the child, for eligibility for state services. These services include case management by the Childhood Lead Poisoning Prevention Program, Lead Risk Assessments, abatement of lead paint hazards through the Delaware State Lead-Based Paint Program, Early Intervention Services through the Birth to Three Regional Programs, and any other state services that currently rely upon a confirmatory venous blood lead test.

results (§ 2602 (d), provide access to data on screening and results to school nurses (§ 2603 (d), and collect reports from school districts and charter schools about kindergarten enrollment (§ 2603)

If the State is to rely upon federal recommendations for the determination of a confirmation of blood lead level, it is especially important to use FDA-approved or CLIA-waived methods of blood lead analysis that are not controversial for their accuracy. This would prohibit the use of Filter Paper for blood lead analysis until it receives federal approval by CDC or FDA. From 2019 to 2023, 2486 Delaware children were screened with Filter Paper, though annual screening with Filter Paper dramatically declined when Magellan LeadCareII analyzer recalls ended on March 30, 2022.

Parents and guardians should be entitled to have their child screened or tested for lead, including to monitor blood lead levels, or if there are concerns about an exposure. The half-life of lead in blood is short, approximately 40 days, making the narrow window of detection through a blood lead screening or test especially important (Wani et al., 2015). Delays in screening after a suspected exposure decrease the likelihood that the lead poisoning can be identified. Healthcare providers should not decline a blood lead screening or test when it is requested by a parent or guardian, and parents should not be in a position where they have to shop for a second opinion while the clock is ticking on their ability to detect exposure through a blood lead screening or test.[2]

Improvements to Processes to be Followed by Agencies

As we have evaluated state programs, we have identified several areas where state agencies can take action to improve their processes without the need for enabling legislation. These proposed improvements are summarized in the following table and detailed below.

Improvement	Responsible Party	Description
1. Update Regulations for Confirmatory Testing	DHSS	Update Title 16 Admin Code 4459A
2. Establish Quality Controls for Data Collection, Management, and Reporting.	Lead Poisoning Prevention Program	Data collection, management and reporting quality controls, integration of state datasets
3. Establish Consistency in Reporting of Blood Lead Results from Laboratories and Providers in DHSS Regulations.	DHSS	Update Title 16 Admin Code 4459A to align with Title 16 Admin Code 4202
4. Establish Consistency in Program Eligibility in Accordance with the CDC Blood Lead Reference Value	Birth to Three Program	Update Established Conditions List to correspond with the CDC BLRV

[2] The October 2023 U.S. Food and Drug Administration's nationwide recall of certain single-serving applesauce pouches, including WanaBana, Weis, and Schnucks Apple Cinnamon Fruit Purée, due to elevated lead levels reveals the importance of rapid public health response to emerging sources of exposure.

Improvement	Responsible Party	Description
5. Establish Consistency in Practices with the Childhood Lead Poisoning Prevention Act.	Lead Poisoning Prevention Program	Age for blood lead results submitted to school nurses
	Department of Finance	Establish the Delaware Lead-Based Paint Abatement and Remediation Fund
6. Expanded Use of State Resources for Lead Screening	DHSS	Increase use of Mobile Unit
7. Comprehensive Review of Outreach Materials, Guidance, and Practices	Lead Poisoning Prevention Program	Update or establish outreach and education materials, case management procedures, and medical management guidelines
8. Establish Regulations required by HB 456 (2018)	DHSS	Develop regulations governing the ban of the application of lead paints from outdoor structures

1. Update Regulations for Confirmatory Testing. In August 2023 DHSS updated 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act §6 to require a venous confirmation blood test. Children with a confirmatory venous test are eligible for the following services, whereas children who received only capillary screenings are not eligible:

Intervention Activities	Confirmed Venous Blood Lead Level Eligibility
Case Management by the Childhood Lead Poisoning Prevention Program	3.5 µg/dL
Home Risk Assessment to identify the source of exposure	3.5 µg/dL
Abatement of lead paint hazards by the Delaware State Lead-Based Paint Program	3.5 µg/dL
Early intervention services through the Birth to Three Regional Programs	5 µg/dL

The existing requirement for a venous confirmatory test creates a barrier for addressing childhood lead poisoning. Barriers identified by the Committee include:

A. Venous testing is much more difficult for the child, especially for the young children who are required to be screened at ages one and two.
B. Parents sometimes do not take their child to a laboratory for venous blood draws, even if a healthcare provider writes a prescription, due to various reasons including fear of the blood draw, transportation, and the time required for the test.

C. Lack of awareness of the importance of a confirmatory test, by both parents and healthcare providers.
D. Children who do not have a healthcare provider or do not attend wellcare visits are unlikely to be screened or to receive confirmatory testing.
E. Children without health insurance coverage may confront additional barriers to accessing a healthcare provider or affording the cost of a venous blood lead test.

Instead of requiring a venous blood lead test, the CDC Case Definition for Lead in Blood (CDC, 2023) permits the use of two capillary blood lead screenings performed within 12 weeks of each other to confirm the result. Bringing Delaware policy for confirmatory testing in line with the CDC Case Definition would reduce the medical burden for venous blood lead testing, while maintaining rigor in the method of analysis and confirming the result with federally-approved methods. The Department can take action on this regulatory change without the need for a change to the Childhood Lead Poisoning Prevention Act and should do so as soon as possible.

2. Establish Quality Controls for Data Collection, Management, and Reporting. The procedures that govern the collection, management, and reporting of childhood lead poisoning data should be guided in the future by best practices and professional standards and developed in a collaborative approach with the CLPPAC.

Comparative analysis of the Lead Poisoning Prevention Program's annual Blood Lead Surveillance Reports and other state-generated datasets revealed that the methodology used to query and present childhood lead poisoning incidence data has created confusion about what the data represents. Based on presentations to the CLPPAC to date, data presented by LPPP may not capture all new cases that are identified through a blood lead screening or test each year. In August 2024, the State Epidemiologist began assisting the LPPP with its data query protocols, the results of which are not yet available.

Ongoing examination of this concern and the involvement of the State Epidemiologist revealed a much more substantial data-management problem, including lack of important quality controls. As a result, the blood lead testing and screening data are currently undergoing rigorous verification and reconciliation procedures for the very first time.

Another major concern is the lack of basic demographic data. For example, the race of lead-poisoned children in 2023 is unknown. Efforts need to be made to ensure completeness of information when the blood lead results are submitted by a laboratory or healthcare provider. Missing information in demographic characteristics, particularly race, make it more difficult to target mechanisms to reduce disparities in access to screening and prevent exposure.

The integration of separately-maintained state datasets would enable the state to more easily close existing data gaps, which include:

A. Identify lead screening and blood lead level results for children in target communities;
B. Establish the lead poisoning burden among children who receive Medicaid services, live in foster care, or are members of immigrant or refugee households; and
C. Determine the effectiveness of the Mobile Unit and Community Health Clinics at screening children within the community.

3. Establish Consistency in Reporting of Blood Lead Results from Laboratories and Providers in DHSS Regulations. DHSS regulations on the reporting of blood lead results are inconsistent and should be reconciled to match the reporting requirements for other blood lead testing results that are collected by the state.

Title 16 Admin Code 4459A *Regulations Governing the Childhood Lead Poisoning Prevention Act* § 9.2 permits two weeks for a laboratory to report blood lead level results to DPH. This conflicts with the timeline established in Title 16 Admin Code 4202 *Control of Communicable and Other Disease Conditions* § 2.2, which requires reporting of all "notifiable diseases" within 48 hours. Lead poisoning is on the "List of Notifiable Diseases/Conditions" (Title 16 Admin Code Ch. 4202 Appendix 1).

Regulations	**Section**	**Timeline for Reporting Blood Lead Results**
Title 16 Admin Code 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act	§ 9.2	Two weeks
Title 16 Admin Code 4202 *Control of Communicable and Other Disease Conditions*	§ 2.2 and Appendix 1	48 hours

Consistent reporting requirements across the Department about when blood lead level results should be submitted is especially important given the need for swift action to address the source of exposure and to provide case management.

4. Establish Consistency in Program Eligibility in Accordance with the CDC Blood Lead Reference Value. The Birth to Three Program receives funding through a federal grant of the Individuals with Disabilities Act (IDEA Part C) and provides early intervention services and support for infants and toddlers who have a developmental delay, a birth mandate disability, or an established medical condition, and their families.

Effective May 1, 2021, the Birth to Three Program lowered the eligibility for children with a lead exposure documented in a venous blood lead test from 10 µg/dL to 5 µg/dL to align with the CDC Blood Lead Reference Value (BLRV). Subsequently, the CDC lowered the BLRV to from 5 µg/dL to 3.5 µg/dL, but that change was not updated in the Established Conditions List.

To provide consistency across state programs for eligibility, the Birth to Three Program should update their Established Conditions List as soon as possible to reflect new federal guidance and changes when they are made to the BLRV. The BLRV already sets the qualifying criteria for case management and enrollment in the Delaware State Lead-Based Paint Program.

5. Establish Consistency in Practices with the Childhood Lead Poisoning Prevention Act. The Childhood Lead Poisoning Prevention Act (the Act) has specific definitions and requirements, some of which have not yet been integrated into program practices. These include:

A. School Nurse Data Access: In its description of the requirement and corresponding MOU being developed between DHSS and DOE to provide blood lead level results to school nurses, DHSS maintained that all blood lead results between 9 months of age and 18 years will be transferred. However, the Act requires the data include "the results of all lead screenings or tests" (Title 16 Del. C.§ 2603 (d)). The limitation placed on the data transfer to exclude blood lead results for children under 9 months of age is therefore not in compliance with the Act and should be corrected.

B. Delaware Lead-Based Paint Abatement and Remediation Fund: Title 16 Delaware Code § 2613 created the Delaware Lead-Based Paint Abatement and Remediation Fund. Moneys from the Fund are to support the payment of contractors for risk assessments, abatement and remediation work, and temporary lodging for housing occupants during work. The Governor's budget is required to contain specific appropriations to the Fund, and interest accrued in the Fund is to be credited to the Fund. Despite these requirements, the Fund has not yet been directly established, there is no evidence that any accrued interest has been transferred for qualifying activities, and budget requests are not specific to the Fund. This challenges our ability to oversee the Fund, which the Act requires the CLPPAC to perform.

6. Expanded Use of State Resources for Lead Screening. State resources for blood lead screening at the DHSS Public Health Clinics and Mobile Units are underutilized (see page 35). These existing lead screening resources could be better used to expand Delaware's screening rates with a more aggressive lead screening campaign with the following characteristics:

A. Easy to access to schedules more than a few days in advance;
B. Expanded partnerships with schools, childcare facilities, community organizations, and special events;
C. Evening and weekend hours;
D. Greater publicity, including press releases and social media; and
E. Comprehensive community education on lead, within which screening is a part.

7. Comprehensive Review of Outreach Materials, Guidance, and Practices. Childhood lead poisoning prevention should be guided by the best available research. The materials, practices,

and guidance used by the LPPP should be evaluated for gaps and areas of improvement. This includes the outreach and educational materials used by the LPPP, case management procedures, and medical management guidelines. The LPPP should:

A. Assess educational materials sent to families with children with a blood lead level at or above the CDC BLRV (3.5 µg/dL) for appropriate and sufficient health guidance. The educational materials distributed by the LPPP contained more health information prior to 2022, when they were revised and the health component was dramatically reduced.
B. Re-evaluate whether registered public health nurses should have a role in case management. The use of registered public health nurses was discontinued in 2019.
C. Develop medical management guidelines to assist healthcare providers in making the most of their role in managing childhood lead poisoning cases. Medical management guidelines are provided by state health agencies in other states and would lessen confusion and improve the consistency of medical care in Delaware.
D. Produce a comprehensive package of planning and outreach materials. These should outline best practices and would better guide program staff in the future.

8. Establish Regulations required by HB 456 (2018). HB 456, which was signed into law in 2018, required the following regulations, which have not yet been established:

> By January 1, 2020, the Department of Health and Social Services shall develop regulations governing the ban of the application of lead paints from outdoor structures in the State of Delaware consistent with the prohibitions set forth in this Act. Such regulations shall be designed to minimize public health risks from the application of lead paints and the potential future weathering and removal of lead paints. The Department of Health and Social Services and the Department of Natural Resources and Environmental Control shall coordinate efforts wherever feasible in the implementation of this Act.

Recommendations for Funding

The budgets allocated in FY 2024 and FY 2025 are insufficient to meet the basic needs of the Childhood Lead Poisoning Prevention Program and the Delaware State Lead-Based Paint Program. Because of improvements in screening rates, and anticipated changes to confirmatory testing, the number of children requiring services is expected to increase. The danger of a waiting list that will backlog programs and overwhelm capacity has the potential to bury the Programs in the near future.

Funding needs are specific to the following program elements. The complete analysis and details that we submitted to the Joint Legislative Oversight and Sunset Committee in October 2024 can be found in Appendix C.

Program	Funding Request
Case Management	$535,500
Lead Risk Assessments	$542,500
Lead Paint Hazard Control and Abatement	$5,827,500
Filter First in Homes	$35,000
Interim Controls	$188,500
Public Education and Outreach	$250,000
Total	$7,379,000

Overview of CLPPAC Activities

The Childhood Lead Poisoning Prevention Advisory Committee (CLPPAC) was first established in 2001 with SB 155. After more than a decade, the Committee stopped meeting without explanation in 2012. HB 89 restarted the CLPPAC in 2019, and HB 63 (2021) assigned the Department of Health and Social Services (DHSS) with the responsibility of providing staff support. SB 9 in 2023 tasked the CLPPAC with overseeing the new Delaware State Delaware State Lead-Based Paint Program, the Delaware Lead-based Paint Remediation and Abatement Fund, and developing a plan for lead-safe rental housing.

In 2024, the CLPPAC has committed itself to the following tasks:

1. Initiate a review of all DHSS programs and services pertaining to childhood lead poisoning, including quarterly reports from the Lead Poisoning Prevention Program and Delaware State Lead-Based Paint Program, with standardized information provided to the Committee.
2. Initiate the process of reviewing data, data gaps, current practices, and best practices in childhood blood lead screening and testing for the development of a Statewide Screening Plan.
3. Assess the status of childhood lead poisoning in Delaware.

Program Review

CLPPAC initiated a thorough review of state programs that address childhood lead poisoning and prevention, prioritizing DHSS programs first, with the intention of continuing with other agency programs in 2025. The program review has informed the bulk of this report, and has also served the purpose of educating the public and CLPPAC members about the breadth and depth of state programs to address childhood lead poisoning. Details on our program review can be found in Appendix A.

Statewide Screening Plan

CLPPAC is in the research phase of developing a Statewide Screening Plan for Delaware to improve childhood blood lead screening and testing in the state. Our efforts involve a careful review of state data, policies, and practices, and an evaluation of best practices from other states and the peer-reviewed literature. To date, our focus has considered the following elements: baseline screening and testing information, data gaps, screening, and testing opportunities, screening barriers, verification of screening, blood lead result validity, screening goals, and children at greatest risk.

Data Validation

To improve the presentation and usefulness of blood lead surveillance data for a data-driven policy response to childhood lead poisoning, CLPPAC has begun to coordinate with the State Epidemiologist in the Division of Public Health. This effort includes an evaluation of baseline data in the most recent Blood Lead Surveillance Report published by the Division and improvements to data presentation, with particular regard to age, demographic, blood lead level, and geographic granularity so that data are useful for improving policy and directing resources.

Community Lead Screening Pilot Project

This project proposes to screen 500 children from birth to 6 years of age for lead poisoning in target communities though the places where they learn. By bringing the screening equipment directly into target communities, the project proposes to screen as many children as possible in centralized locations in the shortest amount of time.

Blood lead screening and testing rates for Delaware children are low, potentially leaving many children with lead exposures unidentified. Statewide screening rates peaked in 2016 and have not recovered from substantial declines during the COVID-19 pandemic. To bring screening rates to acceptable levels, an aggressive screening strategy is required that can maximize existing state resources and build community partnerships.

Screening and confirmed (venous) identification of a blood lead level at or above the CDC's Blood Lead Reference Value (BLRV) of 3.5 µg/dL initiates a series of actions by the state to identify and correct the source of exposure, to guide the child's family through the services available in case management, and, for those children under age 3 with a confirmed (venous) blood lead level at or above 5 µg/dL, automatic referral to early intervention programs.

The low rates of screening are particularly concerning in low-income communities with older housing, which are more likely to have lead paint hazards in the home. While Delaware mandates screening of all children at 12 months and again at 24 months of age, children 3 years and older continue to be at high risk for the detrimental cognitive and health effects of lead poisoning. This project proposes a streamlined mass-screening approach that simply seeks to screen children within the target communities at the target age range, without consulting the child's medical record and without regard for whether the child has previously received a lead screening.

Committee Work Product in 2024

In the past year, we have met monthly, the product of which is detailed in this report. In addition, we took the following actions:

1. Submitted a printed copy of the Lead-Safe Rental Housing Plan (CLPPAC, 2023) to each member of the General Assembly in January 2024.
2. Submitted a letter to the Joint Finance Committee in support of the Lead Poisoning Prevention Program in February 2024.
3. Submitted a letter to the Joint Legislative Sunset Review Committee in support of the Lead Poisoning Prevention Program as part of their 3-year targeted program review on October 9, 2024.

Committee Challenges

Due to improvements made in committee staffing, specifically the addition of Social Contract, LLC to provide administrative support in September 2023, the CLPPAC has been able to maintain compliance with the public meeting requirements of Title 29 Chapter 100, Freedom of Information Act this year. While Social Contract, LLC's assistance in coordinating the collection of information for committee research has also been invaluable, outstanding information requests and receipt of conflicting information continues to be a challenge. In addition, committee membership is not fully appointed, and the Kent County public member appointed by the Governor has not yet been designated.

Looking Ahead

2025 is an opportunity to address some of the longstanding issues that continue to contribute to childhood lead poisoning, principally lead hazards in rental housing that continue to harm children, some rental units perhaps poisoning many children over the years with tenant turnover. In addition, we will continue our program review and monitoring of state programs to identify gaps and areas of improvement, as well as to celebrate the successes.

Lead-Safe Rental Housing: The CLPPAC strongly believes in the benefits of primary prevention, and the importance of removing lead hazards from rental housing. Lead paint remediation should be performed preemptively in pre-1978 rental units in order to avoid additional children being poisoned, as we described in our Lead-Safe Rental Housing Plan (CLPPAC, 2023).

Our recommendations included updating the Residential Landlord Tenant Code to include a comprehensive statewide system for the registration of all rental units, lead safe certification of all rental units built prior to January 1, 1978, non-discrimination requirements, standardized education and disclosure requirements, tenant protection measures to ensure tenants are not exposed to lead during lead paint hazard removal work, administrative warrants and enforcement mechanisms, and penalties for rental unit owners who fail to comply. Our recommendations also asked for a Lead Paint Hazard Control Grant Program, application for federal funds for lead hazard control, market-based mechanisms to encourage workforce development, and greater resources to support the Lead Poisoning Prevention Program.

Continuation of Program Review: The CLPPAC review of state programs will continue into 2025 and will continue with quarterly reports from the Delaware State Lead-Based Paint Program (DSLBPP) and Lead Poisoning Prevention Program (LPPP). We will also examine other DHSS Programs, including the Office of Drinking Water, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and Health Alert Notifications. We intend to look deeper into the programs in the Department of Education's water sampling in schools, facility evaluation tool, Child Find and 619 Program referrals, and the Office of Childcare Licensing inspection and screening verification requirements, as well as DNREC's activities involving permits for sandblasting water towers and the demolition of utility towers by Delmarva Power in New Castle County.

New Federal Rules: At the federal level, substantial progress has been made to remove lead from drinking water with the October 8, 2024 update to the EPA Lead and Copper Rule.[3] In addition, on October 24, 2024 the EPA amended the Lead-Based Paint Dust Rule to address lead dust hazard standards and clearance levels for lead in paint, dust and soil.[4] We will evaluate the implications for this in Delaware in greater detail next year.

Finalize the Statewide Screening Plan: We anticipate finalizing the state's first Statewide Screening Plan, which will be data-driven, based on the best available research, utilize successful strategies from other states, and will improve childhood blood lead screening and testing in the state.

[3] https://www.epa.gov/ground-water-and-drinking-water/lead-and-copper-rule-improvements

[4] https://www.epa.gov/lead/hazard-standards-and-clearance-levels-lead-paint-dust-and-soil-tsca-sections-402-and-403

Intervention Activities

Early-life intervention activities “can mitigate and compensate for the deleterious effects of lead” and are documented to improve long-term educational and behavioral outcomes from childhood lead exposure, including substantial decreases in anti-social behaviors that impact school discipline and performance, and increases in educational outcomes (Billings and Schnepel, 2017: 18).

Delaware has several intervention programs available, though there is room for improvement. Existing intervention programs include the following:

Intervention Category	**Description**	**Programs Available in Delaware**
Primary Prevention	Abate or remediate sources of exposure before a child becomes poisoned	DOE water testing and abatement in schools and childcare facilities
		DNREC permits for sandblasting lead paint from water towers
		Ban on the new application of lead paint on outdoor structures
Secondary Prevention	Abate or remediate sources of exposure after a child becomes poisoned	Delaware State Lead-Based Paint Program
		LPPP Case Management
Medical Evaluation and Treatment	Provide for the unique medical needs of children who are exposed to lead	LPPP Case Managers perform outreach to healthcare providers
Nutritional Assessment	Provide nutritional supports to reduce absorption of lead into body tissues	Birth to Three Regional Programs
		Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
Developmental Surveillance	Assess the cognitive and behavioral development to identify needs	Birth to Three Regional Programs
		Ages and Stages Questionnaire
Public Assistance Referrals	Customized services to meet the needs of children exposed to lead	Birth to Three Regional Programs
Special Education	Targeted education and behavioral development for children exposed to lead	619 Program for children ages 3-5

Intervention Category	Description	Programs Available in Delaware
Public Outreach	Education to raise awareness of lead poisoning prevention and the importance of screening	LPPP partnerships with Delaware Readiness Teams and Latin American Community Center initiated in 2024

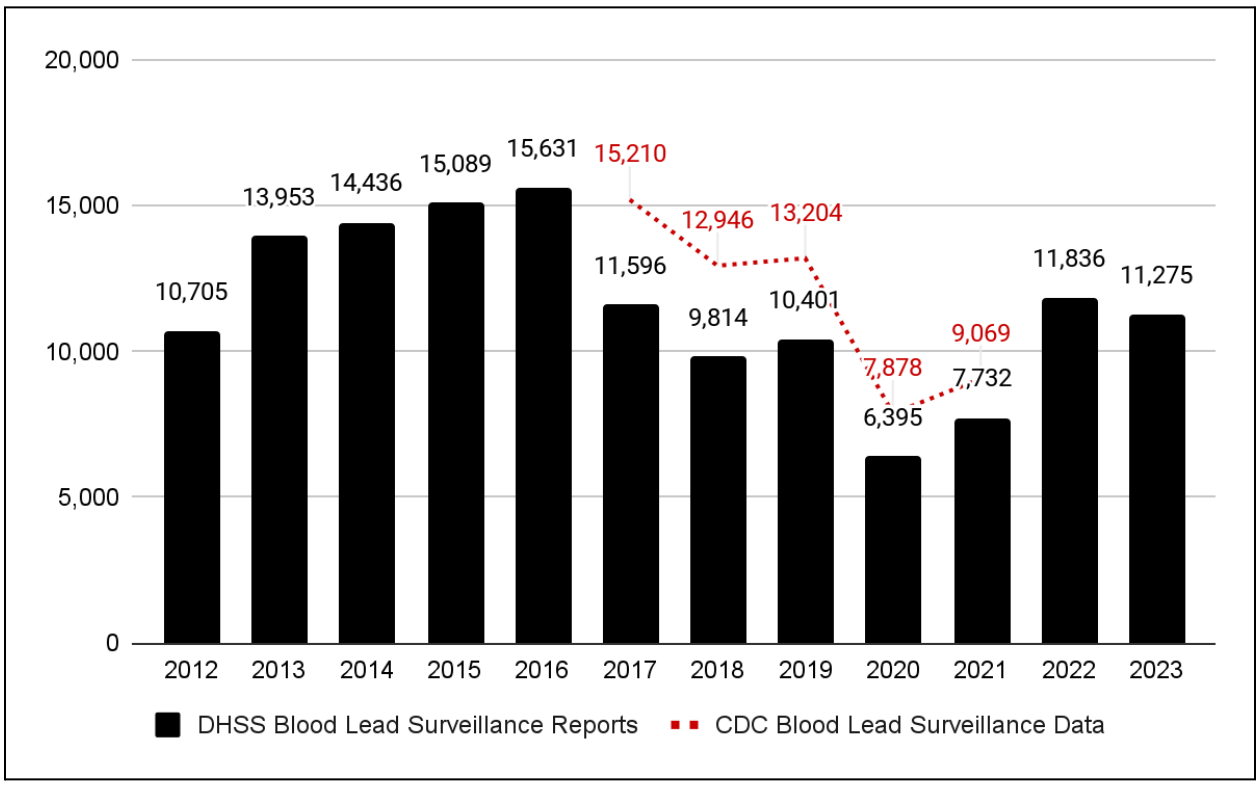
Studies of Incidence

Based on information provided by the Lead Poisoning Prevention Program to date, we are unable to confidently report on the number of new childhood lead poisoning cases annually or endorse the incidence data that have been provided in the DHSS Blood Lead Surveillance Reports to date.

Blood Lead Screening and Testing

Screening and testing data reported in DHSS's Blood Lead Surveillance Reports (DHSS 2022a, 2022b, and 2023) show that screening and testing peaked in 2016 with 15,631 children screened or tested. It is important to note that these screening and testing datasets may be impacted by the same data quality management issues that made incidence data problematic. As a result, these figures may change as data quality controls improve. As a reference, the data provided by CDC in their blood lead surveillance dataset for Delaware (2017-2021) are also included in the chart below.

DHSS Blood Lead Surveillance Reports: Delaware Children who Received a Blood Lead Screening or Test, Birth to Age 6



Data sources: DHSS Blood Lead Surveillance Reports, 2012 through 2017 (DHSS 2022b, Table 9) and 2019-2023 (DHSS 2023, Tables 1 and 7). Data from 2012 to 2022 represent calendar year totals. 2023 data represent Fiscal Year 2023, not calendar year 2023. CDC Blood Lead Surveillance Data, 2017-2021 (CDC 2024).

The significant decline in blood lead screening following the 2016 peak in screening (see chart above) resulted, in part, from the following challenges:

1. Lack of Program oversight due to the discontinuation of the Committee in 2012 (the Committee was restarted by HB 89 in 2019).

2. Need for funding for education of healthcare providers and parents about screening and testing.
3. The recent COVID-19 pandemic, where children were not attending well-care visits in person and therefore did not have access to point-of-care screening.
4. The Magellan recall of the LeadCare II Analyzer from July 2021 to February 2022, which is the principal method for capillary blood lead screening.
5. Temporary discontinuation of data access to school nurses that enabled them to verify screening in 2023.

The rebound in screening that began in 2022 and 2023 is believed to have benefitted from:

1. Expanded universal screening to all children at age 2, in addition to age one, in 2021 (HB 222).
2. Targeted approach by Delaware MCOs to improve blood lead screening rates for members receiving Medicaid services.
3. Updated regulations by the Office of Childcare Licensing in 2022 that tie screening verification to licensure.
4. The efforts of school nurses to verify screening upon kindergarten enrollment.

Considerable focus in the past five years since the restart of the CLPPAC by the General Assembly in 2019 (HB 89) has been on improving blood lead screening and testing. Screening and testing all Delaware children at the schedule prescribed has benefits. Screening and testing are:

Diagnostic: blood lead screening or testing is the most reliable mechanism to identify children who need help.

Age-Sensitive: early and repeated screening when children are mobile in the home and engage in hand-to-mouth behaviors is most effective for identifying exposure and improves the ability of the brain to recover some of the long term learning and behavioral effects of lead exposure.

Results in Prevention: screening and testing initiates the process where the source of exposure to lead can be identified and removed (secondary prevention), including services provided by the Lead Poisoning Prevention Program, such as case management and Lead Risk Assessment, and the Delaware State Lead-Based Paint Program.

Enables Help: children up to age three are eligible for early intervention services through the Birth to Three Regional Programs with a venous blood lead level 5 µg/dL or above.

Delaware's original Childhood Lead Poisoning Prevention Act, signed in 1994, required universal blood lead screening or testing for all children at 12-months of age. The Act was amended in 2010 (HB 300), which established screening by questionnaire at 24 months of age. Research by the American Academy of Pediatrics (AAP, 2016) and the US Preventive Services Task Force (USPSTF, 2019) determined that questionnaires were unable to capture all of the various areas of lead exposure risk, some of which may not even be known to the parent.

Questionnaires were discontinued in Delaware in 2021 (HB 222), and universal blood lead screening or testing for all Delaware children is now required at age 1, and again at age 2, irrespective of risk factors. These new requirements were incorporated into DHSS Regulations 4459A in 2023, which also identified the specific age ranges that qualify as a 12-month test and a 24-month test (Delaware Register, August 2023).

In addition, since 1989 all children receiving Medicaid services have been required to receive a blood lead screening or test at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program expansion in the Omnibus Budget Reconciliation Act of 1989.

Universal Screening Requirements for Delaware Children

Policy	**First Screening or Test**	**Second Screening or Test**
Title 16 Delaware Code Ch 26: Childhood Lead Poisoning Prevention Act	12 months of age	24 months of age
DHSS 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act	9 to 15 months of age	21 to 27 months of age
Medicaid EPSDT Requirements (Bright Futures Guidelines, 2017)	12 months of age	24 months of age

The Childhood Lead Poisoning Prevention Act defines screening and testing as follows:

> Screening: A capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot.
>
> Testing: A venous blood lead test where blood is drawn from a vein.

Confirmatory Testing: DHSS Regulations 4459A require confirmatory venous tests of all capillary screening results prior to receiving services by the Department of Public Health, which include case management, a lead risk assessment, eligibility for the Delaware State Lead-Based Paint Program, and Birth to Three early intervention services.

Verification of Screening: Since 1994, the Childhood Lead Poisoning Prevention Act has required that child care facilities and public and private nursery schools, preschools, and kindergartens shall require proof of screening for lead poisoning for admission or continued enrollment. In August 2022, the Department of Education updated Office of Childcare Licensing regulations and required proof of lead screening by their regulations to conform to the screening requirements of the Childhood Lead Poisoning Prevention Act (Title 14, 934 Regulations for Family and Large Family Child Care Homes, Delaware Register, August 2022). To assist school nurses with verifying screening, the General Assembly required the Lead Poisoning Prevention Program to share screening data with school nurses in 2023 (HB 227) and blood lead level results in 2024 (HB 401).

Regulations

The CLPPAC monitors the implementation of regulations pertaining to childhood lead poisoning. Regulations in Title 7, 14, and 16 pertain to the elimination of childhood lead poisoning hazards and the screening and testing of children for lead poisoning. The table below represents the existing regulations that pertain to childhood lead poisoning and their most recent updates.

Title	Chapter	Purpose	Last Updated
Title 16, Department of Health and Social Services	4459 Lead-Based Paint Hazards	Standards for lead-based paint activities in target housing and child-occupied facilities, training, certification, and work standards	April 1, 2024
	4459A Regulations Governing the Childhood Lead Poisoning Prevention Act	Standards for blood lead screening and testing, including documentation and reporting from labs and providers, and proof of screening for child care and school enrollment	May 1, 2024
	4459B Residential Property Renovation, Repair, and Painting	Occupant protection, education, work practice standards, certification, record-keeping, and reporting for renovation activities where lead paint hazards are present	February 1, 2023
Title 14, Education	934 Regulations for Family and Large Family Child Care Homes	Documentation that licensed child care facilities are free of lead-based paint hazards; proof of blood lead screening for enrollment required	May 1, 2022
	935 DELACARE: Regulations for Residential Child Care Facilities and Day Treatment Programs	Documentation that licensed child care facilities are free of lead-based paint hazards	May 1, 2022
	811 School Health Recordkeeping Requirements	School nurse record-keeping requirements	March 1, 2023
	815 Health Examinations and Screening	Screening requirements for kindergarten enrollment	February 1, 2022
Title 7, Natural Resources and Environmental Control	1100 Division of Air Quality	§1101 and §1102 were amended to remove the exemption for the dry abrasive blasting of lead paint from water tanks, initiating the current permits for sandblasting lead paint from water towers	January 1, 2019

Department of Health and Social Services Programs

The Department of Health and Social Services (DHSS) has several programs that contribute to the state's childhood lead poisoning prevention efforts. Our 2024 program review has examined some of these programs in the Division of Public Health and the Division of Medicaid and Medical Assistance.

Division of Public Health

Lead Poisoning Prevention Program (LPPP)

The Lead Poisoning Prevention Program (LPPP), formerly known as the Office of Lead Poisoning Prevention, was established within the Division of Public Health in 1994 with the passage of the Childhood Lead Poisoning Prevention Act. Until FY 2024, the LPPP operated exclusively on federal grants. Throughout its history, the LPPP has focused on surveillance, case management, and educational and community outreach.

Surveillance and Reporting: DHSS has maintained a universal reporting system for all blood lead level screening and testing results since Delaware's original Childhood Lead Poisoning Prevention Act (SB 78) which was signed into law in 1994. In addition to providing annual Blood Lead Surveillance Reports since 2021 (HB 222), DHSS provides data to the U.S. Centers for Disease Control and Prevention (CDC), Kids Count in Delaware, and My Healthy Community.

> Blood Lead Surveillance Report: Following HB 222 in 2021, DHSS now provides annual reports to the General Assembly, and has published reports for 2021, 2022, and 2023.
>
> Delaware Epi Lab Insight (DELI): Currently scheduled to launch on April 1, 2025, DELI is a new data management system that will replace the current Healthy Housing and Lead Poisoning Surveillance System (HHLPSS) that the LPPP has utilized to date. The greater functionality of the DELI system includes the complete migration of HHLPSS data, streamlined data mapping, usable and working data dictionary, data cleanup, deduplication of data, ability to develop and generate new reports, and streamlined reporting to My Healthy Community.
>
> My Healthy Community: This software platform provides public-access information on a variety of health topics, including downloadable data on childhood lead poisoning. Accessible data includes blood lead testing and screening rates and results for children with blood lead levels at or above 3.5 µg/dL and 5 µg/dL; lead poisoning risk factors, including percent of housing units built before 1970, percent of rental housing units, child poverty rates, health insurance coverage, and median household income; and an assessment of lead testing coverage based upon housing stock and in comparison to the Social Vulnerability Index.

Case Management: LPPP provides Case Management to all Delaware children under the age of 6 years who have had a venous blood lead test showing a blood lead level at or above 3.5 µg/dL. Before Case Management, the following occur:

1. Pre-Case Management: The parents of all children with a capillary blood lead screening at or above 3.5 µg/dL are sent educational information about lead poisoning by mail.

2. Confirmation of blood lead level: For those children who received a capillary screening at or above 3.5 µg/dL, a confirmatory venous blood lead test ≥ 3.5 µg/dL is required for enrollment in case management. For those children who did not receive a confirmatory venous test within 90 days, the healthcare provider and parent are contacted.

If a child is determined eligible for Case Management, because they are below six years of age and have had a venous blood lead test at or above 3.5 µg/dL, the following steps occur:

1. Coordinate with Healthcare Provider: Followup testing is coordinated with the Healthcare Provider to track the child's blood lead level over time.

2. Family Education: The family is contacted and educated on lead health concerns, exposure sources, actions to be taken to bring the blood lead level down, and follow-up blood lead testing. Referrals are also made to Birth to Three Early Intervention Services if the child is eligible (less than 3 years of age with a blood lead level at or above 5 µg/dL).

3. Followup and Support: DHSS staff stay in contact with the family to ensure follow-up testing. If levels are still elevated, re-education and encouragement is provided to bring lead levels down.

4. Closure: Once blood lead levels are below 3.5 µg/dL, a closure letter is provided to the family. Closure may also occur if requested by parents, if the family moves out of state, or if contact with the parents lapses for more than one year and the healthcare provider also cannot contact the family.

Outreach and Education: Renewed focus on education and outreach since 2023 has included the following partnerships and contracts.

Rodel (Delaware Readiness Teams): LPPP initiated a partnership with the Delaware Readiness Teams in 2024 to improve public outreach, particularly with early education providers. On September 25, 2024, Delaware Readiness Teams hosted the EPA to provide a Lead Awareness Train the Trainer Session, with the intention to certify

interested members of the public, as well as Delaware Institute for Early Childhood Trainers as part of their professional development system.

Latin American Community Center: Spanish-language presentations are provided on childhood lead poisoning prevention utilizing EPA-supplied curriculum. In addition, blood lead level screening is provided for children attending childcare at their two facilities.

Quality Insights: Virtual Training Session for Pediatricians on October 25, 2023 by Quality Insights to increase testing and completeness of reporting. In addition, Quality Insights has developed healthcare provider training videos that are available on YouTube. The analysis of deliverable results from this initiative on blood lead screening and testing is not yet determined.

Current Contracts with the Childhood Lead Poisoning Prevention Program

Contractor	Services	Amount
Rodel (Delaware Readiness Teams)	Outreach and coordination with DOE, childcare providers, Child Find, and the general public	$150,000
Latin American Community Center	Outreach and presentations to Spanish-speaking communities: lead screening for children in their two childcare facilities	$145,000

Data Sharing: sharing lead poisoning information with healthcare providers is an area of particular need. While progress has been made with data sharing with school nurses, healthcare providers and Medicaid Managed Care Organizations (MCOs) continue to be unable to access blood lead level data that is collected by the state.

School Nurse Verification of Screening: Since the original Childhood Lead Poisoning Prevention Act was adopted in 1994, all children are required to have documentation that they have received a lead screening or test for enrollment in kindergarten, and school nurses are tasked with verifying each student's medical record. Because the lead screening is often left off the child's medical record, school nurses have directly contacted the Department of Public Health for this information. In January 2023 this practice was discontinued. HB 227 (2023) restored school nurse access to lead screening information directly from the Department of Public Health, enabling school nurses to verify lead screening occurred for kindergarten enrollment. Direct data transfers into the DOE health portal have not yet begun.

School Nurse Blood Lead Results: HB 401 (2024) requires the data sharing of lead screening and testing results with school nurses, as lead exposure produces profound behavioral and cognitive impacts that impacts child performance in school. Knowledge about lead exposure is essential to a school nurse's ability to provide appropriate care in

the school environment, including supplementary dietary and educational resources. Data transfers are expected to begin in January 2025.

Data Transfers to Delaware Health Information Network (DHIN): The LPPP does not currently provide data transfers to DHIN. Due to the lifelong effects of childhood lead poisoning, patient care would benefit from healthcare provider-access to blood lead results throughout a patient's lifetime. DHSS has been collecting lead poisoning data in its universal reporting system since the original Childhood Lead Poisoning Prevention Act went into effect in 1995. Making this blood lead level information available to primary healthcare providers is especially valuable when individuals change healthcare providers or are considering pregnancy or the decision to breastfeed, have broken bones or osteoporosis, or when treating the cardiovascular and physiological effects of lead exposure later in life, which may require followup lead testing in adults.

Delaware State Lead-Based Paint Program (DSLBPP)

Delaware's Delaware State Lead-Based Paint Program (DSLBPP) was established by SB 9 in 2023 and requires DHSS to investigate the source of exposure for children up to 18 years of age with a confirmed (venous) blood lead level at or above the BLRV (3.5 µg/dL) who live in housing constructed prior to January 1, 1979. If the source of exposure is determined to result from a lead-paint hazard, the DSLBPP will remediate the lead paint hazard if the property owner does not. Household occupants are provided with alternative lodging during the remediation work, and the cost of rent is controlled for 3-years for those tenant-occupied housing units where the DSLBPP pays the cost of remediation.

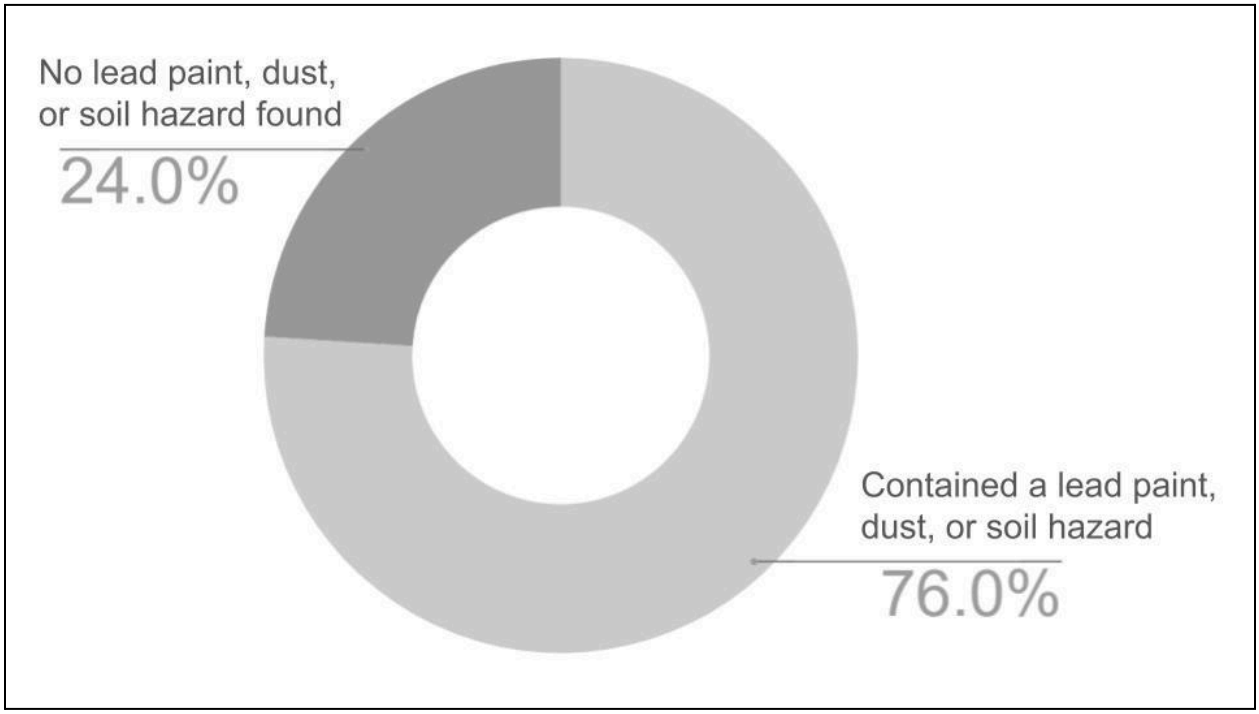
Lead Risk Assessments (LRA): The LRA is an on-site investigation to determine the presence, type, severity, and location of lead-based paint hazards (including lead hazards in paint, dust, and soil), and provides suggestions for ways to control identified hazards. LRAs are performed by certified risk assessors, and performs the following:

1. Visual inspection on the components being tested and notes whether the components are in an "intact" or "deteriorated" condition.
2. Interior and exterior painted-surface scans with an X-Ray Fluorescence (XRF) analyzer.
3. Dust-wipe samples taken in rooms children access, including floor and windowsill samples.
4. Soil samples taken in areas where soil is exposed.
5. LRA results are detailed in the LRA Report, which is emailed to DPH and the property owner.

Of the 125 homes that underwent a lead risk assessment in the past five years, lead hazards were identified in 95 homes. Of these, 90 contained lead paint hazards, 69 contained lead dust hazards, and 14 contained lead soil hazards. 30 homes, constituting 24% of all LRAs, did not have a lead paint, dust, or soil hazard identified, meaning that the lead exposure occurred

through other means. During this time period, the action level that triggered a LRA was lowered from a starting level of 10 µg/dL to 7.5 µg/dL in 2022, and then to 3.5 µg/dL in 2023 (SB 9).

Percentage of Delaware housing units with a lead paint, dust, and soil hazard identified during the Lead Risk Assessment (1999-2024).



New Water Sampling: Beginning on July 1, 2024, LRAs have included water sampling. Three samples are taken from those taps identified as used for water consumed by the child to identify any lead hazard. Water samples are sent to the laboratory and included in each LRA Report, and taps with water samples above 1 ppb are targeted for remediation. Water sampling is funded separately from the funds reserved for the DSLBPP.

Selection of Contractors: In 2024 the DSLBPP initiated the contractor RFP selection processes and four contractors were selected through the competitive bid process. Each of these contractors have certifications in Renovation, Repair, and Painting (RRP) and Lead Abatement, and are able to provide services statewide.

Funding Transfer to New Castle County No Lead Program: To provide lead remediation services to households in New Castle County as the program started, the DSLBPP partnered with the New Castle County No Lead Program.

The New Castle County No Lead Program launched in 2019 with HUD Funding, as well as supplemental funding from the New Castle County Community Block Grant and the City of Wilmington, to perform lead paint hazard abatement in income-eligible housing constructed prior

to 1978. The No Lead Program originally provided services in target zip codes, but now addresses housing units across New Castle County. It has admirably performed the bulk of the lead hazard control work for the DSLBPP in 2024, as that program develops.

In July 2024, the DSLBPP announced the transfer of $1 Million to the New Castle County No Lead Program for households in New Castle County that are referred for lead hazard remediation. These funds will assist in lead paint hazard controls in those households that are not eligible for HUD funding through the Lead Hazard Control and Healthy Homes grant that New Castle County previously was awarded. The scope of this agreement ensures that the state requirements for timelines, communication, provision of alternative housing during work that are required by Title 16 Chapter 26 are followed.

Program Launch: The DSLBPP has been built from scratch since the program was initiated by SB 9 in 2023, and we anticipate that the DSLBPP will be fully-operational in 2025. Through quarterly reports, we have monitored the challenges to the launch of the program; these include the execution of legal agreements for use with landlords, the RFP timeline to select certified contractors, and the heavy reliance on referrals to the New Castle County No Lead Program.

In its first year since being signed into law, the DSLBPP expended $72,000 and resulted in the remediation of 5 households, all of which were executed by the New Castle County No Lead Program via referral. No households in Kent or Sussex County were remediated. Lead paint hazards were identified in 71.4% of households investigated with a risk assessment, and the completion rate for eligible households in FY 2024 is 10%. Landlords also directly funded some abatement, completing 3 units statewide.

The DSLBPP will have to remediate many more homes in 2025 and beyond if it is to have a substantial impact on the lead poisoning problem in Delaware.

Delaware State Delaware State Lead-Based Paint Program Metrics, Fiscal Year 2024

	New Castle County	Kent County	Sussex County	Total
Households eligible for a risk assessment	24	11	24	70
Households with a lead paint hazard	19	9	18	50
Abatement completed by the Delaware State Lead-Based Paint Program	0	0	0	0
Referrals to the New Castle County No Lead Program	105			105
Abatement Completed by the New Castle County No Lead Program	5			5
Abatement Completed by Landlords	2	0	1	3
Total Expenditures by the Delaware State Lead-Based Paint Program	$26,400	$19,200	$26,400	$72,000

Data presented at quarterly program updates to CLPPAC.

Renovation, Repair and Painting Program (RRP)

Delaware receives $340,000/year through the EPA-funded Renovation, Repair, and Painting Program (RRP) for the training, certification, and enforcement of renovation, repair, and painting contractors. Contractors that perform work that disturbs lead-based paint, including the replacement of windows or other home repairs, must be certified by DPH.

The RRP Program maintains a list of certified contractors, which is posted on the DHSS website. The list was most recently updated on June 10, 2024 and includes 155 Delaware-based contractors, which are comprised of RRP contracting firms, lead-based paint contracting firms, and environmental testing firms. In addition, the RRP certified contractors list includes contractors in surrounding states and across the country.

Regulations governing the RRP program can be found in Title 16 Admin Code 4459B Residential Property, Repair, and Painting. These regulations were most recently updated in the February 1, 2023 *Delaware Register*.

Birth to Three Early Intervention Program (B23)

The Birth to Three Early Intervention Program (B23), which receives funding through a federal grant of the Individuals with Disabilities Act (IDEA Part C), provides early intervention services

and support for infants and toddlers who have a developmental delay, a birth mandate disability, or an established medical condition, and their families.

Delaware's Interagency Coordinating Council (ICC) advises and assists the B23 Program to help determine established medical conditions. Effective May 1, 2021, the ICC supported the decision of B23 to lower the eligibility for children with a lead exposure documented in a venous blood lead test from 10 µg/dL to 5 µg/dL. Children are directly referred to the B23 by the LPPP, and can also be referred by other programs, including child cares, hospitals, parents, the Division of Family Services, or early intervention service providers.

To improve tracking of children with lead exposures, on October 31, 2023 B23 added a mandatory field to their referral form and data system that requires collecting the child's blood lead level to better identify children eligible for the IDEA Part C based on established conditions when referrals are made from other programs.

For children who are not automatically eligible based on an established medical condition, following referral, the B23 performs an evaluation at a location convenient for the family, such as their home, a child care center, or another site. Once eligibility is determined either via evaluation or established medical condition, the child is assessed for needs and strengths, an Individualized Family Service Plan (IFSP) is developed that outlines outcomes and early intervention services, and the program continues to work with the family to achieve the outcomes identified in the IFSP.

As part of the LPPP's collaborative outreach efforts with the Interagency Coordinating Council (ICC) Outreach Committee, B23 is working on an extensive physician outreach campaign to engage pediatricians on the importance of early intervention and the pathways to make a referral to the B23 program. This includes the distribution of an infographic and brochure at community outreach events.

Once children are no longer eligible due to age, the B23 Program prepares families for transition to the IDEA Part B 619 Programs, and provides other resources to families. With parental consent, a transition meeting is held with the school districts with the documentation that they need to determine eligibility for each child.

Program Improvements: B23 staff have worked to ensure that all children with a qualifying blood lead level are determined eligible at referral, and have been successful in that effort in FFY 2023. The number of families who decline services from the LPPP was also reduced in FFY 2023.

Program Challenges: B23 continues to struggle with sufficient service providers, particularly speech therapists. As a result, all of the children who are eligible for services are placed in the referral system, making them available for a provider to accept the referral.

Referrals made to the Birth to Three Program by Federal Fiscal Year from the Lead Poisoning Prevention Program (LPPP) and Other Programs by Blood Lead Level

Federal Fiscal Year	Blood Lead Level	Referrals from the LPPP	Referrals from Other Programs	Total Number of Referrals
2022	**0-4.9 µg/dL**	5	57	**62**
	5.0+	47	50	**97**
	2022 Total	**52**	**107**	**159**
2023	**0-4.9 µg/dL**	5	54	**59**
	5.0+ µg/dL	42	30	**72**
	2023 Total	**47**	**84**	**131**

Data presented to CLPPAC on August 13, 2024 by Hope Sanson, Birth to Three Early Intervention – Administration, Part C Data Manager.

Results of Referrals made to the Birth to Three Program by Federal Fiscal Year from the Lead Poisoning Prevention Program (LPPP) by Blood Lead Level

Federal Fiscal Year	Blood Lead Level	Received Services	Declined Services at Referral	Determined Ineligible at Evaluation	Declined Services After Referral
2022	**0-4.9 µg/dL**	1	4	0	**0**
	5.0+	11	22	6	**1**
	Total	**12**	**26**	**6**	**1**
2023	**0-4.9 µg/dL**	1	3	**0**	**0**
	5.0+ µg/dL	6	11	**0**	**4**
	Total	**7**	**14**	**0**	**4**

Data presented to CLPPAC on August 13, 2024 by Hope Sanson, Birth to Three Early Intervention – Administration, Part C Data Manager.

Results of Referrals made to the Birth to Three Program by Federal Fiscal Year from the Other Programs by Blood Lead Level

Federal Fiscal Year	Blood Lead Level	Received Services	Declined Services at Referral	Determined Ineligible at Evaluation	Declined Services After Referral	Other
2022	0-4.9 µg/dL	30	2	5	7	4
	5.0+	26	1	5	5	1
	Total	56	3	10	12	5
2023	0-4.9 µg/dL	42	1	0	3	0
	5.0+ µg/dL	21	2	0	1	0
	Total	63	3	0	4	0

Data presented to CLPPAC on August 13, 2024 by Hope Sanson, Birth to Three Early Intervention – Administration, Part C Data Manager.

Public Health Clinics and Mobile Unit

DHSS provides capillary blood lead screening through two programs, at Public Health Clinics located in six State Service Centers, two of which are in each county, and through Mobile Units deployed in October 2022 in all three counties. While the Mobile Unit is only able to do capillary blood lead screening using the Magellan LeadCareII analyzers, the Public Health Clinics are also able to refer to LabCorp for a venous blood lead test.

DHSS Public Health Clinics

New Castle County	Kent County	Sussex County
Hudson State Service Center 501 Ogletown Rd., Newark 302-283-7587	Williams State Service Center 805 River Rd., Dover 302-857-5140	Thurman Adams State Service Center 544 S. Bedford St., Georgetown 302-515-3174
Porter State Service Center 509 W. 8th St., Wilmington 302-777-2860	Milford State Service Center at the Riverwalk 253 NE Front St., Milford 302-424-7140	Anna C. Shipley State Service Center 530 Virginia Ave., Seaford 302-628-6772

In the five year period from 2019-2023, 722 blood lead screenings were performed at five of the six Public Health Clinics that offer blood lead screening, with dramatic increases in 2023 over prior years. [Note: Complete data was not provided for the Porter State Service Center Public Health Clinic]. The months of September, October, and November are busier than the rest of

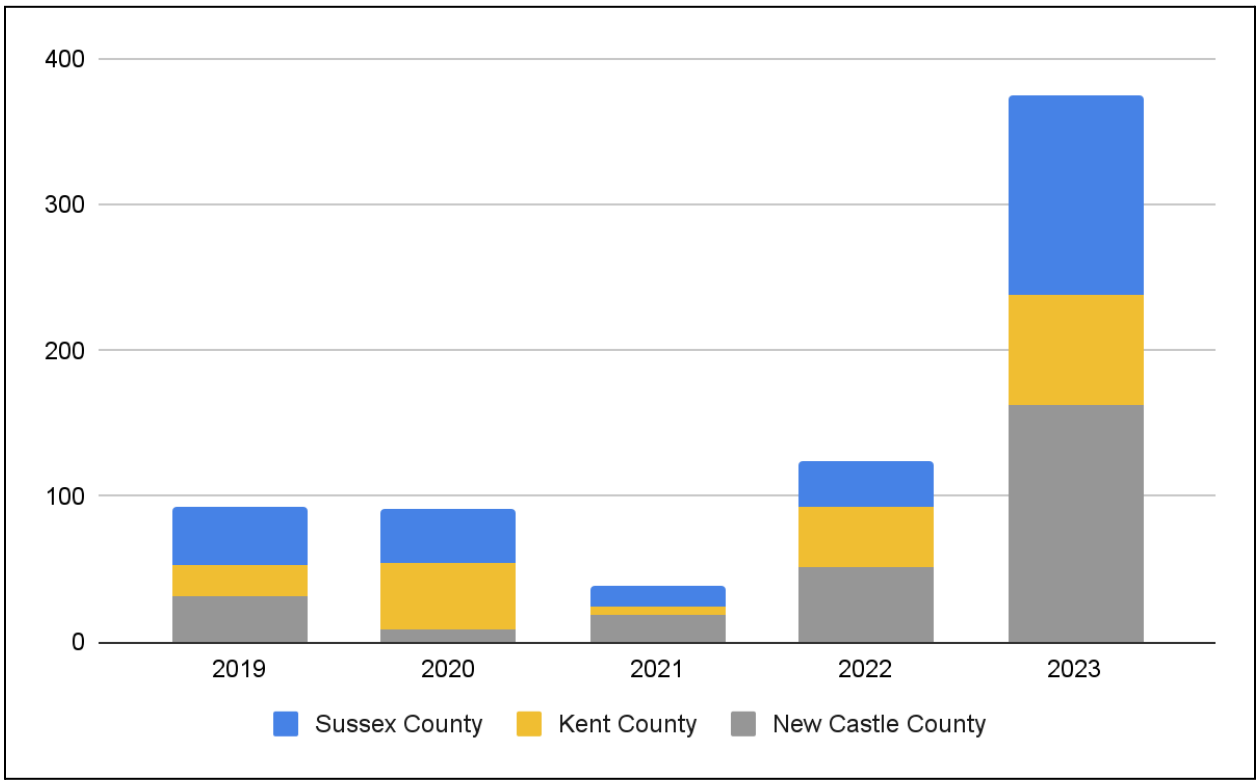
the year, likely reflecting a need for a blood lead screening for child care or kindergarten enrollment.

Blood Lead Screening Performed at Public Health Clinics, 2019-2023

	New Castle County		Kent County		Sussex County		
	Hudson	Porter	Williams	Milford	Adams	Shipley	Total
2019	31	NA	22	0	40	0	93
2020	9	NA	7	38	29	9	92
2021	18	NA	5	1	11	3	38
2022	36	16	29	12	3	28	124
2023	128	34	48	28	51	86	375
Total	**222**	**50**	**111**	**79**	**134**	**126**	**722**

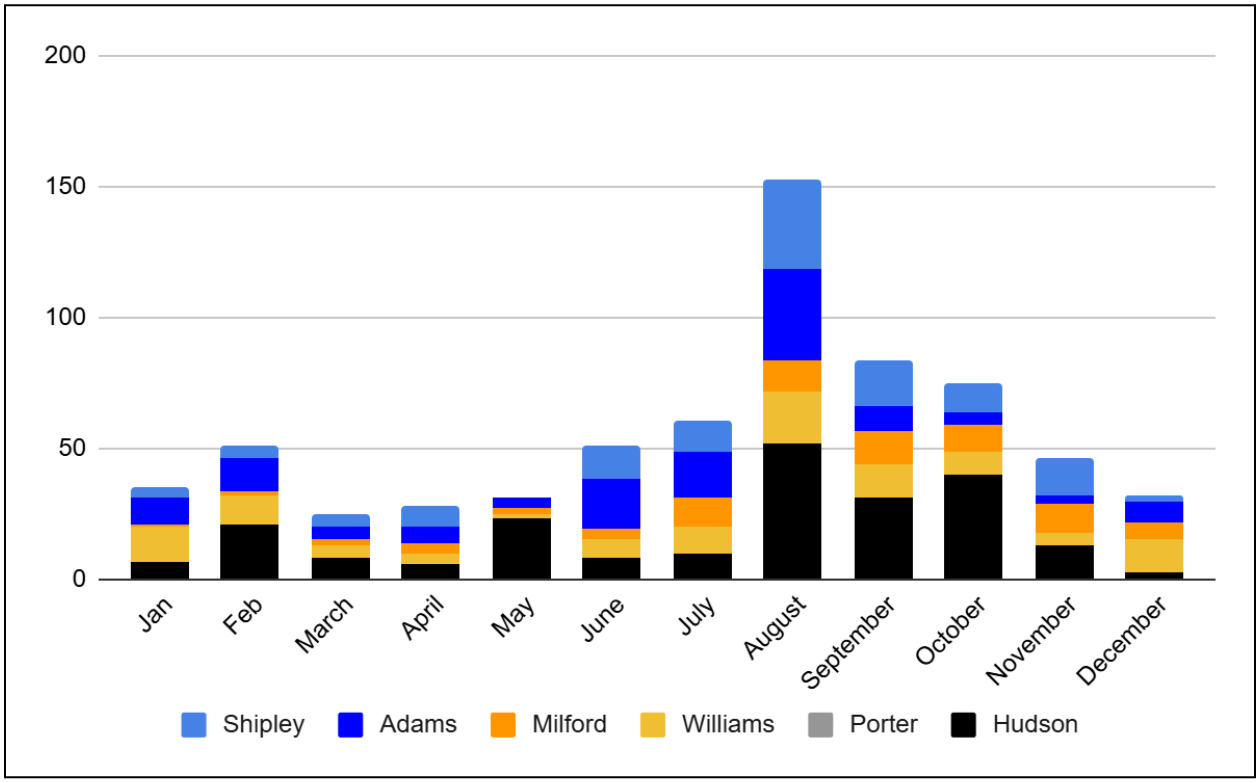
Data extracted from HHLPSS, October 24, 2024. NA = Not Available (data was not provided for the Porter State Service Center Public Health Clinic and is therefore excluded).

Blood Lead Screening Performed at Public Health Clinics by County, 2019-2023



Data extracted from HHLPSS, October 24, 2024. Data was not provided for the Porter State Service Center Public Health Clinic for 2019-2021.

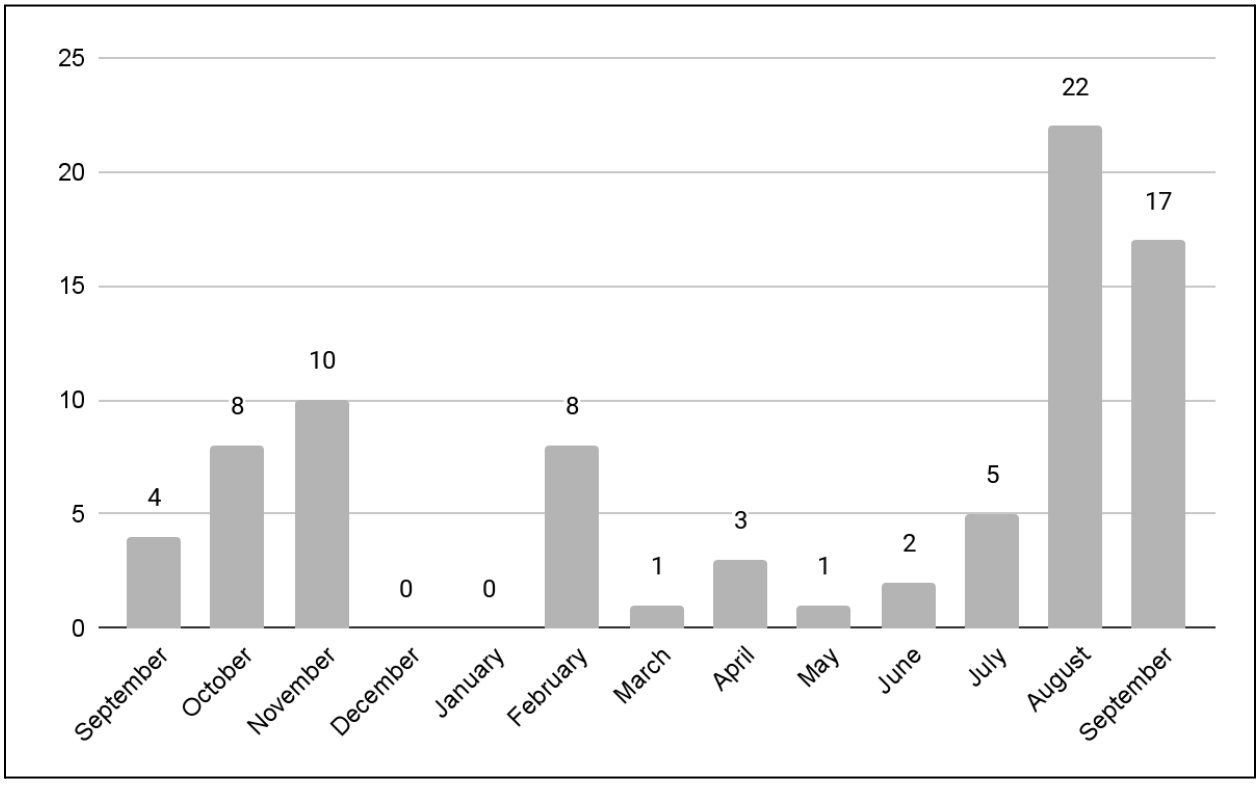
Blood Lead Screening Performed at Public Health Clinics by Month, 2023



Data extracted from HHLPSS, October 24, 2024. Monthly data was not provided for the Porter State Service Center Public Health Clinic and is therefore excluded.

Blood lead screenings by DHSS Mobile Units began in October 2022 in all three counties. In the 12-month period between September 23, 2023 and September 24, 2024, 81 blood lead screenings were performed by the Mobile Unit.

Blood Lead Screening Performed by Mobile Units by Month, September 23, 2023 to September 24, 2024, for all three counties



Statewide Services Performed Report, December 2, 2024.

Division of Medicaid and Medical Assistance (DMMA)

All children receiving Medicaid services are required to be screened or tested for lead at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. Delaware's Division of Medicaid and Medical Assistance (DMMA) tracks blood lead screening for children receiving Medicaid services. Lead screening has been included in the National Committee for Quality Assurance (NCQA) Health-Care Effectiveness Data and Information Set (HEDIS) performance measures since 2008 (Wengrovitz and Brown, 2009).

Screening rates in Delaware for children who receive Medicaid services are on par with the national average. Screening rates in Sussex County exceed those of Kent and New Castle County by approximately 10%. Delaware's three Managed Care Organizations (MCOs) each have programs to improve blood lead screening for members.

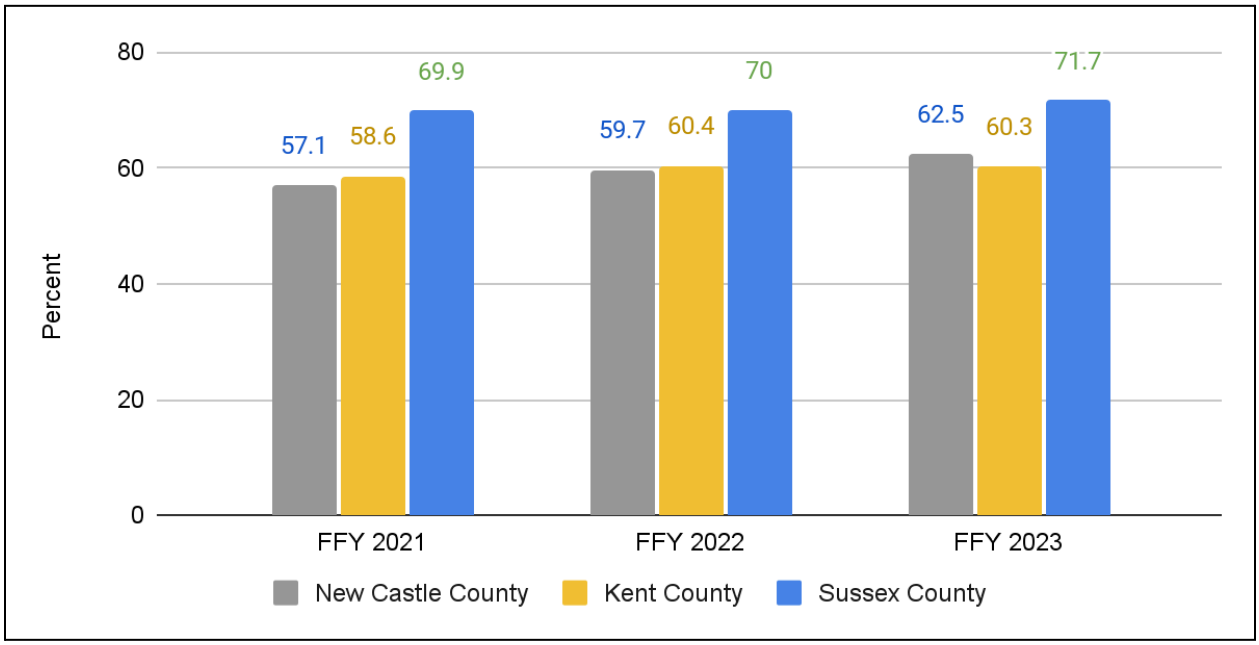
While we were able to acquire blood lead screening data from the DMMA program, the LPPP has not been able to establish the proportion of these screenings and tests in comparison to state totals.

Blood Lead Screenings Performed for Children Receiving Medicaid Services by County and Federal Fiscal Year (FFY) 2021-2024.

Federal Fiscal Year (FFY)	New Castle County	Kent County	Sussex County	Total
FFY 2021	2909	1108	1453	5470
FFY 2022	2940	1168	1516	5624
FFY 2023	3200	1098	1350	5618
FFY 2024	3683	1331	1194	6208

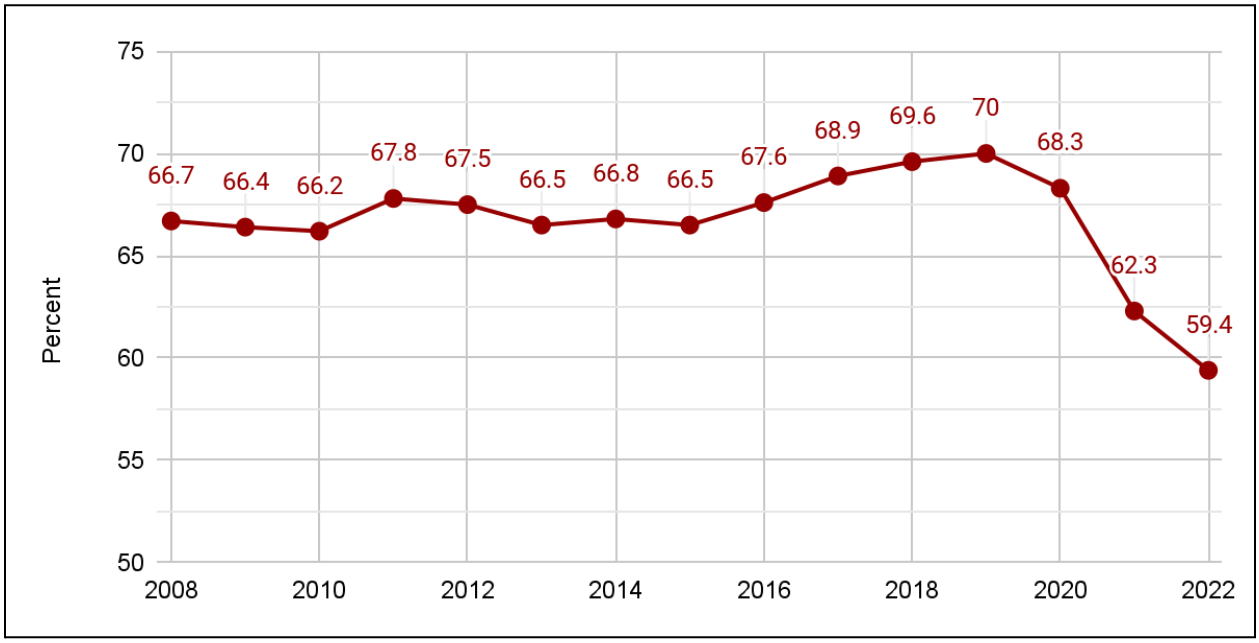
Data provided by the Division of Medicaid and Medical Assistance, August 20, 2024.

Blood Lead Screening Rate (Percent) for Children Receiving Medicaid Services by County and Federal Fiscal Year (FFY) 2021-2023.



New Castle, Kent, and Sussex County data: Health-Care Effectiveness Data and Information Set (HEDIS); provided by the Division of Medicaid and Medical Assistance, August 20, 2024.

National Average Lead Screening Rate for Children Receiving Medicaid Services (2008-2022)



National average data represents the percentage of children 2 years of age who had one or more capillary or venous lead blood test for lead poisoning by their second birthday; provided by National Committee for Quality Assurance (NCQA), available online at https://www.ncqa.org/hedis/measures/lead-screening-in-children/

Managed Care Organizations (MCOs); The following MCOs presented their lead screening programs at the CLPPAC Meeting in March 2024:

Amerihealth Caritas: To improve blood lead screening, Amerihealth Caritas performs outreach to all members, including special outreach to those members who are overdue for lead screening. Targeted outreach is performed for those members who have a positive lead screening, which includes information on the home remediation services that are available by the New Castle County No Lead Program.

Delaware First Health: Analysis of the lead screening data analyzed by Delaware First Health revealed that those members who were not getting their lead screenings were also disengaged in general and not attending well visits. Outreach targets both members and providers.

Highmark Health Options: Using an EPSDT dashboard, Highmark Health Options developed a Lead Screening Care Gap Strategy that includes community partnerships and an incentive program. This has increased lead screening rates from 67% in 2018 to 79% in 2022.

Department of Education Programs

While the Department of Education (DOE) and school districts include a number of programs that impact children with lead poisoning, including the water sampling of public schools, the new Facility Evaluation Tool and Standard of Good Repair initiated by SB 270 (2022), the 619 Programs (IDEA Part B), and special education programs, our time constraints meant that we were only able to evaluate drinking water sampling at state-funded child care centers. In future reports, we hope to document DOE programs more extensively.

Drinking Water Sampling in Schools

In 2020, the DOE was awarded a $209,000 grant from the U.S. Environmental Protection Agency (EPA) for testing lead in drinking water in schools. In 2022, as results began to show concerning levels of lead, and with the encouragement of Committee members and the public, the Department of Education initiated a resampling program using state funds. The EPA advised Delaware to use an action level of 7.5 ppb. Sampling was completed in 2023, and the results of those samples are available on a public data dashboard[5] and are summarized in the DOE Summary Report.[6]

Drinking Water Sampling at State-Funded Child Care Centers

In December 2024, DOE began voluntary water sampling for lead in state-funded child care centers using Water Infrastructure Improvements for the Nation Act (WIIN) grant funds administered by the Environmental Protection Agency (EPA). DOE is working to engage state-funded centers in the sampling effort and will continue outreach. If necessary, DOE will expand the scope of target centers to fully leverage the federal funding.

As with the 2022-2023 water sampling in public schools, samples will follow the EPA's 3Ts protocols, which require stagnation times of 8-18 hours. Fixtures with results at or above 5 ppb will be immediately shut off and subject to remediation. Remediation options include removal and/or replacement of the fixture or installation of appropriate filtration, and fixtures used for consumption will not be returned to service until additional sampling confirms levels below the 5 ppb action level.

[5] https://data.delaware.gov/stories/s/2023-Lead-in-Drinking-Water-Sampling-Results-Dashb/pc3b-a6j3

[6] https://publichealthalerts.delaware.gov/wp-content/blogs.dir/203/files/sites/203/2023/09/Lead-Sampling-Report-w-attachment-1-REV.pdf

Funding Sources

State of Delaware Budget

Delaware first allocated state funds for the Lead Poisoning Prevention Program (LPPP) in FY 2024. Previously, the program operated exclusively on federal grants. Residential Lead Remediation funds have also been allocated, beginning in FY 2024, to support the Delaware State Lead-Based Paint Program (DSLBPP) established by SB 9 in 2023. Budget requests for FY 2024 and FY 2025 were made as "one-time items", indicating a need for a more sustainable, long-term approach to funding.

Budget Allocations by the General Assembly

Fiscal Year	Childhood Lead Poisoning Prevention	Residential Lead Remediation
FY 2024	$924,700	$2,000,000
FY 2025	$1,100,000	$2,500,000

Federal Funding

Funding Received through Federal Grants

Program	Funding
CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children	$540,000/year
CDC Lead Capacity Building Grant	$1,500,000 over 3 years
EPA Renovation, Repair, and Painting Program	$340,000/year
ARPA, American Rescue Plan Act	$3,000,000 for 2025

CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children: provides grant funds for Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children for the monitoring of screening of children for lead poisoning. DHSS has been a grant recipient of these funds since the DHSS Lead Poisoning Prevention Program, originally named Office of Lead Poisoning Prevention, was established in 1995.

The current performance period for these funds extends from Fall 2021-2026 with an annual budget of $540,000 and focuses on three strategies: 1) ensure blood lead testing and reporting, 2) ensure blood lead surveillance, and 3) improve linkages of lead-exposed children to recommended sites or services.

Recent efforts have included:

1. Virtual Training Session for Pediatricians on October 25, 2023 by Quality Insights to increase testing and completeness of reporting.
2. Participation in WIC Quality Improvement Programs to ensure children are recommended to state service centers for blood lead screening.
3. Improve data collection and data sharing with Kids Count, School Nurses, and Birth to Three. DHSS currently uses the HHLPSS data management program provided by the CDC and has received a proposal by Birth to Three to connect this data to Child Find.

Children's Health Insurance Program (CHIP): provides funds for lead-abatement activities with an eligible Health Services Initiative (HSI). Nineteen states already have HSI programs approved under CHIP, which are available for lead hazard abatement work under Title XXI of the Social Security Act. Delaware has not yet determined whether it is eligible for these funds.

HUD Lead Hazard Control and Healthy Homes: provides funding for the remediation of lead paint hazards in homes. The last successful DHSS application was for $3,288,728 for the 2014-2017 grant cycle. Using these funds, DHSS completed lead abatement in 952 housing units.

Housing Units Abated for Lead Hazards by the State of Delaware Using HUD Lead Hazard Control and Healthy Homes Grant Funds

Grant Years	Housing Units Completed	Location
1999-2010	779	Wilmington
2014-2017	173	Kent and Sussex Counties

DHSS applied on May 5, 2023 but funds were not awarded. DHSS intends to apply again in 2027, following completion of the HUD Lead Hazard Reduction and Capacity-Building Grant. Currently, New Castle County is Delaware's sole grantee.

On October 8, 2024 HUD announced $420 Million in grant funds to eliminate lead hazard exposure in homes, including $6.5 Million to Washington D.C., $5.85 Million to the City of Baltimore, $4 Million to the State of Maryland Department of Housing and Community Development, $16.8 Million to three municipalities in New Jersey, and $43.5 Million to eight municipalities and counties in Pennsylvania.[7] Because the State of Delaware did not apply, we are not able to access these funds to support our lead hazard remediation goals.

HUD Lead Hazard Reduction and Capacity-Building Grant: provides funding for applicants to develop and expand the infrastructure necessary to undertake comprehensive programs to

[7] https://www.hud.gov/press/press_releases_media_advisories/HUD_No_24_265

identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing. DHSS's 2024 application was approved and grant funds are expected to be awarded later this year.

HUD Healthy Homes and Weatherization Cooperation Demonstration: provides housing interventions in lower-income households by improving collaboration between Lead Poisoning Prevention Programs and Weatherization Assistance Programs, and requires applicants to be recipients of Lead Hazard Control and Healthy Homes Grants. Because the State has not been awarded a HUD Lead Hazard Control and Healthy Homes Grant, Delaware is not yet eligible to apply.

EPA Renovation, Repair, and Painting Program: provides funding for the training, certification, and enforcement of renovation, repair, and painting contractors. Contractors that perform work that disturbs lead-based paint, including the replacement of windows or other home repairs, must be certified by the Division of Public Health.

ARPA, American Rescue Plan Act: In November 2024, The State of Delaware announced that it has allocated $3,000,000 in ARPA funds for the Lead-Based Paint Program for 2025.

New Topics

Cinnamon Applesauce Recall

On October 28, 2023, the U.S. Food and Drug Administration issued a nationwide recall of certain single-serving applesauce pouches, including WanaBana, Weis, and Schnucks Apple Cinnamon Fruit Purée Pouches and Cinnamon Apple Sauce due to elevated lead levels. These applesauce brands were primarily available in dollar stores or from online retailers, such as Amazon.com. Because the contaminated applesauce was not promptly removed from store shelves, on June 11, 2024 FDA sent a warning letter to Dollar Tree.

The applesauce pouches were first identified by the North Carolina Department of Health and Human Services during their home risk assessment of a child with lead poisoning. Upon investigation, the FDA found the source of lead to be cinnamon processed in Ecuador, which resulted in lead levels up to 5,110 ppm. As a point of comparison, the FDA updated Interim Reference Levels for dietary lead, which were revised in 2022, determined that dietary intake of 0.022 ppm/day was associated with the CDC's Blood Lead Reference Value of 3.5 µg/dL in young children up to age 6, and .088 ppm in females of childbearing age (Flannery and Middletown, 2022).

Cases of lead poisoning resulting from consumption of the contaminated applesauce have been tracked by the CDC. As of March 22, 2024, the CDC has tracked 519 total cases (136 confirmed, 345 probable, 38 suspected) from 44 states. Delaware is one of the six states that has not documented an applesauce-associated case of lead poisoning. Other states without a documented case are Alaska, Arkansas, Hawaii, Maryland, and Nevada.

Lead Paint on Delmarva Power Utility Towers Slated for Demolition

Delmarva Power is in the process of removing high transmission utility towers in northern New Castle County. These towers, which are thought to be over 80 years old, contain lead paint. The communities of Ardencroft and Ardentown have been sharing concerns about dispersal of lead during demolition and removal, as well as lead dust and chips contaminating soil in the areas under and around the towers. The project includes the replacement of 48 structures on the Naamans to Darley and Silverside Transmission Line. Utility towers in Green Acres have already been removed, so the project is not isolated to one community.

The Trustees of Ardentown collected soil samples which were analyzed by the University of Delaware Soil Testing Laboratory. Soil concentrations reported from the laboratory showed cause for concern.

Map of the Naamans to Darley and Silverside Transmission Line and the Utility Towers

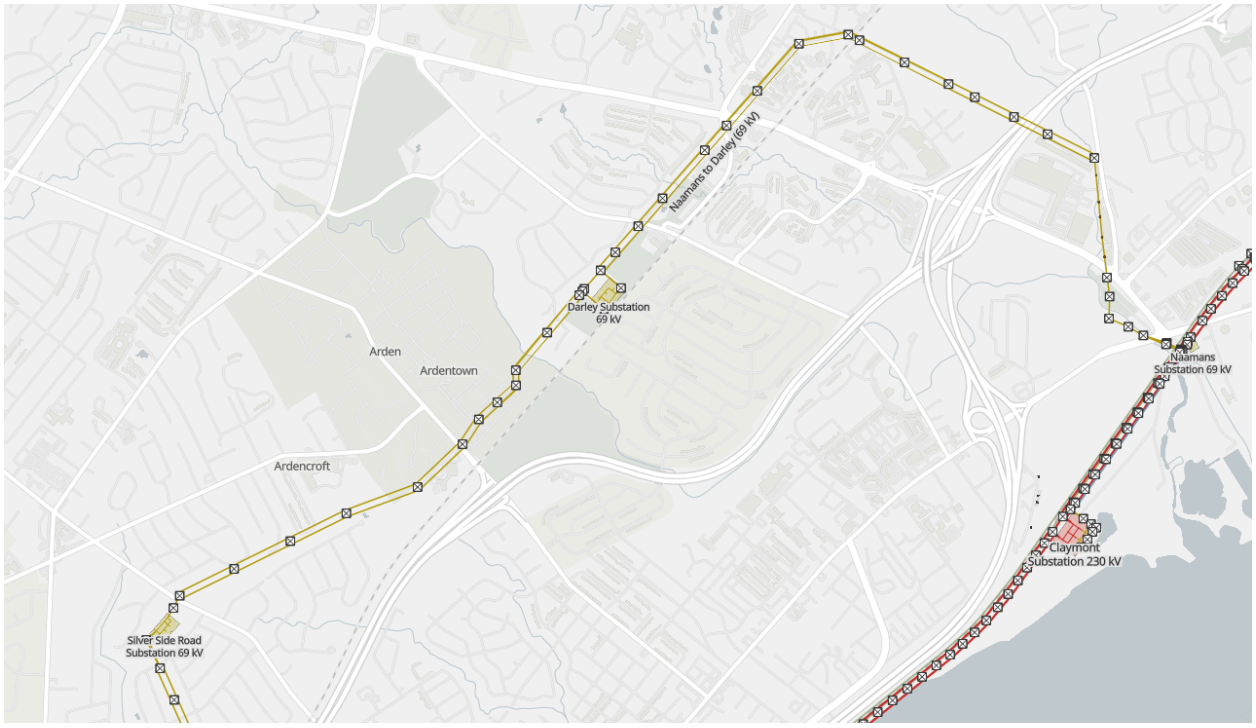


Image extracted from Open Infrastructure Map on August 14, 2024.
https://openinframap.org/#13.16/39.79972/-75.48031

In 2021 the CLPPAC Annual Report recommended that the State of Delaware Department of Natural Resources and Environmental Control prepare environmental- and health-protective procedures for the demolition of lead-painted outdoor structures, including bridges and utility towers, as well as the demolition of commercial and industrial buildings that contain lead or lead paint. Standards should be developed for structures that present an environmental risk due to peeling paint, and a mechanism should be established to address abandoned structures that pose a health risk. These recommendations should include best practices, including community notification, dust monitoring, soil sampling, and should apply to the removal of lead paint by any means, not just via dry abrasive blasting.

Appendix A. CLPPAC 2024 State Agency Program Review

Agency	Program		2024
DHSS	Childhood Lead Poisoning Prevention Program	Incidence Updates	
		Case Management	✔
		Medical Management	
	Delaware State Lead-Based Paint Program	Template	✔
		Lead Risk Assessments	✔
		RFP and Certified Contractors	✔
		Referrals to New Castle County (and MOU)	✔
		Lead-Based Paint Abatement Fund (Title 16 § 2613)	
	Annual Reports	Annual Blood Lead Surveillance Report (Title 16 § 2606)	✔
		Delaware State Lead-Based Paint Program Report (Title 16 § 2612 (a) (3) c.)	
		School Enrollment Report (Title 16 § 2603)	✔
	Federal Funding	CDC Grant Funding	✔
		EPA Grant Funding	✔
		HUD Grant Funding	✔
		CHIP	
	Data Management and Data Sharing	Delaware Epi Lab Insight (DELI)	✔
		School Nurses	✔
		DHIN	
		My Healthy Community	✔
	Birth to Three Programs Data Update		✔

Agency	Program	2024
	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	
	Screening at Public Health Clinics and Mobile Unit	✔
	Health Alert Notifications	✔
	Medicaid EPSDT Data Update	✔
	Office of Drinking Water	
	Renovation, Repair, and Painting Program	✔
DOE	Water Sampling in State-Funded Child Care Centers	✔
	Water Sampling in Schools	
	Facility Evaluation Tool and Standards of Good Repair (SB 270, 2022)	
	Office of Child Care Licensing, verification of screening and inspections of licensed child care facilities	
	Child Find and 619 Program Referrals and Services for Children with Lead Poisoning	
DNREC	Demolition of Utility Towers	✔
	Dry Abrasive Blasting of Water Towers	

Appendix B. Update On Past Recommendations

The status of past CLPPAC recommendations include those from the 2021 Annual Report and the 2023 Lead-Safe Rental Housing Plan.

Responsible Party	Recommended Action	Status
General Assembly	Expand CLPPAC membership to include expertise from the maternal health and obstetrics community.	No progress.
	Mandate universal blood lead testing around 2 years of age.	Completed, HB 222 (2022)
	Discontinue use of questionnaire for blood lead screening.	Completed, HB 222 (2022)
	Provide school nurses with blood lead results in a format accessible to them.	Completed, HB 401 (2024)
	Create lead-safe rental housing requirements in the Landlord Tenant Code, as described in the Lead-Safe Rental Housing Plan (CLPPAC, 2023), and establish financial assistance programs.	HB 450 and 452 were introduced in 2024 but did not advance.
	Establish a task force to evaluate standards for the remediation of playgrounds and park spaces.	No progress.
	Establish a task force to design a strategy and enforcement framework to lower state thresholds for blood lead levels below current OSHA levels to align with health-based standards.	No progress.
	Sportsmen's Caucus should evaluate the potential for lead exposure through marksmanship, hunting, and fishing.	No progress.
Department of Natural Resources and Environmental Control	Lead dust testing as part of the Weatherization Assistance Program	No progress.
	Standards and a permit structure for the removal of lead paint and demolition of all outdoor structures, including bridges and utility towers	May require enabling legislation.
	Lead safe demolition, renovation and repair practices shall be followed by independent, accredited contractors for commercial properties	May require enabling legislation.

Responsible Party	Recommended Action	Status
	Adopt an environmental justice approach and incorporate cumulative environmental risk and to account for the proximity of contaminated properties to at-risk communities	Unknown; may require enabling legislation.
	Lead poisoning prevention in fishing and hunting manuals and training programs.	No progress; may require enabling legislation.
Department of Education	Lead safe demolition, renovation and repair practice by accredited contractors for school properties.	May require enabling legislation.
	Conduct routine water testing in schools.	Initiated in 2022.
	Ensure findings of water sampling in schools are presented in an appropriate format, easily understood, and shared with the public.	Initiated in 2023.
	Appoint a member of the CLPPAC to the oversight committee for water testing in schools.	No progress.
	Office of Childcare Licensing shall require child care providers to include routine lead testing of potable water in child care centers and home based care environments as part of the lead-risk assessment.	May require enabling legislation.
Department of Health and Social Services	Improve data collection during blood lead screening and tests to include address where child spends time and owner/rental status	This information is now being collected.
	Offer incentive to health care providers to ensure that blood lead testing is completed, not only ordered.	Unknown.
	Lower the Department of Public Health's threshold for home visits and intervention by a public health nurse to match the CDC BLRV.	Use of nurses for home visits was discontinued in 2019.
	Begin case management for all children with a blood lead level at or above the CDC BLRV.	Case management requires a venous confirmatory test; now aligns with the BLRV.
	Lower eligibility for early intervention services with IDEA Part C to match the BLRV.	Lowered to 5 µg/dL in June 2021; subsequently the CDC lowered the BLRV to 3.5 µg/dL in October 2021

Responsible Party	Recommended Action		Status
	Enroll Delaware in the CDC Adult Blood Lead Epidemiology and Surveillance (ABLES) Program.		No progress
	Develop a scorecard on the state's progress on lead poisoning prevention, reduction, remediation, and reporting efforts that address key indicators		No progress
	Provide point of care screening machines	State Service Centers	In 6 state service centers and 3 mobile units
		Community centers	Unknown
		Primary care offices	Unknown
		Elementary schools	30 machines distributed to school nurses in 2023
	Ease administrative burden and punitive measures directed toward school nurses and childcares to verify screening.		The administrative burden and punitive measures for childcares has increased. In July 2022 the Office of Childcare Licensing updated their regulations places the license of childcares at risk if they are unable to document proof of screening.
	Conduct outreach and targeted education through cultural and religious organizations, and in at-risk neighborhoods.		Initiated in 2024.
	Improve education for providers and caregivers/parents regarding follow-up and connection to services should a child receive an elevated blood lead test.		Initiated in 2023.
	Lead hazard mapping that uses state and local data on lead exposure risk indicators and reports to inform policy makers, families, and advocates of lead hazards in communities.		No progress
	Incorporate lead poisoning prevention and education in all contracts and programs where there is outreach in homes, including in The Low Income Home Energy Assistance Program (LIHEAP).		Unknown

Responsible Party	Recommended Action	Status
	Develop regulations with standards and an enforcement mechanism to eliminate lead in consumer products	No progress; may require enabling legislation
	Conduct an epidemiological study; a retrospective, case controlled analysis using data that has been collected by the LPPP to identify priority areas of high exposure and for potential future enhanced environmental contaminant surveillance.	No progress
Federal Agencies: EPA	Improve soil contamination standards and remediation from industrial sites (battery factories, etc.)	Unknown
	Reduce lead emissions in air, including aviation gas, lead smelting, and battery recycling.	Unknown
	Replace lead service lines	Lead and Copper Rule Improvements, announced in October 2024, require lead service line replacement within 10 years.

Appendix C. Funding Request Submitted to the Joint Legislative Oversight and Sunset Committee

The budget allocated in FY 2024 and FY 2025 are insufficient to meet the basic needs of the Childhood Lead Poisoning Prevention Program and the Lead Based Paint Program. Because of improvements in screening rates, and anticipated changes to confirmatory testing, the number of children requiring services is expected to increase. The danger of a waiting list that will backlog programs and overwhelm capacity has the potential to bury the Program in the near future.

In addition to maintaining the existing funding allocated for FY 2024 and 2025, we propose the following as sustainable program funding to meet the program needs:

Program	**Funding Request**
Case Management	$535,500
Lead Risk Assessments	$542,500
Lead Paint Hazard Control and Abatement	$5,827,500
Filter First in Homes	$35,000
Interim Controls	$188,500
Public Education and Outreach	$250,000
Total	$7,379,000

Case Management: The Program's ability to perform case management is currently underfunded, which has limited its impact. Case managers work with families to bring blood lead levels down, coordinate with healthcare providers for follow-up testing, and make referrals to the Birth to Three Regional Program. Case managers only initiate their involvement when a venous blood lead test confirms a blood lead level at or above the CDC BLRV (3.5 µg/dL). Case managers are not public health nurses, even though they provide health guidance to families with confirmed cases of lead poisoning. Bringing case managers to a higher standard with the use of public health nurses, and expanding case management to all children with a blood lead level result at or above the BLRV, irrespective of confirmatory test, is recommended to ensure that families are receiving appropriate health advice from a healthcare professional, are aware of the health risks of lead poisoning, understand the need for followup screening or testing, and are able to take the steps necessary to bring blood lead levels down, as well as coordinate efforts between the Program and the family and to be a point of contact. Expanding case management to an estimated 700 children per year at **$765 per child** (15 hours/child at a

public health nurse's average wage of $51/hour) suggests Delaware should budget **$535,500** for case management.

Lead Risk Assessments (LRA): LRAs cost the program **$1200 each** for the Lead Based Paint Hazard Assessment and **$300 to $400** for water sampling, depending on which contractor is used. Identifying the source of exposure is critical to preventing longer-term damage to the child and other members of the household, and the Program is required by SB 9 (2023) to perform a LRA for all children with a blood lead level at or above the CDC's BLRV (3.5 µg/dL) that live in housing built prior to 1978. Because screening and testing rates are improving, and the State is taking steps to adopt the CDC Case Definition for confirmation of results, the number of households identified who may need a LRA may also increase. The State of Delaware should prepare for the need to perform 350 LRAs per year in the near future, and should therefore budget **$542,500**.

Lead Paint Hazard Control and Abatement: Delaware does not yet have baseline information on the cost of lead hazard control and abatement, making it difficult to predict how much is needed. Costs from nearby Baltimore show that "per unit cost for lead hazard control work is between $10,000 and $17,000, and the per-unit cost of abatement is between $30,000 and $50,000 (Scrivener, 2022: 10). Delaware should prepare for a conservative estimate of **$17,000 per unit** for an approximate 315 units, as well as an additional **$1500 per unit** for relocation during abatement required by SB 9 (2023), and should therefore budget **$5,827,500**.

Filter First in Homes: The Program has identified the health-based standard of 1 ppb recommended by the American Academy of Pediatrics (AAP 2016) as the target for lead in water when performing LRAs, which began in July 2024. We have no comparable reference for the level of need for the removal of lead hazards in water in Delaware, and also understand that water could be contaminated in premise plumbing that would need to be replaced, or also in lead service lines.

Improving the safety of drinking water has become a federal priority due to its profound impacts on lead poisoning. On May 2, 2024, the Environmental Protection Agency announced that Delaware would receive $28,650,000 for lead pipe replacement, as part of President Biden's Bipartisan Infrastructure Law, which is investing $15 Billion in lead service line replacement nationwide (EPA, 2024).

The "Filter First" approach to addressing lead in water is considered an affordable best practice that protects drinking water at the point of consumption while acknowledging that testing at the tap is an imperfect method due to variability of water chemistry and temperature, pipe condition, vibrations from nearby roads and construction, and intermittent water flow from one day to the next (Masters et al., 2016; Triantafyllidou et al, 2007). Filter First makes the drinking water safe immediately, instead of waiting for extensive testing and repairs.

Pitcher filters are recommended in homes, as many modern kitchen faucets are not suited for traditional faucet-mounted filters, and lead is removed prior to consumption. The National Sanitation Foundation (NSF) oversees certifications for water filters, and NSF/ANSI 53 water filters are certified to remove 99% of lead (NSF, 2024; ANSI 2024). Pour-through water filters have been demonstrated to perform as designed (Tully et al., 2024).

Delaware should distribute NSF/ANSI 53 pour-through water pitchers with a one-year supply of filters for each household with a child with a blood lead level at or above the CDC BLRV (3.5 µg/dL), irrespective of the type of screening or test. At **$50 per household** for NSF/ANSI 53-certified pour-through water filtration, Delaware should budget **$35,000** to provide safe drinking water to each lead-poisoned child.

Interim Controls: Interim controls are "a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporarily containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs" (Title X, quoted in HUD, 2012: 1-12).

While specialized cleaning alone is not sufficient to reduce lead paint and dust hazards in a home, and cleaning interventions need to be repeated frequently, they can serve an immediate need of addressing lead hazards while abatement is scheduled, though the benefits are "short-lived" (Ettinger et al., 20002). Improper cleaning raises the risk that lead dust and particles can be spread over a greater surface area, and from one room to another, increasing the lead hazard.

Estimates of expected costs for Interim Controls include a total of **$188,500** for the following:

> Professional cleaning services: Professional cleaning services are documented to immediately reduce lead dust levels in children's homes, but dust levels return to pre-cleaning levels after three to six months, indicating that frequent, repeated cleanings are required to maintain lead dust hazards (Campbell et al., 2003). For those children with blood lead levels at or above **10 µg/dL**, professional cleaning services should be procured for each household every three months until the Lead Based Paint Program is able to complete its work.
>
> We estimate professional cleaning services for an estimated **31 households** with a child with a blood lead level at or above 10 µg/dL, using the 6-year average from 2016-2021 reported in Table 2 of the 2021 Blood Lead Surveillance Report (DHSS 2022a). The Lead-Safe Cleveland Coalition (2024) reports that Interim Controls cost between $500 and $5,000 based on property condition. Using a conservative estimate of **$1500 per household**, Delaware should budget **$46,500** for Interim Controls for households with children with blood lead levels at or above 10 µg/dL.

Cleaning education and supplies: To facilitate immediate temporary reduction in lead hazards during the interim period between identifying lead-poisoned children and more permanent measures undertaken through the Lead Based Paint Program, we suggest that the Program proactively educate families on interim controls and distribute appropriate cleaning materials in sufficient quantities for repeat use. This includes cleaning supplies, such as those that contain trisodium phosphate (TSP), and proper instruction on how to use them. We estimate the need for cleaning instruction consultation estimated at **$400 each** and supplies at **$100 each** for **284 households**,[8] leading to a total budget need of **$142,000**.

Education and Outreach: Public education and outreach for prevention of lead poisoning and response for those who are exposed have largely been driven by federal grants. While greater focus on educating healthcare providers has been initiated, Delaware needs a holistic public education and outreach program that can provide general education and targeted information.

Public education is an area of particular need, especially in raising general awareness that childhood lead poisoning remains a public health risk that is also preventable. In 2019 DHSS launched a billboard campaign, but the messaging was somewhat confusing. Public education should be well thought-out with clear messaging and actionable steps that families can take to protect their children, including a focus on screening all children twice by age two, the importance of primary prevention, product recalls and emergency health alerts, follow up steps for children who are exposed, and the resources that are available. Messaging delivery should include public libraries, schools, child cares, community partners, as well as social media and the press.

[8] See Lead Paint Hazard Control and Abatement above for justification of the estimated number of households, which is 315. Subtracting the 31 estimated to require professional cleaning leads to a total of 284 households requiring cleaning education and supplies.

Appendix D. Legislative History of Childhood Lead Poisoning

Year	Bill	Topic	Status
1994	SB 78	Establishes the Childhood Lead Poisoning Prevention Act, requires blood lead screening prior to kindergarten enrollment	Signed
2001	SB 155	Delays mandatory blood lead screening requirement for kindergarten enrollment, establishes the Childhood Lead Poisoning Advisory Committee	Signed
2003	SB 74	Permits kindergarten enrollment without a blood lead screening, so long as it is performed within 60 days	Signed
2010	HB 300	Establishes screening by questionnaire at 24 months of age	Signed
2018	HB 456 w/ HA 1 and HA 2	Bans the new application of lead paint from outdoor structures	Signed
2018	HB 424	Mandates universal blood lead screening for all children at 2 years of age	Stalled in House
2019	HB 89	Restarts the Childhood Lead Poisoning Prevention Advisory Committee	Signed
2019	HB 166	Mandates universal blood lead screening for all children at 2 years of age	Stalled in House
2021	HB 63	Requires DHSS to provide staff support for the Childhood Lead Poisoning Prevention Advisory Committee	Signed
2021	HB 222 w/ HA 1	Mandates universal blood lead screening for all children at 2 years of age	Signed
2022	HB 485	Requires data sharing with school nurses and childcare facilities	Stalled in House Appropriations due to fiscal note
2023	SB 9 w/ SA 1 and HA 1	Establishes Delaware State Lead-Based Paint Program	Signed
2023	HB 227 w/ HA 2	Reinstates sharing screening/testing data with school nurses	Signed

Year	Bill	Topic	Status
2024	HB 401	Requires sharing results with school nurses	Signed
2024	HB 450	Establishes a rental housing registry	Introduced
2024	HB 452	Establishes lead-safe rental housing	Introduced

Appendix E. About the CLPPAC

The CLPPAC has fourteen available seats, with two seats appointed by the Governor currently vacant. Current membership is as follows:

1. Dr. Amy Roe, Committee chair, appointed by the Speaker of the House
2. William Bowser, Committee vice-chair, appointed by the Governor
3. Dr. Terri Hodges, appointed by the Senate Pro Tem
4. Dr. Jessica Rhode, pediatrician, appointed by the Governor
5. Sandy Spence, Sussex County public member, appointed by the Governor
6. Matt Jones, appointed by the Governor
7. Stephen Blessing, Department of Health and Social Services
8. Kimberly Klein, Department of Education
9. Caitlin Del Collo, Delaware State Housing Authority
10. Meredith Seitz, Dept of Services for children, Youth, and their Families
11. Adriane Gallagher, Delaware Association of Realtors
12. Dr. Tammy Croce, Delaware Association of School Administrators

The CLPPAC meets virtually, and after some modifications to the meeting schedule to accommodate member schedules, has settled on the second Tuesday of each month from 3:00 pm to 5:00 pm.

Since September 2023, administrative support for the Committee has been provided by Social Contract.

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April 8, 2025

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

From: **Childhood Lead Poisoning Prevention Advisory Committee**
Chair: Amy Roe, Ph.D., amywroe@gmail.com
Vice-Chair: Bill Bowser, wbowser@comcast.net

Re: **Childhood Lead Poisoning Prevention Program, Targeted Review**

Cc: DHSS Secretary Josette Manning

Enclosed is an update to our prior comments, submitted on October 8, 2024. We have noted from the February 13, 2025 report and presentation that the focus of the review has deviated substantially from objectives identified by the JLOSC in February 2023, which were to 1) evaluate lead poisoning screening for 12 and 24-month-old children, 2) Assess the Water Testing Program in Delaware schools, and 3) Analyze funds available.

We also note the review has been expanded to include other state programs and entities beyond the Childhood Lead Poisoning Prevention Program, one of which did not exist when the program review was initiated in 2023 (Delaware State Lead-Based Paint Program). These include:

Entity	Topics
Childhood Lead Poisoning Prevention Program	Define in the Delaware Code Define the Universal Reporting System Define Public Information
Delaware State Lead Based Paint Program	Reorganize how it is described in the Delaware Code
Childhood Lead Poisoning Prevention Advisory Committee	Consolidate annual report with the surveillance report Remove oversight of the Delaware State Lead Based Paint Program Staff Support (use of Social Contract)
Dept of Education, School Drinking Water	Progress since Department of Education Summary Report (September 13, 2023) and Filter First

We would like to remind JLOSC that it has obligations, outlined in the Delaware Code, to engage with each appropriate entity or organization. These obligations have not been followed as required.

Title 25 Delaware Code Chapter 102 Delaware Legislative Oversight and Sunset Act
§10212 Focused Review

(6) In conducting research under this section, **committee staff shall engage the general public and each appropriate entity or organization, including the entity under focused review,** to request written testimony, comment, or other material to aid the Committee in the focused review.

The JLOSC Members should also be aware that the Delaware State Lead-Based Paint Program received less than 24-hours notice prior to the February 13, 2025 meeting that it was subject to review, and we have confirmed the Department of Education received no notice, were not aware of the meeting, and had no invitation to attend. In addition, the Childhood Lead Poisoning Prevention Advisory Committee also received no notice that the review had been expanded to include recommendations impacting us.

We have been notified by the Division of Research staff that they will not engage with our committee, even though the CLPPAC is now a targeted entity in this review (see Appendix A). We were also denied a request to have a copy of the questions by legislators provided at the February meeting (see Appendix B). We see this as a critical procedural flaw that should be corrected.

Our responses to the current JLOSC Recommendations are as follows:

JLOSC Recommendation	**CLPPAC Response and Guidance**
Clarify the State Lead-Based Paint Program	See the following in our CLPPAC 2024 Annual Report: ● Page 11: Delaware Lead Based Paint Remediation Fund, required by Title 16 Del. C. § 2613, has not yet been established.
Clarify the Childhood Lead Poisoning Prevention Program	See the following in our CLPPAC 2024 Annual Report: ● Pages 5-6: define the role of the Childhood Lead Poisoning Prevention Program and establish program requirements. ● Page 11: expanded use of state resources for lead screening. ● Pages 11-12: comprehensive review of outreach materials, guidance, and practices.
Clarify the Universal Reporting System used by the Division of Public Health to collect and maintain program data	See the following in our CLPPAC 2024 Annual Report: ● Pages 6-7: update screening and testing requirements so that they are consistent with new federal recommendations. ● Page 9: establish quality controls for data collection, management, and reporting. ● Page 10: establish consistency in reporting blood lead results from laboratories and providers.

	• Page 11: consistency in practices for data transfers for school nurses. • Page 25: the new data system (DELI) going online in 2025. • Pages 28-29: data transfers, including to school nurses and DHIN.
Clarify public information	Public information is already clearly defined by Title 29 Del. C. Ch 100 The Freedom of Information Act.
Consolidate the reports of the CLPPAC and the Lead Poisoning Prevention Program	CLPPAC has not been engaged by JLOSC on this topic, as required by Title 29 Del. C. §10212.
Update the Duties of the CLPPAC	CLPPAC has not been engaged by JLOSC on this topic, as req oh uired by Title 29 Del. C. §10212.
Clarify and update staff and data support for CLPPAC provided by the Division of Public Health	CLPPAC has not been engaged by JLOSC on this topic, as required by Title 29 Del. C. §10212.

We identified several errors in the JLOSC research which we have corrected.

Errors in the JLOSC Report	**Correction**
Page 1: "The CDC established the Childhood Lead Poisoning Prevention Program to reduce lead exposure and provides program guidance and funding support to states."	Delaware's Childhood Lead Poisoning Prevention Program was established in 1994 following a Delaware Task Force on Lead Poisoning Prevention. At the time it was created, it was called the Office of Lead Poisoning Prevention, and was in the Division of Public Health (Healthy Housing Solutions, Inc. 2004. *Strategic Plan to Eliminate Childhood Lead Poisoning by 2010.* Prepared for the State of Delaware Department of Health and Social Services, Division of Public Health.)
Page 1: "Delaware's Childhood Lead Poisoning Prevention Act guides all lead poisoning prevention programs."	Childhood lead poisoning prevention efforts occur in numerous chapters of the Delaware Code and across state programs. These include: • Title 16 Del. Code Chapter 30 *Lead Paint on Outdoor Structures.* • Title 6 Del. Code Code Chapter 25C *Toy Safety.* • 7 Del Admin. Code 1106 *Particulate Emissions From Construction And Materials Handling.* • Title 14 Del. Code Chapter 23 *School Building Program* • Title 14, Del. Admin. Code 934 *Regulations for Family and Large Family Child Care Homes.*

Page 5: 1994 Enactment: Creation of the Delaware's Childhood Lead Poisoning Prevention Act. Includes Prior Screening Requirements (1995 – 2021): Effective on March 1, 1995. Requires blood lead screening for children at 12 months of age to be completed as stated in regulations. Screening consisted of a childhood lead risk questionnaire to determine if the child was at high risk for lead poisoning.	Screening by questionnaire was established in 2010 (SB 300) for children at 24 months of age, and not in 1995 as noted.
Page 16, Prior Screening Requirements under the Childhood Lead Poisoning Prevention Act (1995).	The screening questionnaire was not used prior to 2010 (SB 300). In addition, the example provided in the report is not the questionnaire used by the State of Delaware. Delaware's Questionnaire is included below.

In addition, Footnote 33 on page 10 cites the Legislative Task Force website for the Committee. This website was maintained until 2021, until HB 63 which required DHSS to provide staff support for the Childhood Lead Poisoning Prevention Advisory Committee. Since 2021, this webpage has not been updated, and continues to have a contact person listed who retired from DHSS in 2022. Our efforts to have this webpage redirected, corrected, or archived have not been successful. We would appreciate your assistance resolving this problem, as any member of the public who wishes to contact the Committee is connected to a dead email address.

Delaware's Childhood Lead Poisoning Risk Exposure Questionnaire for Children Between the Ages of 22 and 26 Months (discontinued in 2021 by HB 222.

DELAWARE HEALTH AND SOCIAL SERVICES
Division of Public Health
Healthy Homes and Lead Poisoning Prevention

Childhood Lead Poisoning
Risk Exposure Questionnaire for Children Between the Ages of 22-26 Months

Test Date: _____/_____/_____
(Month / Day / Year)

Child's Name: _____ **DOB:** _____/_____/_____
(Last) (First) (Month / Day / Year)

Address: _____
(Street) (City) (ZIP)

Phone No: _____ **Gender:** Male / Female
(circle one)

Health Insurance Type: _____

Medicaid #: _____ **Parent / Guardian:** _____

If the parent/guardian answers "yes" to just one of these questions, a blood lead level test is required again when the child is around 24 months of age.

	Questionnaire Filled Out (Date)	
The Child	**YES**	**NO**
Is suspected by a parent or a health care provider to be at risk for lead exposure or to exhibit the symptoms of lead poisoning.		
Has a sibling or frequent playmate with lead poisoning.		
Lives in or regularly visits a house or day care center (including out buildings) built before 1978, which is the year lead paint was banned for indoor use.		
Is a recent immigrant, refugee, or foreign adoptee.		
Has a household member who uses traditional, folk, or ethnic remedies or cosmetics or who routinely eats food or supplements imported informally (e.g., by a family member) from abroad.		
Lives with an adult whose job or hobby involves exposure to lead (e.g. construction, home renovation/repair, mechanic, battery manufacturer, welding, metal fabricator, plumber, pottery, jeweler, stained glass maker).		
Lives near a major highway, an active lead smelter, battery recycling plant, or other industry likely to release lead.		
Lives in, attends day care in, or visits any of the following zip code areas at least 6 hours a week or 60 hours a year: • 19701, 19702, 19703, 19706, 19709, 19711, 19713, 19720, 19733 • 19801, 19802, 19803, 19804, 19805, 19806, 19808, 19809, 19810 • 19904, 19933, 19934, 19938, 19939, 19940, 19941, 19943, 19945, 19901, 19946, 19947, 19950, 19952, 19953, 19956, 19958, 19960, 19962, 19963, 19966, 19968, 19971, 19973, 19975, 19977		
Blood-lead level performed:		
Results:		

File questionnaire in chart.

Revised 3/06/18

JESSE S. COOPER BUILDING • FEDERAL STREET • DOVER • DELAWARE
MAILING ADDRESS: 417 FEDERAL STREET • DOVER • DELAWARE • 19901
TELEPHONE: (302)744-4546 • WEBSITE: LEADSAFEDELAWARE.ORG

DELAWARE HEALTH AND SOCIAL SERVICES
Division of Public Health
Healthy Homes and Lead Poisoning Prevention

Instructions for Completing Childhood Lead Poisoning Risk Exposure Questionnaire for Children Between the Ages of 22-26 Months

I. Purpose

The purpose of the Childhood Lead Poisoning Prevention Risk Assessment Questionnaire form for children between the ages of 22-26 months is to provide documentation of verbal screening and blood lead-level test results for eligible children.

Delaware State law requires that children between the ages of 22-26 months have proof of screening for lead poisoning in addition to blood lead testing at 12 months of age.

1. Complete the information on the upper portion of the form.
2. Complete the date box (MM/DD/YY) and age (in months) box.
3. Screen all children between the ages of **22** and **26** months of age by asking the parent or guardian the eight questions on the form.
4. Put a check mark in the box in the column indicating the parent's or guardian's reponse to each of the eight questions.
5. If the parent or guardian answers **YES** to one or more questions, draw a sample for blood-lead testing.
6. If the parent or guardian answers **NO** to all of the questions, the lead screening is complete.
7. Fill in the test results on the bottom row.
8. File questionnaire in chart.

If the test results are **05 ug/dl or above**, refer to the **CDC Guidelines for Blood Lead Level Testing** for the recommended follow-up testing schedule.

Test results that have been **confirmed by venipuncture that are 20 ug/dl and greater, or confirmed one to three months apart that are 15 – 19 ug/dl** should be reported immediately by telephone to the Division of Public Health's Lead Poisoning Prevention Program at (302)744-4546 ext. 4. This reporting will alert the Lead Poisoning Prevention Program to schedule a home visit by a nurse case manager as well as an environmental lead hazard risk assessment of the home.

JESSE S. COOPER BUILDING • FEDERAL STREET • DOVER • DELAWARE
MAILING ADDRESS: 417 FEDERAL STREET • DOVER • DELAWARE • 19901
TELEPHONE: (302)744-4546 • WEBSITE: LEADSAFEDELAWARE.ORG

Appendix A. Communication with the Division of Research

From: **Wagner, Holly (LegHall)** <Holly.Vaughn_Wagner@delaware.gov>
Date: Wed, Mar 5, 2025 at 2:06 PM
Subject: RE: JLOSC Focused Review Process
To: amywroe@gmail.com <amywroe@gmail.com>
Cc: OpenGovernment (MailBox Resources) <OpenGovernment@delaware.gov>, Cutrona, Mark J (LegHall) <Mark.Cutrona@delaware.gov>, McAtee, Amanda A (LegHall) <Amanda.McAtee@delaware.gov>, Kowal, Benjamin V (LegHall) <Benjamin.Kowal@delaware.gov>

Dr. Roe:

Mark Cutrona, the director of the Division of Legislative Services and FOIA Coordinator for the General Assembly, is in receipt of the FOIA complaint filed on March 3, 3025, by the Central Delaware NAACP Education Committee, The Delaware Black Commission, the Delaware PTA, the Delaware School Nurse Association, and Lead-Free Delaware. The complaint alleges that the Joint Legislative Oversight and Sunset Committee violated the Freedom of Information Act's requirements regarding public meeting agendas.

While the FOIA complaint is pending, JLOSC staff, including its analysts and me in my role as JLOSC's attorney, are pausing communications with the public or public organizations relating to JLOSC's review of the Lead Poisoning Prevention Program, with the following exceptions:

1. JLOSC staff will continue to accept, acknowledge, and share with JLOSC members all public comment that is received by, at a minimum, April 14, 2025, which is the deadline Chair Hoffner established for public comment related to any of the topics discussed throughout the Program's review. As previously noted, for any information you'd like to have included as written testimony, comment, or other materials to aid JLOSC members in the focused review of the Program, please continue to make those submissions to sunset@delaware.gov.

2. To respond here to your March 3, 2025, email. The Childhood Lead Poisoning Prevention Advisory Committee is *not* under review. Rather, what was discussed at the February 13th JLOSC meeting is that, as a part of the review of the Program, there will likely be statutory updates to Chapter 26, Title 16. The changes to Chapter 26 may include changes to the Advisory Committee's statute, § 2605, because the Advisory Committee falls under the same chapter as the Program.

   Regarding how the Advisory Committee will continue to be engaged with this review, in addition to the process described in paragraph 1. above, if JLOSC

approves a recommendation for legislative changes to Chapter 26 at its next meeting regarding the Program's review, Amanda, Ben, and I will work with DPH to complete a draft bill. DPH is free to determine which stakeholders to include on their end of the drafting process. After JLOSC staff and DPH complete a draft bill, we'll follow the new JLOSC legislation process, as provided in JLOSC Rules:

> Rule 17. Presentation of Legislation. The Committee shall post, along with the public notice required by Rule 14, draft legislation to be presented to the Committee for the Committee's consideration at the meeting for which the notice is posted. At the meeting, the chair shall acknowledge questions or comments regarding the draft legislation in the order established in Rule 10.

Sincerely,
Holly

--

Holly Vaughn Wagner (she/her)
Division of Legislative Services
Deputy Director • Legislative Attorney
T: 302-744-4309 | E: holly.vaughn_wagner@delaware.gov
W: legis.delaware.gov
why I include pronouns

*The Division of Research is now the **Division of Legislative Services**. The new name better reflects all the many services the Division will continue to provide.*

Legislative drafting requires more definite, more exacting qualities of language, and demands greater skill in composition than other writing… bill drafting must have the accuracy of engineering, for it is law engineering; it must have the detail and consistency of architecture, for it is law architecture. ~ Cases and Materials on Legislation

Appendix B. **Communication with the Division of Research**

From: **Sunset (Mailbox Resources)** <Sunset@delaware.gov>
Date: Wed, Feb 19, 2025 at 9:46 AM
Subject: RE: Materials from yesterday's JLOSR Meeting
To: Amy Roe <amywroe@gmail.com>, Sunset (Mailbox Resources) <Sunset@delaware.gov>
Cc: Hoffner, Kyra (LegHall) <kyra.hoffner@delaware.gov>, vanessa Spiegel, Sandi (DHSS) <sandi.spiegel@delaware.gov>, William Bowser <wbowser@comcast.net>

Good morning,

Per our standard protocol with review communications, we have reached out to agency staff regarding the questions from JLOSC members, as they were directed to DPH for response. We leave it to the agency's discretion to share information. The recording of the meeting is accessible online and the public comment period remains open until Monday, April 14, 2025. Comments are welcome via email to sunset@delaware.gov for inclusion. Thanks for your understanding.

Best,
Amanda

From: Sarah Bucic <sarah.bucic@gmail.com>
Sent: Wednesday, April 9, 2025 12:28 PM
To: Sunset (Mailbox Resources)
Cc: Amy Roe
Subject: Childhood Lead Poisoning Prevention Program - Targeted Review
Attachments: FOIA Complaint re_ JLOSC (1).pdf; 20250312 - FOIA Response to Petition by Sarah Bucic, et. al.pdf; Attorney General Opinion No. 25-IB20 (1).pdf

We are writing to express our disappointment that the Joint Legislative Oversight and Sunset Committee continues to operate without transparency in its review of lead poisoning prevention programs.

Reviewing entities and programs without posting them on an agenda is inappropriate and inconsistent with the principles of open government. Reviewing entities without notifying the entities under review is an inefficient use of the taxpayer's money.

While the General Assembly may have exempted itself from the agenda notice requirements of Title 29 Del. C. Chapter 100, the Freedom of Information Act (see attached), excluding entities from an agenda that are under review, and then limiting public comment only to the entity on the agenda, is not an act of transparency.

Moving forward, we ask the Joint Legislative Oversight and Sunset Committee to act with transparency in its review of childhood lead poisoning prevention programs and entities.

The acts of the JLOSC to limit transparency in its review of childhood lead poisoning prevention programs adds an additional tarnish to the long shadow of environmental injustices to children impacted by lead poisoning in this state and nation.

Respectfully,

Sarah Bucic MSN, RN
Co-chair

Amy Roe Ph.D.
Co-chair

KATHLEEN JENNINGS
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CIVIL DIVISION (302) 577-8400
CRIMINAL DIVISION (302) 577-8500
DIVISION CIVIL RIGHTS & PUBLIC TRUST (302) 577-5400
FAMILY DIVISION (302) 577-8400
FRAUD DIVISION (302) 577-8600
FAX (302) 577-2610

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 25-IB20

March 28, 2025

VIA EMAIL

Sarah Bucic, MSN, RN
Lead-Free Delaware
sarah.bucic@gmail.com

Dr. Amy Roe
Lead-Free Delaware
amywroe@gmail.com

Dr. Terri Hodges
Chair, Education Committee, NAACP

Jakim Mohammed
The Delaware Black Commission

President Kelly Coffee
Delaware PTA

DSNA President Denise Bradley Buffin, RN, Med, MSN, NCSN, School Nurse

RE: FOIA Petition Regarding the Joint Legislative Oversight and Sunset Committee, Delaware General Assembly

Dear Petitioners:

We write in response to your correspondence alleging that the Joint Legislative Oversight and Sunset Committee of the Delaware General Assembly violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 ("FOIA"). We treat your correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 regarding whether a violation of FOIA has occurred or is about to occur. For the reasons set forth below, we determine that the Committee has not violated FOIA as alleged.

BACKGROUND

The Joint Legislative Oversight and Sunset Committee held a meeting on February 13, 2025. The meeting agenda included the item "Staff Presentation on Focused Review: Lead

Poisoning Prevention Program (DHSS, DPH)," followed by a public comment period for this item. This Petition followed.

In the Petition, you allege that "[a]lthough the Lead Poisoning Prevention Program was discussed, the majority of the meeting time was spent reviewing other initiatives and programs that are not part of the Lead Poisoning Prevention Program and were not listed on the agenda."[1] These topics included the "Delaware State Lead-Based Paint Program, the Childhood Lead Poisoning Prevention Advisory Committee, lead service-line replacements, and the lead-safety of drinking water in public schools."[2] You state that not all these programs are administered by the same State agency. You allege that "[c]ertain agencies, therefore, were given an advantage by being present to respond to concerns and criticisms, while other agencies were at a disadvantage by not having their program review listed on the agenda."[3] You also believe that these deficiencies in the agenda caused the public comment portion of the meeting to be overly limited to only the noticed item.

On March 12, 2025, the Director of the Division of Legislative Services replied to the Petition on the Committee's behalf ("Response"). The Committee argues that because the Committee is part of the General Assembly, it is not bound by the agenda requirements in the FOIA statute, pointing to the express exemption in 29 *Del. C.* § 10004(e)(1) that excludes the General Assembly from FOIA's meeting notice requirements. The Committee asserts that this exception is consistent with case precedent that has found the General Assembly has the sole authority to make rules to determine and govern its own proceedings. Even if this meeting notice exception was found not to apply to the Committee, the Committee believes that its agenda in this case provided sufficient notice by alerting members of the public with an intense interest in the matter that this subject would be addressed at the meeting. Finally, the Committee also emphasizes that it took no action at this meeting; rather, the Committee deferred all action on the Committee's review for sixty days to allow for further written public comment and additional research into the questions presented at the meeting.

DISCUSSION

The public body has the burden of proof to demonstrate compliance with FOIA.[4] In certain circumstances, a sworn affidavit may be required to meet that burden.[5] FOIA mandates that public bodies meet specific requirements when holding public meetings, including those contained in

---

1 Petition.

2 *Id.*

3 *Id.*

4 29 *Del. C.* § 10005(c).

5 *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996 (Del. 2021).

Section 10004(e). This section requires a public body to give advance notice of a public meeting and to post this notice with an agenda, which is defined to include "the major issues expected to be discussed" and a "statement of intent to hold an executive session and the specific ground or grounds therefor."[6] However, the General Assembly is specifically exempted from the meeting notice requirements in Section 10004(e), including the requirement to post a meeting agenda.[7] As the Committee is part of the General Assembly, we find that the Committee is also exempt from the requirement to post an agenda, and its February 13, 2025 agenda therefore did not violate FOIA.

CONCLUSION

We conclude that the Committee's February 13, 2025 meeting agenda did not violate FOIA, as the General Assembly is exempted from FOIA's meeting notice requirements.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

Approved:

/s/ Patricia A. Davis

Patricia A. Davis
State Solicitor

cc: Mark J. Cutrona, Esq., Director, Division of Legislative Services

[6] 29 *Del. C.* §§ 10002(a), 10004.

[7] 29 *Del. C.* § 10004(e)(1) ("This subsection concerning notice of meetings does not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health, or safety, or to the General Assembly.").

STATE OF DELAWARE
DIVISION OF LEGISLATIVE SERVICES
Office: 302-744-4114 LEGISLATIVE HALL Fax: 302-739-3895
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

March 12, 2025

VIA E-MAIL
Karen Truitt
FOIA Coordinator
Wilmington, DE 19801
Opengovernment@delaware.gov

VIA E-MAIL
Sarah Bucic, MSN, RN[1]
Sarah.Bucic@gmail.com

Dear Ms. Truitt:

The Joint Legislative Oversight and Sunset Committee ("Committee") received your letter requesting a response to the petition filed by Sarah Bucic, et al, alleging that the Committee violated the Delaware Freedom of Information Act ("FOIA") in regard to the adequacy of the agenda for the Committee's meeting on February 13, 2025 ("February 13 meeting"). As the General Assembly's FOIA Coordinator, I am responding on the Committee's behalf.

The Committee maintains that there can be no violation of FOIA in this case because FOIA does not apply to the Committee as it relates to the sufficiency of an agenda. FOIA specifically provides that the "subsection concerning notice of meetings does not apply . . . to the General Assembly."[2] Therefore, the Committee, a part of the General Assembly because it is one of the General Assembly's four joint committees, is not in violation of FOIA and this exception is dispositive of this petition.

The Committee notes that this exception to FOIA's notice requirements for the General Assembly is consistent with the Court of Chancery's ruling in *News-Journal Co. v. Boulden*, in which the Court held that the General Assembly is "vested [under § 9 of Article II of the Delaware Constitution] with the sole authority to make rules to determine and govern [its] own proceedings, and . . . this inherent rule-making power is immune from interference or regulation by the courts."[3] The General Assembly has provided the Committee with the authority to adopt rules[4] and the Committee has established rules,[5] including rules regarding notice of its hearings. And, the Department of Justice ("Department") has previously stated that "determining whether [another committee of the General Assembly] is obliged to follow its adopted procedures or

[1] We recognize the involvement of other individuals in their capacity with certain organizations, but have limited the delivery of this response to Ms. Bucic consistent with the Department of Justice's notice.
[2] 29 *Del. C.* § 10004(e)(1).
[3] *News-Journal Co. v. Boulden*, 1978 Del. Ch. LEXIS 536 at *5 to *6 (Del. Ch. 1978).
[4] 29 *Del. C.* § 10205.
[5] The Committee's Rules are attached to this response.

[another provision of FOIA] would require this Office to render a decision on the scope of the laws applicable to the General Assembly, and thus, this matter is also outside this Office's authority."[6]

If the Department finds that 29 Del. C. § 10004(e)(1) does not apply to the Committee, the Committee maintains the Committee is still not in violation of FOIA because the agenda was adequate to "'alert members of the public with an intense interest in' the matter that the subject will be taken up by the [public body]".[7] The Department has previously stated the following about this requirement:

> "'[T]he point of the agenda is to put the public on notice, not to answer every question about the agenda item.' '[T]he purpose of FOIA is to ensure that public business is done in the open, so that citizens can hold public officials accountable. The purpose of FOIA is *not* to provide a series of hyper-technical requirements that serve as snares for public officials, and frustrate their ability to do the public's business, without adding meaningfully to citizens' rights to monitor that public business.'"[8]

The Committee's notice was sufficient to provide notice to the public regarding its review of the Lead Poisoning Prevention Program ("Program") overseen by the Division of Public Health.[9] Additionally, to the extent Ms. Bucic, et. al, take issue with the notice relative to the Childhood Lead Poisoning Prevention Advisory Committee ("Advisory Committee"), the notice was sufficient given the following:

(1) The Department's opinions regarding adequacy of agendas.

(2) The fact that the Advisory Committee is created by Chapter 26 of Title 16 of the Delaware Code, the same chapter creating the Program, and the Advisory Committee advises the Division of Public Health related to the implementation of Chapter 26, including the Program.[10]

(3) The fact that Dr. Roe is the Chair of Advisory Committee and provided public comment at the February 13 meeting.[11]

Further, Ms. Bucic, et. al, appear to take issue with the absence of a state agency, the Department of Education. However, as the plain language of FOIA and the Department's opinions make clear, FOIA is intended to provide notice to the public, not to state agencies. Alternatively, the Department of Education had the same opportunity of notice that the public had to know that the Committee was discussing a program overseen by the Division of Public Health that involves lead poisoning.

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[6] Del. Att'y Gen. Op. 22-IB25, 2022 DEL. AG LEXIS 25 at *7 to *8 (July 20, 2022).
[7] Del. Att'y Gen. Op. 24-IB49, 2024 DEL. AG LEXIS 50 at *6 (November 18, 2024).
[8] *Id*. (citations omitted).
[9] Consistent with the attached affidavit, the Committee notes that at least 2 of the individuals who have submitted this petition, Ms. Bucic and Dr. Roe, attended the February 13 meeting and provided public comment. Additionally, 3 other members of the public also provided public comment. A recording of the February 13 meeting is available at https://sg001-harmony.sliq.net/00329/Harmony/en/PowerBrowser/PowerBrowserV2/20250311/265/4779.
[10] 16 *Del. C.* 2605.
[11] See footnote 9.

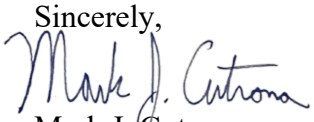
Finally, the Committee notes that the Committee took no action at the February 13 meeting that could even be remedied by the Department. The Committee instead deferred all action on the Committee's review of the Lead Poisoning Prevention Program for 60 days to allow for both of the following:

(1) Further written public comment.
(2) Additional research by the Committee into questions presented at the February 13 meeting.

The Committee cannot take further action on the Committee's review of the Lead Poisoning Prevention Program review until the Committee meets again in an open meeting that is noticed under Committee Rule 14.

If you have any questions about this response, please feel free to contact me at (302) 744-4212 or reply by e-mail at mark.cutrona@delaware.gov.

Sincerely,



Mark J. Cutrona
Director
Division of Legislative Services

Electronic Attachments to E-mail Response:
1. Affidavit
2. Committee Rules

Dear Attorney General Jennings:

We are writing to request that your office review and determine whether the Joint Legislative Oversight and Sunset Committee violated Title 29 Delaware Code Chapter 100, *Freedom of Information Act*, by omitting some of the programs subject to their review as stated in the agenda of their February 13, 2025, meeting.

Title 29 Delaware Code Chapter 100, *Freedom of Information Act*, requires all public bodies to include public notice of their meetings, which must include an agenda (*§ 10004* (e)(2)). The agenda shall include a general statement of the major issues expected to be discussed at a public meeting (*§ 10002* (a)). The Joint Legislative Oversight and Sunset Committee is not exempt from open meeting requirements (*§ 10004* (h)(7)).

The agenda for the February 13, 2025, meeting of the Joint Legislative Oversight and Sunset Committee included the following topics:

1. Welcome.
2. Approve Minutes.
3. Staff Presentation on Focused Review: Lead Poisoning Prevention Program (DHSS, DPH).
4. Public Comment Relating to Agenda Item #3.
5. Adjournment.

Although the Lead Poisoning Prevention Program was discussed, the majority of the meeting time was spent reviewing other initiatives and programs that are not part of the Lead Poisoning Prevention Program and were not listed on the agenda. These included the Delaware State Lead-Based Paint Program, the Childhood Lead Poisoning Prevention Advisory Committee, lead service-line replacements, and the lead-safety of drinking water in public schools.

Adding to the complexity of the issue and the confusion created by the agenda, not all programs are administered by the same state agency. For example, lead-safety of drinking water in public schools is administered by the Department of Education, which did not have staff present at the meeting. Was that because the Department of Education and the lead-safety of drinking water in public schools was absent from the agenda? We feel strongly that the public should have the ability to hear the responses to all questions posed by the Committee that are under review, which did not occur due to the Department of Education's absence. Conversely, the Lead Poisoning Prevention Program, which is administered by the Department of Health and Social Services, Division of Public Health, was on the agenda. Staff for this program were present to answer questions from legislators. Certain agencies, therefore, were given an advantage by

being present to respond to concerns and criticisms, while other agencies were at a disadvantage by not having their program review listed on the agenda.

Because the agenda for the meeting appeared to limit the scope of public comment only to the Lead Poisoning Prevention Program, we are additionally concerned that the public comment portion of the meeting was compromised by the Joint Legislative Oversight and Sunset Committee's agenda omissions. Is the public able to comment on the other programs that were discussed during the meeting, or just the Lead Poisoning Prevention Program, as indicated by the agenda?

The Joint Legislative Oversight and Sunset Committee should conduct its business in a transparent and public manner so the public can observe, listen to answers from program staff, and participate. In addition, the Executive Branch of every program that is evaluated also should have the ability to participate and observe.

The State of Delaware has committed to open government, declared in Title 29 Delaware Code Chapter 100 § 10001. *Declaration of policy:*

> *It is vital in a democratic society that public business be performed in an open and public manner so that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy; and further, it is vital that citizens have easy access to public records in order that the society remain free and democratic. Toward these ends, and to further the accountability of government to the citizens of this State, this chapter is adopted, and shall be construed.*

A principal cornerstone of open government is the agenda that public bodies use to provide notice to the public and to guide their meetings.

Because legislation that emerges from the Joint Legislative Oversight and Sunset Committee does not receive additional hearings in the House or Senate, as is standard practice with other pieces of legislation, transparency shortcomings should not be overlooked.

We look forward to your review of the February 13, 2025, meeting of the Joint Legislative Oversight and Sunset Committee to determine whether this commitment to the public trust through open government and transparency was breached by omitting certain topics from its agenda.

If you find that the Joint Legislative Oversight and Sunset Committee did violate Title 29 Delaware Code Chapter 100, we look forward to your remedies. If the finding is that the committee did not violate this rule of law, we look forward to your explanation of why the omission was not a violation.

Thank you for your consideration of this request.

Central Delaware NAACP Education Committee
Dr. Terri Hodges, Chair Education Committee, NAACP

The Delaware Black Commission
Jakim Mohammed

Delaware PTA
President Kelly Coffey

Delaware School Nurse Association
President Denise Bradley Buffin, RN, MEd, MSN, NCSN, School Nurse, DSNA President

Lead-Free Delaware
Amy Roe, Ph.D. & Sarah Bucic, MSN, RN

February 13, 2025 meeting of the Joint Legislative Oversight and Sunset Committees
Entities Reviewed and Legislator Comments and Questions

Entity	Legislator Comments and Questions
Delaware State Lead-Based Paint Program	Is there a way to find out what houses need abatement? (Rep. Collins) There is a problem with making upgrades in historic areas (Rep. Ortega) How many contractors applied to be part of this program? (Sen. Poore) How many homes were remediated? (Sen. Poore) How much money hasn't been spent? (Sen. Poore) Do we have goals for fixing homes, and are we reaching our goals for fixing homes? (Rep. Ross Levin) Are we using our money wisely? Is there money left? Do we have federal money in hand, or is it promised? (Rep. Ross Levin) To keep costs down, can property owners/building inspectors just do the work, instead of requiring contractors? (Rep. Collins) Performance evaluation of the program needs to be done next (Rep. Ross Levin) Are risk assessments looking at just the home, or do they go to the schools? (Rep. Collins, Sen. Hoffner) Is the training for lead contractors hands on? (Rep. Ortega) Do any states address lead poisoning before a child gets sick? (Rep. Ross Levin) What is the capacity of the agency in terms of grant writing (in terms of being successful with the HUD capacity-building grant but not the abatement grant)? (Rep. Ross Levin) Are there lead paint test kits that can be distributed at state service centers, so that people can test their own paint (Rep. Romer) Would like a report on what households have been fixed, and the total cost of fixing these homes? (Sen. Poore) How many contractors have applied for the RFP process, and how many are participating in the program for the state? (Rep. Poore) What are we doing to improve the process to let families know that lead is a risk and this program is available? Especially in rural areas in Kent and Sussex County (Sen. Hoffner) Is there a less expensive way that individuals can do their own work, than using a certified contractor (Rep. Collins) Why isn't lead contractor training provided in Delaware anymore? (Sen. Hoffner) Can lead training be provided in Delaware (Rep. Ortega) What is the reason we only have four contractors, and how does this compare to other states? (Rep. Ross Levin) If other states are able to do this work faster, what are they doing different from us? (Rep. Ross Levin)

Childhood Lead Poisoning Prevention Program	What does the universal reporting system look like? How is universal reporting accomplished? (Rep. Jones Giltner) Has the required reporting to school nurses occurred? (Rep. Jones Giltner) Why isn't the blood lead data reported to the DHIN? We should regulate that this information gets put into the DHIN. (Sen. Poore) Where is the lead coming from? Is this something that every state experiences? How do we compare to other states? (Rep. Collins) I doubt that there is no safe level of lead (Rep. Collins). If no amount of lead is healthy for children, but when does it become lethal (Sen. Richardson) Is the lead risk questionnaire provided in the report from Delaware (Rep. Jones Giltner) Is there required testing to enter school after kindergarten (for example, in 3rd grade). What are we doing for those children who we are just seeing for the first time at a higher age? (Rep. Jones Giltner) How many kids have tested positive for lead (Sen. Poore) Are we reaching our goals for testing kids? (Rep. Ross Levin) Assessing the effectiveness of the agency is important (Rep. Ross Levin) DPH does not distinguish between screening and testing in their reports, and we want that (Sen. Hoffner) Are there kids with no known exposure who have lead content in their blood? For example, children who live in newer homes versus older homes? (Rep. Collins). How does the department consider the problem of lead paint? From 1-10, how big of a problem is it? (Rep. Collins) What is the baseline level of populations that do not have environmental risk factors? (Rep. Collins) We can have benchmarks separate from the requirements of CDC (Rep. Ross Levin) What is the breakdown percentage of federal grants vs. state funding? (Rep. Romer) What kind of program and education are we setting up to serve underserved areas? (Sen. Hoffner) How have you incorporated the suggestions of the Advisory Committee? (Sen. Hoffner) Did we confirm if the lead tests are in the DHIN? (Rep. Jones Giltner)
Childhood Lead Poisoning Prevention Advisory Committee	We should keep a focus on the advisory council, especially with any changes to DHSS with the Governor's vision; we should stay committed to the advisory council (Sen. Poore).

Water Testing Program in Delaware Schools	Why hasn't there been an update from DOE on the water in schools since 2023? (Rep. Collins) Are the schools with high lead on wells or a water system? Is one system-wide filter enough to address the lead? (Rep. Collins) When will the next report of the water testing in schools occur, and in what format? It should include benchmark comparisons (Rep. Ross Levin) Does the department have a tzar that makes sure that the work happens? (Rep. Collins) Concerns about school in Clayton, with the need to tear up roads to fix (Sen. Hoffner)