TESTIMONY OF RUBEN DIAZ JR.,

BRONX BOROUGH PRESIDENT

AT THE JOINT HEARING OF

THE NEW YORK CITY COUNCIL COMMITTEE ON EDUCATION AND

COMMITTEE ON ENVIRONMENTAL PROTECTION

APRIL 13, 2011

I'd like to thank Council Member Jackson, the chairperson of the Committee on Education, and Council Member Gennaro, the chairperson for the Committee on Environmental Protection, for jointly sponsoring a hearing on the extremely important issue of PCB contamination in New York City public schools buildings and for inviting me to present testimony. I also want to thank all of the Council Members who are members of these committees for their attendance today. The City Council has provided tremendous leadership on this issue and deserves much praise and acknowledgment. I think we all agree that there is nothing more important than educating our children in a safe environment, one where they will not be harmed by environmental hazards such as PCBs. It is my sincere hope that this hearing will prove useful to the Council's further understanding of the issue and lead to the comprehensive actions required to eliminate this serious threat.

As you will hear from environmental experts later today, PCBs are one of the most toxic chemicals ever created by man and are very destructive to human health. PCBs are so toxic that the manufacture of PCBs was banned by Congress in 1978. As part of the ban, materials containing PCBs in amounts greater than 50 parts per million and that are not "completely enclosed" must be immediately remediated. PCBs accumulate in human tissue and blood and are linked to cancer and damage of the reproductive, neurological, endocrine and immune systems. Moreover, the risks associated with PCB exposure are far more severe for children. Scientific studies have linked exposure to PCBs to a permanent and irreversible reduction in IQ, shortened attention span and an increase in disruptive behavior in children, effects that are the antithesis to a productive school environment. There is no excuse or explanation anyone could make that would justify exposing our children and school staff to this poison.

Despite the 1978 ban on PCBs, they continue to pose health risks because they are present in pre-ban construction materials and lighting fixtures that contaminate our public schools. From 1950 until the 1978 ban, PCBs were commonly added to window, door and joint

caulking to make them more elastic. PCBs were also added to the oil in fluorescent lighting ballasts as a fire retardant and conductant. PCB-laced caulking can emit vapors and crumble into dust particles that contaminate the air and ventilation systems that our children and school workers are exposed to every day through breathing, oral ingestion or skin contact. In addition, lighting ballasts leak PCB-laden oil onto lamps, which then vaporize the PCBs into the air. PCBs may also spill onto floors and be tracked all over the building.

And there is no doubt that our schools have a serious problem with PCB contamination. Every battery of tests conducted on our schools looking for PCBs has shown contamination that greatly exceeds the 50 parts per million ban. In 2008, the *Daily News* conducted independent tests of window caulking in nine schools and found serious problems in six. Shortly thereafter, the DOE discovered PCB contamination exceeding 50 ppm in window caulking in 19 additional schools during the course of window replacement projects and PCB contamination in soil adjacent to contaminated window caulking at 20 schools. The pilot testing conducted in three schools by DOE last summer found serious PCB contamination in the air and in the lighting ballasts and caulking at each school. The EPA was so concerned by the severe contamination found in the lighting ballasts that the EPA's Region 2 office conducted tests of lighting fixtures in seven City schools and found extremely serious PCB contamination problems in all of the schools. Recently, parents conducting independent tests in 12 City school buildings also found serious PCB contamination at all of the buildings. Given these findings, it more than reasonable to conclude that every City school built between 1950 and 1980 has a serious problem with PCB contamination.

And what has been the response of the Bloomberg Administration to this extremely serious health threat? Denial and refusal to provide for a timely solution to the problem. Since the publication of the *Daily News* articles in 2008, my office has been pushing the Bloomberg Administration and the EPA to deal forthrightly with this problem. At first, DOE denied there was any problem at all with PCBs in the schools. Now, after overwhelming evidence has proved that a serious problem exists, DOE wants parents and school workers to believe that there is no "immediate health threat" posed by the serious PCB contamination. Because the City refuses to commit to a timely and comprehensive testing of all of the 750 City schools built between 1950 and 1980 we have no idea how serious the problem is in each of those schools. So how can the DOE say there is no immediate threat when they have no idea? I ask each of you on the committees: what do you say to a parent whose child will potentially be exposed to toxic PCB fumes and dust for eight hours a day for years? Or to teachers and maintenance workers that have already been working in these schools for twenty or more years at a time? Don't worry about it? There's no immediate health threat? And what do you say to the environmental

experts who are telling us we have a very serious problem that needs to be taken care of with all due haste? Just tell them they're wrong? This is what DOE is doing which is simply a travesty.

DOE needs to implement a program that deals with PCB contamination with the seriousness it deserves. The City should and must execute the following program:

1) Replace all lighting fixtures in City school buildings known, or assumed, to contain PCBs within the next two years;

2) Develop and execute a plan to test all window and door caulking and other necessary building materials in City school buildings built between 1950 and 1980 for PCB contamination within the next two years utilizing testing standards no less strict than applicable EPA standards;

3) At buildings where PCB contamination is found, test for:

    a. air and particle contamination in the room containing contaminated material;

    b. PCB contamination in the brick and mortar and soil adjacent to any contaminated materials; and

    c. PCB contamination in the school's central heating, ventilation and cooling system, if any; and

    d. Develop a remediation plan and remediate any PCB contamination found in a City school building within six months of its discovery utilizing applicable EPA cleanup standards.

A comprehensive and timely program of testing and remediation is the only proper solution for this problem.

What is most troubling to me is that the Bloomberg Administration's response to this problem seems to be based primarily on monetary considerations and not the safety of our children and school employees. While it's been established without any doubt that the lighting fixtures in the schools pose a grave threat and that all the fixtures in the schools could be replaced within two to three years, the City originally wanted to take ten years to replace them. Why 10 years? A ten-year period will allow the City to spread the costs of a replacement program over time and lower the financial impact on the City for the next few budget cycles. It will also allow the City to wrap the light fixture replacement into an overall energy savings plan for each school, plans that haven't been developed yet and will take years to do. The City claims

that immediate fixture replacement will cost much more money when not included as part of a comprehensive energy savings plan.

I now understand that a proposal to replace the lighting fixtures over a five-year period is being discussed at the suggestion of the EPA. My response is that five years is still too long. This is not responsible leadership – balancing the City's checkbook at the expense of the health of our children and teachers. This is not acceptable behavior for an agency responsible for educating our children and keeping them safe from harm.

Another example of the DOE's obsession with costs is its response to the tests conducted by the EPA on the lighting fixtures. One of the schools tested by the EPA for PCB contamination in the lighting fixtures was PS 68 in the Bronx. In January, the EPA tested lighting fixtures in 11 rooms at PS 68 and announced that they had found leaking ballasts in 9 rooms with PCB contamination that exceeded the 50 ppm limit. In some of the fixtures, pools of PCB-laden oil were found outside of the ballasts being cooked by the lights. Despite this, DOE didn't start work on replacing the lighting fixtures at PS 68 until the middle of March and may not be finished until sometime in May. Why so long? Despite the severity of the contamination, SCA has not hired enough lighting replacements teams to finish the work in a more timely manner. In addition, the lighting fixtures have not been replaced in 3 other schools where the EPA found PCB contamination because of the shortage of lighting replacement teams.

It is also apparent that the Bloomberg Administration wants to take as many years as possible to test and clean our school buildings of other sources of PCB contamination, such as PCB-laden caulk, in order to spread the costs over a longer period of time. This is not acceptable.

Given the Bloomberg Administration's utter failure to properly deal with this problem, I strongly encourage the City Council and it members to ratchet up its pressure on the Bloomberg Administration until it agrees to replace the lighting fixtures at the target school buildings within the next two years and to execute a timely and comprehensive evaluation and remediation program. I promise to continue this fight with you.

Once again, thank you for your leadership and inviting me here today.