



# America Unites for Kids

For Immediate Release:

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF  
CALIFORNIA (Western Division – Los Angeles)  
CIVIL CASE #: 2:15-cv-02124-PA-AJW

## **THE SANTA MONICA MALIBU UNIFIED SCHOOL DISTRICT'S ERROR CAUSES TEACHER WITH THYROID CANCER TO REMAIN IN TOXIC CLASSROOM**

### **Defendant's Calamity of Errors Validates Plaintiff's PCB Lawsuit**

New evidence indicates that the Santa Monica-Malibu Unified School District failed to remediate the Malibu High School PE office that tested positive for high levels of PCB contamination in 2014 and mistakenly tested and remediated a completely different office on the opposite side of the building, which incidentally also contained high levels of PCBs.

The PE office that has still not been remediated is located on the South side of the old gym near the outdoor basketball courts and was independently tested in 2014 and found to have PCB levels four times above legal limit. In March 2015, SMMUSD contractors were tasked with retesting all areas that were previously independently tested. After careful examination of their data, the wrong room was tested. Instead, the district's contractors tested an unused office on the North side of the building, which also proved to have high levels of PCBs. The district then remediated this unused office during the summer of 2015.

The unremediated, contaminated office is used daily by Malibu High School PE faculty, including one of the three original teachers diagnosed with thyroid cancer. Today, a total of five teachers have been diagnosed with thyroid cancer, while 14 of 30 middle school teachers, almost 50%, have reported thyroid disease.

In November of 2013, dangerously high levels of polychlorinated biphenyls—PCBs, a group of highly toxic chemicals that are documented to be carcinogens and endocrine disruptors, were identified at Malibu High School.

This all unfolded last week when teachers questioned Carry Upton, SMMUSD's Director, Theater Operations & Facility Permits about his confidence that all PCBs over 50 ppm were removed. According to Carey he was confident they were. Yet when one of the teachers told him that the wrong office was remediated, they claim he looked dumbfounded.

The office that was overlooked by the district's contractors appears on America Unites' map of MHS contamination marked in orange, with the notation: 190 ppm. The map also clearly shows a red star that indicates that a MHS faculty member associated with that specific location has been diagnosed with thyroid cancer. The empty room the district remediated instead has no special designation on the map.

America Unites for Kids and PEER, two environmental advocacy organizations who have filed a citizen's suit under the Toxic Substances Control Act against the district for the removal of PCBs over 50 ppm, claim the error, and the subsequent findings that the unoccupied room which was tested by mistake also contained high levels PCBs adds new urgency to America Unites' call for additional testing and remediation.

"In the district's calamity of errors, they have proven our legal position for us: like-caulking in the same building will also have high levels of PCBs and therefore all like-caulking in the building is in violation of Federal law and must be removed," said Attorney Charles Avrith of Naglar & Associates who is representing America Unites for Kids and PEER in a Federal lawsuit filed against SMMUSD under the Toxic Substances Control Act for illegal use of PCBs. "Contrary to what the District contends, there is no standard practice that every inch of caulk needs to be tested or verified by the district to be an illegal use. A standard like that would be unreasonable."

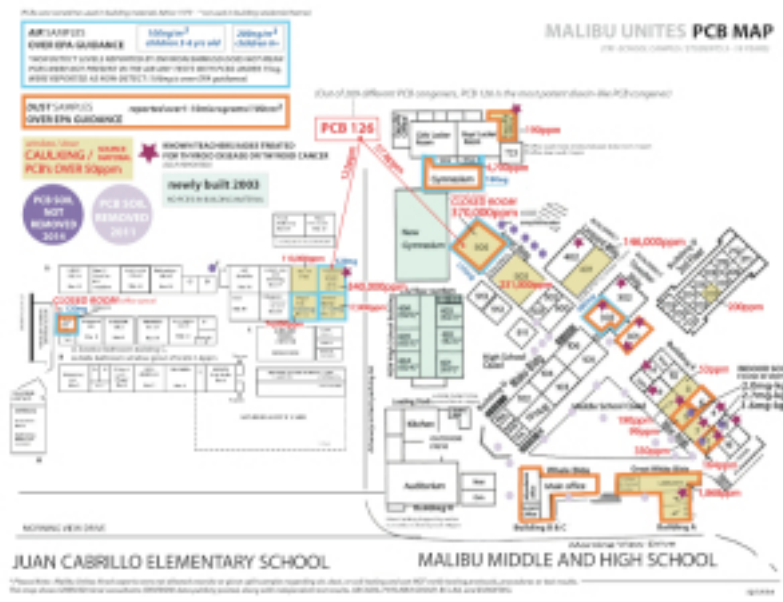
SMMUSD tested the soil for PCBs and other chemicals in both 2009 and again in 2014 under supervision from the California EPA's Department of Toxic Substance Control and used a representative sampling plan to determine the extent of PCB contamination that required removal. When the district tested for PCBs at Santa Monica High School and Olympic High School in the spring of 2015, they also used a representative sampling plan to determine the PCB content of different building materials, according to the District's "Final Olympic PCB Inspection Report" found on their website,

"In general, Ramboll Environ considered materials that were applied in a similar manner, and had similar physical attributes such as size, type, color, age, and texture as homogeneous."

This same representative sampling technique used at the Santa Monica High Schools is what America Unites for Kids and PEER have been advocating for over the past two years. They claim based on the caulk testing they and the district have done to date, all materials that were applied in a similar manner, and had similar physical attributes such as size, type, color, age, and texture also have illegal levels of PCBs and require removal under Federal law. This matter is currently playing out in Federal Court and is set to go to trial May 17<sup>th</sup>, 2016. This case can set precedent to properly identify and remove illegal and unsafe PCBs from all schools. For map details, go to:

<http://malibuunites.com/wp-content/uploads/2015/09/incorrect-PE-rooms-remediated.pdf>

<http://malibuunites.com/in-the-news/local-malibu-news/smmuds-calamity-of-errors-validates-plaintiffs-pcb-lawsuit/>



## AUGUST 2015 UPDATE ON CURRENT HEALTH ISSUES WITH STUDENTS AND TEACHERS AT MALIBU SCHOOLS

5 teachers with thyroid cancer,  
 3 twenty-eight year old alumni with thyroid cancer,  
 18 teachers with thyroid disease (14 of 30 middle school teachers, almost 50%, have reported thyroid disease.),  
 9 alumni in their 20's with thyroid disease,  
 One 22-year-old with environmentally induced melanoma,  
 2 teachers with environmentally induced melanoma,  
 an uncountable amount of headaches, long lasting rashes, daily migraines, ,  
 infertility issues, hair loss, immune issues, respiratory issues, and diabetes.