

Article 43 Revisions to Lead-Based Paint Requirements: What School-Based Child Care Programs Need to Know

The Board of Health has revised [Article 43](#) of the New York City Health Code to better protect children’s health and safety and to align with new state and local laws. Among the revisions are changes to lead-based paint requirements. Peeling, chipped or cracked lead-based paint turns into lead dust and chips that can be ingested by children — especially young children that engage in hand-to-mouth activity (for example, playing on a dusty floor and placing hands or toys in the mouth). When exposed to lead, children can develop learning and behavior problems.

This document provides information about the new Health Code requirements related to lead-based paint (§43.23) and how to comply with them. The changes take effect immediately, with the New York City Health Department issuing violations subject to fines to programs that fail to comply.

- **School-based child care programs that have lead-based paint or paint of unknown content are required to complete an annual lead survey.** The survey contains the results of a visual inspection of all interior painted surfaces used by or accessible to children. Within 30 days of the visual inspection, the program is required to make all necessary repairs and submit the completed survey to the Health Department, documenting results of the inspection and actions taken to repair damaged paint.
 - Hire an EPA-certified contractor to make repairs, if needed. See [worker training requirements](#).
 - Do not allow children to be in or have access to any room or area undergoing repairs. Grant access to children only after final clean-up and after dust wipe results indicate lead is not present.
- Programs should use the annual survey [form provided by or approved by the Health Department](#). Any form used to capture the survey results must contain, at a minimum, the date of the survey; a description of and location of each surface surveyed; and repair status, if necessary.
 - See [Frequently Asked Questions](#) about completing the annual survey.
- Programs must submit the survey to the Health Department — by mail, fax or electronically (email) — every year on or before the anniversary of the prior submission.
- The Health Department will share each program’s survey results on its [Child Care Connect](#) website.

- Programs must share lead-based paint survey results with parents and guardians of every child within 30 days of submitting results to the Health Department. A model notice to families is available [here](#).
 - This notice may be shared electronically, if the program routinely communicates electronically with parents and guardians.
 - The notice may refer to a website for more detailed information about the survey results, if the results are maintained there.
 - Programs must make the notice and dissemination date available to the Health Department immediately upon request, whether these records are maintained on paper or electronically.

School-based child care programs that can demonstrate to the Health Department, through X-Ray Fluorescence (XRF) testing, that they are free of lead-based paint do not need to complete the annual survey. Contact your [borough office](#) for more information about demonstrating lead-free status.