

**Molly HOOTCH,**

**v.**

**ALASKA STATE-OPERATED SCHOOL SYSTEM,**

**536 P.2d 793;1975 Alas.**

**May 23, 1975**

The named appellants live in the rural western Alaska villages of Emmonak, Kwigillingok and Kongiganak, with populations of 439, 148 and 190 respectively. Each of these villages is inaccessible by automobile. At the time this lawsuit was filed, there were no public secondary schools (encompassing grades 9-12) in these communities. Each appellant had, however, the opportunity to attend school at state expense (including transportation, room and board when away from home) in state-operated regional schools, the state boarding home program or Bureau of Indian Affairs' schools. Participation in state-funded correspondence study was also available. Appellants have attended school in Anchorage, Bethel, Kodiak, Sitka, Unalakleet, Wrangell and Chemawa (Oregon). Since the inception of the suit, the state has established a secondary school in Emmonak as part of its on going program to provide area and local schools.

The state-operated school district is administered by ASOSS, a state corporation.

11 The board of directors of ASOSS is appointed by the governor subject to the requirement of AS 14.08.030 that at least six of the nine members be from rural areas. AS 14.08.090 requires the ASOSS board of directors to establish, maintain, operate, discontinue, and combine state-operated schools where it considers necessary . . . . [and to] pay tuition and boarding or transportation costs of secondary school students in cases in which the establishment of state-operated secondary schools is unsound for economic or educational reasons. The discretion of the board of directors in carrying out these duties is limited only by the statutory requirement that all ASOSS plans "relating to the establishment, discontinuance, or combining of schools" be approved by the Department of Education before they can be implemented.

**Sec. 14.30.010. When attendance compulsory.**

(a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall maintain the child in attendance at a public school in the district in which the child resides during the entire school term, except as provided in (b) of this section.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS [14.20.020](#);

(B) tutoring by personnel certificated according to AS [14.20.020](#); or

(C) attendance at an educational program operated in compliance with AS [14.45.100](#) - [14.45.200](#) by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition that a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or expelled under AS [14.03.160](#) or suspended or denied admittance under AS [14.30.045](#);

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this paragraph does not apply if the child resides within two miles of a federal or private school that the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) a state boarding school established under AS [14.16](#); or

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, and the request for excuse is made in writing by the child's parents or guardian and approved by the principal or administrator of the school that the child attends;

(12) is being educated in the child's home by a parent or legal guardian.

(c) If a parent, legal guardian, or other person having the responsibility for or control of the child elects to enroll a child who is six years of age in first grade at a public school, after enrollment, the child is subject to the provisions of (a) and (b) of this section. If the parent or guardian of a child who is six years of age and is enrolled in first grade at a public school determines, within 60 days after the child is enrolled, that the best interests of the child are not being served by enrollment in the first grade, the child may be withdrawn from school, and the provisions of (a) and (b) of this section do not apply to the child until the child is seven years of age.