

CS FOR HOUSE BILL NO. 71(EDU)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON EDUCATION

Offered: 4/17/01

Referred: Health, Education and Social Services, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the education of children with disabilities and of gifted children and**
2 **to the Governor's Council on Disabilities and Special Education; and providing for an**
3 **effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 14.16.050(a) is amended to read:

6 (a) The following provisions apply with respect to the operation and
7 management of a state boarding school as if it were a school district:

8 (1) requirements relating to school district operations:

9 (A) AS 14.03.030 - 14.03.050 (defining the school term, day in
10 session, and school holidays);

11 (B) AS 14.03.083 - 14.03.140 (miscellaneous provisions
12 applicable to school district operations);

13 (C) regulations adopted by the board under authority of

1 AS 14.07.020(a) that are applicable to school districts and their schools, unless
 2 the board specifically exempts state boarding schools from compliance with a
 3 regulation;

4 (D) AS 14.12.150 (authorizing school districts to establish and
 5 participate in the services of a regional resource center);

6 (E) AS 14.14.050 (imposing the requirement of an annual
 7 audit);

8 (F) AS 14.14.110 (authorizing cooperation with other school
 9 districts);

10 (G) AS 14.14.140(b) (establishing a prohibition on
 11 employment of a relative of the chief school administrator);

12 (H) AS 14.18 (prohibiting discrimination based on sex in
 13 public education);

14 (2) requirements relating to the public school funding program and the
 15 receipt and expenditure of that funding:

16 (A) AS 14.17.500 (relating to student count estimates);

17 (B) AS 14.17.505 (relating to school operating fund balances);

18 (C) AS 14.17.500 - 14.17.910 (setting out the procedure for
 19 payment of public school funding and imposing general requirements and
 20 limits on money paid);

21 (3) requirements relating to teacher employment and retirement:

22 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);

23 (B) AS 14.20.095 - 14.20.215 (relating to the employment and
 24 tenure of teachers);

25 (C) AS 14.20.220 (relating to the salaries of teachers
 26 employed);

27 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave
 28 provisions for teachers);

29 (E) AS 23.40.070 - 23.40.260 (authorizing collective
 30 bargaining by certificated employees), except with regard to teachers who are
 31 administrators and except that the board may delegate some or all of its

1 responsibilities under those statutes;

2 (F) AS 14.25 (provisions regarding the teachers' retirement
3 system);

4 (4) requirements relating to students and educational programs:

5 (A) AS 14.30.180 - 14.30.350 (relating to educational services
6 for [EXCEPTIONAL] children with disabilities);

7 (B) AS 14.30.351 - 14.30.359 (relating to educational
8 services for gifted children);

9 (C) AS 14.30.360 - 14.30.370 (establishing health education
10 program standards);

11 (D) [(C)] AS 14.30.400 - 14.30.410 (relating to bilingual and
12 bicultural education).

13 * **Sec. 2.** AS 14.30.180 is amended to read:

14 **Sec. 14.30.180. Purpose.** It is the purpose of AS 14.30.180 - 14.30.350 to

15 (1) provide an appropriate public education for each child with a
16 disability [EXCEPTIONAL CHILDREN] in the state who is [ARE] at least three
17 years of age but less than 22 years of age;

18 (2) allow procedures and actions necessary to comply with the
19 requirements of federal law, including 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485]
20 (Individuals with Disabilities Education Act).

21 * **Sec. 3.** AS 14.30.186(a) is repealed and reenacted to read:

22 (a) Special education and related services shall be provided by

23 (1) a borough or city school district for a child with a disability residing
24 within the district;

25 (2) the board of a regional educational attendance area operating a school
26 in the area for a child with a disability residing in the area served by the school;

27 (3) the borough, city school district, or regional educational attendance
28 area in which a treatment facility or a correctional or youth detention facility is located
29 for a child with a disability placed at the facility;

30 (4) a state boarding school established under AS 14.16 for a child with a
31 disability enrolled at a state boarding school; or

1 (5) a school district that provides a statewide correspondence study
2 program for a child with a disability who is enrolled in the program.

3 * **Sec. 4.** AS 14.30.186(e) is amended to read:

4 (e) **If the parent of a child with a disability** [EXCEPTIONAL CHILDREN
5 BEING EDUCATED AS PROVIDED UNDER AS 14.30.010(b) MAY RECEIVE
6 SPECIAL EDUCATION AND RELATED SERVICES AS PROVIDED UNDER
7 AS 14.30.180 - 14.30.350. THE EXCEPTIONAL CHILD OF A PARENT WHO]
8 elects to educate the child as allowed under AS 14.30.010(b), **the child** may not be
9 compelled to receive the special education and related services provided under
10 AS 14.30.180 - 14.30.350.

11 * **Sec. 5.** AS 14.30.186 is amended by adding a new subsection to read:

12 (f) The department shall, by regulation, establish standards for the allocation of
13 financial responsibilities and the coordination of the provision of special education and
14 related services among the educational agencies listed in (a) of this section when more
15 than one educational agency is responsible for providing those services.

16 * **Sec. 6.** AS 14.30.191(a) is amended to read:

17 (a) A school district shall obtain the **written informed** consent of the child's
18 parent before an initial evaluation or placement **of a child with a disability** in a
19 program of special education and related services.

20 * **Sec. 7.** AS 14.30.191(b) is amended to read:

21 (b) After initial placement in a program of special education and related
22 services and not less than once every three years for as long as the child is assigned to
23 the program, **a** [AN EXCEPTIONAL] child **with a disability** shall receive an
24 educational evaluation [FOR THE IDENTIFICATION AND CLASSIFICATION OF
25 EXCEPTIONAL CHILDREN].

26 * **Sec. 8.** AS 14.30.191(c) is amended to read:

27 (c) Before a school district initiates or refuses a change in **the** [A CHILD'S]
28 placement or **educational** program **of a child with a disability**, the district shall
29 notify the child's parent.

30 * **Sec. 9.** AS 14.30.191(d) is amended to read:

31 (d) Upon completion of **an** [THE] evaluation **or reevaluation under this**

1 **section** [AND BEFORE PLACEMENT], the school district shall provide to the parent
 2 of each [EXCEPTIONAL] child **evaluated under this section** an opportunity **to**
 3 **participate in the determination of the**

4 **(1) child's eligibility for special education and related services;**
 5 [FOR CONSULTATION ABOUT THE EVALUATION. A CONSULTATION
 6 MUST BE AVAILABLE AFTER EACH REEVALUATION OF THE CONDITION]
 7 and

8 **(2) educational** placement of the [EXCEPTIONAL] child **if the child**
 9 **is determined to be eligible for special education and related services.**

10 * **Sec. 10.** AS 14.30.191 is amended by adding new subsections to read:

11 (h) A school district shall provide written notice of its decision under this
 12 section to the parent of the child. The notice must include a description of the
 13 procedural safeguards available to the parent and child under federal law.

14 (i) In this section, "hearing" means a due process hearing under AS 14.30.193.

15 * **Sec. 11.** AS 14.30.193 is repealed and reenacted to read:

16 **Sec. 14.30.193. Due process hearing.** (a) A school district or a parent of a
 17 child with a disability may request a due process hearing on any issue related to
 18 identification, evaluation, or educational placement of the child, or the provision of a
 19 free, appropriate, public education to the child. A request is made by providing written
 20 notice to the other party to the hearing. A parent shall make a request for a due process
 21 hearing under this section not later than 12 months after the date that the school district
 22 provides the parent with written notice of the decision with which the parent disagrees.
 23 A school district shall make its request for a due process hearing in accordance with the
 24 time limit established by the department by regulation.

25 (b) If a due process hearing is requested by either a school district or a parent, the
 26 school district shall contact the department to request appointment of a hearing officer.
 27 The department shall select a hearing officer through a random selection process, from a
 28 list maintained by the department under (g) of this section. Within five working days
 29 after receipt of the request, the department shall provide to the school district and the
 30 parent a notice of appointment, including the name and a statement of qualifications, of
 31 the hearing officer that the department determines is available to conduct the hearing.

1 (c) The school district and the parent each have the right to reject, without stating
2 a reason, one hearing officer appointed under this section. The rejecting party shall
3 notify the department of that rejection in writing within five days after receipt of the
4 department's notice of appointment. If a hearing officer is rejected under this subsection,
5 the department shall, within five working days after receipt of the written rejection,
6 provide a notice of appointment, including the name and a statement of qualifications, of
7 another hearing officer that the department determines is available to conduct the
8 hearing. Each appointment is subject to a right of rejection under this subsection by a
9 party who has not previously rejected an appointment.

10 (d) After a hearing officer is appointed and the time for rejection under (c) of
11 this section has expired, the hearing officer shall immediately inform the parent and
12 the school district of the availability of the mediation process provided under
13 AS 14.30.194 and encourage use of that process to attempt to resolve the disagreement
14 between the parent and the school district. If the mediation process does not result in
15 settlement of all of the issues, the hearing officer shall conduct a hearing in
16 conformance with the requirements of federal law, including 34 C.F.R. 300.507 - 509.
17 After the hearing is completed, the hearing officer shall issue a written decision that

18 (1) upholds the school district's decision; or

19 (2) overturns the school district's decision with specific instructions for
20 modification of the identification, evaluation, educational placement, or provision of the
21 education program by the district.

22 (e) A hearing officer's decision under this section is final and binding on the
23 school district and parent unless appealed under (f) of this section. Notwithstanding a
24 decision by the hearing officer, a child may not be evaluated, placed, transferred, or
25 compelled to receive special education or related services from the school district until
26 the period for filing an appeal under (f) of this section has expired or, if an appeal is
27 filed, until the appellate review process has been completed.

28 (f) A hearing officer's decision under this section is a final administrative
29 order, subject to appeal to the superior court for review in the manner provided under
30 AS 44.62.560.

31 (g) The department shall maintain a list of qualified hearing officers and shall

1 provide for qualification of hearing officers through a training program that is open to
 2 all individuals who meet the criteria set by the department by regulation. The list of
 3 qualified hearing officers shall be maintained as a public record.

4 (h) For purposes of this section, a student with a disability aged 18 - 21 has the
 5 same rights and obligations under this section as a parent of a child with a disability.

6 * **Sec. 12.** AS 14.30 is amended by adding a new section to read:

7 **Sec. 14.30.194. Mediation.** (a) The department shall, by regulation,
 8 establish and implement a voluntary mediation process in conformance with the
 9 requirements of federal law, including 34 C.F.R. 300.506. The department shall
 10 encourage the use of mediation for settlement of disputes under AS 14.30.180 -
 11 14.30.350.

12 (b) The department shall

13 (1) maintain a list of individuals who are qualified mediators
 14 knowledgeable in the federal and state statutes and regulations relating to the
 15 provision of special education and related services; and

16 (2) provide for qualification of mediators through a training program
 17 that is open to all individuals who meet the criteria set by the department by
 18 regulation.

19 * **Sec. 13.** AS 14.30.231 is amended to read:

20 **Sec. 14.30.231. Advisory panel [COMMITTEE].** The Governor's Council
 21 on Disabilities and Special Education established under AS 47.80 shall serve as **the**
 22 **state** [AN] advisory **panel** [COMMITTEE], the function of which is to provide
 23 information and guidance for the development of appropriate programs of special
 24 education and related services for [EXCEPTIONAL] children **with disabilities**.

25 * **Sec. 14.** AS 14.30.250 is amended to read:

26 **Sec. 14.30.250. Teacher qualifications.** A person may not be employed as a
 27 teacher of [EXCEPTIONAL] children **with disabilities** unless that person possesses a
 28 valid teacher certificate and, in addition, **the** [SUCH] training **that** [AS] the
 29 department **requires** [MAY REQUIRE] by regulation.

30 * **Sec. 15.** AS 14.30.270 is amended to read:

31 **Sec. 14.30.270. Substitutes.** AS 14.30.250 does not prohibit the employment

1 of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute
2 teacher of [EXCEPTIONAL] children with disabilities.

3 * **Sec. 16.** AS 14.30.272 is amended to read:

4 **Sec. 14.30.272. Procedural safeguards.** (a) A school district shall inform
5 the parent of **a** [AN EXCEPTIONAL] child with a disability of the right

6 **(1)** to review the child's educational record;

7 **(2)** [,] to review evaluation tests and procedures;

8 **(3)** [,] to refuse to permit evaluation or a change in the child's
9 educational placement;

10 **(4)** [,] to be informed of the results of evaluation;

11 **(5)** [,] to obtain an independent evaluation by choosing a person from a
12 list provided by the school district or by choosing a person by agreement between the
13 parent and school district;

14 **(6)** [,] to request a due process [AN IMPARTIAL] hearing;

15 **(7)** [,] to appeal a hearing officer's decision; **and**

16 **(8)** [, AND] to give consent or deny access to others to the child's
17 educational record.

18 (b) The department shall establish, by regulation, impartial procedures for a
19 school district to follow for due process hearings [UNDER AS 14.30.193] to comply
20 with requirements necessary to participate in federal grant-in-aid programs, including
21 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485] (Individuals with Disabilities
22 Education Act).

23 * **Sec. 17.** AS 14.30.274 is amended to read:

24 **Sec. 14.30.274. Identification of [EXCEPTIONAL] children with**
25 **disabilities.** Each school district shall establish and implement written procedures to
26 ensure that all [EXCEPTIONAL] children with disabilities under the age of 22 **for**
27 **whom the agency is responsible under AS 14.30.186 to provide special education**
28 **and related services** [WHO RESIDE IN THE DISTRICT] are identified and located
29 for the purpose of establishing their need for special education and related services.

30 * **Sec. 18.** AS 14.30.276 is amended to read:

31 **Sec. 14.30.276. Least restrictive environment.** Each school district shall

1 ensure that, to the maximum extent appropriate, [EXCEPTIONAL] children with
 2 disabilities, including children in public or private institutions or other care facilities,
 3 are educated with children who are not children with disabilities [EXCEPTIONAL]
 4 and that special classes, separate schooling, or other removal of [EXCEPTIONAL]
 5 children with disabilities from the regular educational environment occurs only when
 6 the nature or severity of the child's disability [EXCEPTIONALITY] is such that
 7 education in regular classes with the use of supplementary aids and services cannot be
 8 achieved satisfactorily.

9 * **Sec. 19.** AS 14.30.278 is repealed and reenacted to read:

10 **Sec. 14.30.278. Individualized education program.** A school district shall
 11 develop an individualized education program for special education and related
 12 services for each eligible child with a disability. The plan must be completed not later
 13 than 30 days after the determination of the child's eligibility. Each individualized
 14 education program shall be developed and periodically reviewed and revised as
 15 necessary in conformance with federal requirements, including 34 C.F.R. 300.340 -
 16 350.

17 * **Sec. 20.** AS 14.30.285(a) is amended to read:

18 (a) The department shall institute a statewide program for the education of
 19 [EXCEPTIONAL] children with disabilities [,] to ensure that whenever possible
 20 children are educated in the state at locations in or near their resident school district.

21 * **Sec. 21.** AS 14.30.285(b) is amended to read:

22 (b) An identified [EXCEPTIONAL] child with a disability may be sent to an
 23 educational program or residential school outside the child's community or school
 24 district if the child resides in a community or school district where an appropriate
 25 educational program cannot reasonably be made available and if the school district
 26 [DEPARTMENT] determines that provision of special education and related services
 27 in another educational program or residential school is appropriate. If the school
 28 district approves [AND THE DEPARTMENT APPROVE] the enrollment of a [THE
 29 EXCEPTIONAL] child with a disability in another educational program or
 30 residential school outside the child's community or school district and the child is
 31 enrolled, the child's education expenses shall be paid as follows:

1 (1) except as otherwise provided by (2) of this subsection, the sending
2 district shall pay all costs associated with the transfer;

3 (2) the department may provide financial assistance to the **school**
4 district for a child's education provided for in (1) of this subsection under regulations
5 adopted by the department.

6 * **Sec. 22.** AS 14.30.285(e) is amended to read:

7 (e) The educational assessment of **a** [AN EXCEPTIONAL] child **with a**
8 **disability** that indicates that the educational program that is locally available is
9 inappropriate for the needs of the child must conform to the standards set out in
10 AS 14.30.191.

11 * **Sec. 23.** AS 14.30.285(f) is amended to read:

12 (f) A school district shall obtain **informed** [THE] consent of the child's parent
13 before a child may be transferred to a school outside the district in which the child
14 resides.

15 * **Sec. 24.** AS 14.30.285(g) is amended to read:

16 (g) The withholding of **informed** consent by a parent [OR
17 DEPARTMENTAL APPROVAL] for the transfer of **a** [AN EXCEPTIONAL] child
18 **with a disability** under this section does not relieve a school district of the obligation
19 to provide special education and related services to **the** [AN EXCEPTIONAL] child
20 [UNDER AS 14.30.186].

21 * **Sec. 25.** AS 14.30.325(a) is amended to read:

22 (a) The department **shall** [MAY] by regulation provide for the appointment of
23 surrogate parents to represent **a child with a disability** [EXCEPTIONAL
24 CHILDREN] in matters relating to the provision of an appropriate public education.

25 * **Sec. 26.** AS 14.30.335 is amended to read:

26 **Sec. 14.30.335. Eligibility for federal funds.** Notwithstanding any other
27 provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to
28 qualify for federal funds that are available to the state for the education of
29 [EXCEPTIONAL] children **with disabilities**.

30 * **Sec. 27.** AS 14.30.340 is amended to read:

31 **Sec. 14.30.340. Provision of special education in a private school, home, or**

1 **hospital setting.** (a) If a parent of a [AN EXCEPTIONAL] child **with a disability**
 2 enrolls the child in a private school, **including a religious school,** at the parent's
 3 expense or teaches the child at home, the school district in which the child **resides** [IS
 4 LOCATED] shall make special education and related services available in
 5 conformance with **federal requirements, including 34 C.F.R. 300.450 - 462. A**
 6 **parent teaching the parent's child at home may refuse special education and**
 7 **related services for the child** [AN INDIVIDUALIZED EDUCATION PROGRAM
 8 UNDER AS 14.30.278].

9 (b) If a physician certifies in writing, and if the child's individualized
 10 education program **under AS 14.30.278 provides** [TEAM THEN DETERMINES]
 11 that a child's bodily, mental, or emotional condition does not permit attendance at a
 12 school and the child's parents do not elect to teach the child at home as permitted
 13 under AS 14.30.010(b), the school district in which the child is located shall enroll the
 14 child in public school and provide the child with special education and related services
 15 in conformance with **the child's** [AN] individualized education program [UNDER
 16 AS 14.30.278] at the child's home or at a medical treatment facility.

17 * **Sec. 28.** AS 14.30.347 is amended to read:

18 **Sec. 14.30.347. Transportation of [EXCEPTIONAL] children with**
 19 **disabilities.** When transportation is required to be provided as a related **service, a**
 20 **child with a disability** [SERVICES, AN EXCEPTIONAL CHILD] shall be
 21 **transported** [CARRIED] with **children who are not children with disabilities**
 22 [OTHER CHILDREN] if the district provides transportation to [OTHER] children in
 23 the district, except when the nature of the physical or mental disability is such that it is
 24 in the best interest of the [EXCEPTIONAL] child **with a disability,** as **provided in**
 25 **the child's individualized education program** [DETERMINED BY THE SCHOOL
 26 DISTRICT], that the child be transported separately. State reimbursement for
 27 transportation of [EXCEPTIONAL] children **with disabilities** shall be as provided for
 28 transportation of all other pupils except that eligibility for reimbursement is not
 29 subject to restriction based on the minimum distance between the school and the
 30 residence of the exceptional child **with a disability.**

31 * **Sec. 29.** AS 14.30.350(2) is repealed and reenacted to read:

1 (2) "child with a disability" means a child with one or more of the
2 following:

- 3 (A) mental retardation;
- 4 (B) learning disabilities;
- 5 (C) emotional disturbance;
- 6 (D) deafness;
- 7 (E) deaf-blindness;
- 8 (F) hearing impairment;
- 9 (G) orthopedic impairment;
- 10 (H) other health impairment;
- 11 (I) speech or language impairment;
- 12 (J) visual impairment;
- 13 (K) multiple disabilities;
- 14 (L) early childhood development delay;
- 15 (M) autism;
- 16 (N) traumatic brain injury;

17 * **Sec. 30.** AS 14.30.350(8) is repealed and reenacted to read:

18 (8) "parent" means a

- 19 (A) child's natural or adoptive parent;
- 20 (B) child's guardian, but not the state if the child is in the legal
21 custody of the state;
- 22 (C) person who is acting in the place of a child's natural or
23 adoptive parent, such as a grandparent or stepparent with whom the child lives,
24 or a person who is legally responsible for the child's welfare; and
- 25 (D) child's surrogate parent who has been appointed under
26 AS 14.30.325;

27 * **Sec. 31.** AS 14.30.350(9) is repealed and reenacted to read:

28 (9) "related services" means services described in 34 C.F.R. 300.24;

29 * **Sec. 32.** AS 14.30.350(10) is repealed and reenacted to read:

30 (10) "school district" means a borough school district, a city school
31 district, a regional educational attendance area, a state boarding school, and the state

1 centralized correspondence study program;

2 * **Sec. 33.** AS 14.30.350(11) is repealed and reenacted to read:

3 (11) "special education" means an educational program described in 34
4 C.F.R. 300.26;

5 * **Sec. 34.** AS 14.30.350 is amended by adding new paragraphs to read:

6 (12) "due process hearing" means a hearing conducted under
7 AS 14.30.193;

8 (13) "informed consent" means that

9 (A) a child's parent has been fully informed, in the parent's
10 native language or other mode of communication, of all information relevant to
11 the activity for which consent is sought;

12 (B) the parent understands and agrees in writing to the carrying
13 out of the activity for which the parent's consent is sought;

14 (C) the consent describes that activity and lists any records that
15 will be released and to whom; and

16 (D) the parent understands that the granting of consent is
17 voluntary on the part of the parent and may be revoked at any time.

18 * **Sec. 35.** AS 14.30 is amended by adding new sections to read:

19 **Article 3A. Education for Gifted Children.**

20 **Sec. 14.30.351. Purpose.** It is the purpose of AS 14.30.351 - 14.30.359 to
21 provide an appropriate education for each gifted child who enrolls in a public school
22 in the state.

23 **Sec. 14.30.352. Coverage.** Each school district shall establish a program for
24 identification of and provision of educational services to gifted children who enroll in the
25 schools of the school district.

26 **Sec. 14.30.353. Identification, evaluation, and placement of gifted children.**
27 (a) Each school district shall establish and implement written procedures to ensure
28 that all gifted children who enroll in public school in the district are identified and
29 located for the purpose of establishing their need for a gifted education program.

30 (b) A school district shall obtain the written informed consent of the child's
31 parent before an initial evaluation or placement of a gifted child in a gifted education

1 program.

2 (c) After initial placement in a gifted education program and not less than
3 once every three years for as long as the child is assigned to the program, a gifted
4 child shall receive an educational evaluation for the identification of gifted children.

5 (d) Before a school district initiates or refuses a change in the placement or
6 educational program of a gifted child, the school district shall notify the child's parent.

7 (e) Upon completion of the evaluation and before placement, the school
8 district shall provide to the parent of each gifted child an opportunity for consultation
9 about the evaluation. A consultation must be available after each reevaluation of the
10 condition and placement of the gifted child.

11 (f) A parent may obtain an independent educational evaluation by choosing a
12 person from a list provided by the school district or by choosing a person by
13 agreement between the parent and the school district, at the expense of the school
14 district, if the parent disagrees with an evaluation obtained by the school district. The
15 school district may initiate a due process hearing under AS 14.30.357 to show that its
16 evaluation is appropriate. If the hearing officer determines that the evaluation is
17 appropriate, the school district may not be required to pay for the independent
18 educational evaluation.

19 (g) If the parent obtains an independent educational evaluation at private
20 expense, the results of the evaluation

21 (1) must be considered by the school district in a decision made with
22 respect to the provision of an appropriate gifted education program to the child; and

23 (2) may be presented as evidence at a due process hearing regarding
24 the child.

25 (h) If a hearing officer requests an independent educational evaluation as part
26 of a due process hearing, the school district shall pay for the evaluation.

27 (i) A school district shall provide written notice of the school district's
28 decision under this section to the parent of the child. The notice must include a
29 description of the procedural safeguards available under AS 14.30.356.

30 **Sec. 14.30.354. Individualized gifted education program.** (a) Each school
31 district shall provide for the development of an individualized gifted education

1 program for each gifted child that includes

2 (1) a statement of the child's present levels of educational
3 performance;

4 (2) a statement of annual goals, including short-term instructional
5 objectives;

6 (3) a statement of the specific gifted education services to be provided
7 to the child and the extent to which the child will be able to participate in regular
8 educational programs;

9 (4) the projected dates for initiation of services and the anticipated
10 duration of the services; and

11 (5) appropriate objective criteria and evaluation procedures and
12 schedules for determining, on at least an annual basis, whether the short-term
13 instructional objectives are being achieved.

14 (b) The people invited to participate in each meeting to develop the program
15 under (a) of this section shall include

16 (1) a representative of the school district, other than the child's teacher,
17 who is qualified to provide or supervise the provision of gifted education;

18 (2) the child's teacher;

19 (3) at least one of the child's parents;

20 (4) the child, if appropriate; and

21 (5) other individuals selected by the parent or school district.

22 **Sec. 14.30.355. Reimbursement for transportation of gifted children.**

23 State reimbursement for transportation of gifted children shall be as provided for
24 transportation of all other pupils, except that eligibility for reimbursement is not
25 limited to transportation between the child's residence and the school, but shall also
26 include transportation between a school and another location of instruction as required
27 by the child's individualized gifted education program.

28 **Sec. 14.30.356. Procedural safeguards.** A school district shall inform the
29 parent of a gifted child that the parent has the right to:

30 (1) review the child's educational record;

31 (2) review evaluation tests and procedures;

- 1 (3) refuse to permit evaluation or a change in the child's educational
 2 placement;
- 3 (4) be informed of the results of evaluation;
- 4 (5) obtain an independent evaluation by choosing a person from a list
 5 provided by the school district or by choosing a person by agreement between the
 6 parent and school district;
- 7 (6) request a due process hearing;
- 8 (7) appeal a hearing officer's decision; and
- 9 (8) give consent or deny access to others to the child's educational
 10 record.

11 **Sec. 14.30.357. Due process hearing.** (a) A school district or a parent of a
 12 gifted child may request a due process hearing on any issue related to identification,
 13 evaluation, or educational placement of the child, or the provision of a free, appropriate,
 14 public education to the child. A request is made by providing written notice to the other
 15 party to the hearing. A request for a due process hearing under this section must be made
 16 not later than 12 months after the date that the school district provides the parent with
 17 written notice of the decision with which the parent disagrees.

18 (b) If a due process hearing is requested by either a parent or the school
 19 district, the district shall appoint a trained, impartial mediator to administer a
 20 mediation process in an attempt to resolve the disputes between the parent and the
 21 district. The mediator may not be an employee of the district and may not have a
 22 personal or professional conflict of interest in the matter in dispute. The district shall
 23 pay the costs of the mediation process.

24 (c) If the mediation process required in (b) of this section does not resolve all of
 25 the issues raised in the request for a due process hearing provided under (a) of this
 26 section, the school district shall contact the department to request appointment of an
 27 available hearing officer. The department shall select a hearing officer through a random
 28 selection process from a list maintained by the department. Within five working days
 29 after receipt of the request for appointment of a hearing officer, the department shall
 30 provide to the district and the parent a notice of appointment, including the name and a
 31 statement of qualifications of the hearing officer that the department determines is

1 available to conduct the hearing.

2 (d) The school district and the parent each have the right to reject, without
3 statement of cause, one hearing officer appointed under this section. The rejecting party
4 shall notify the department of that rejection in writing within five days after receipt of the
5 department's notice of appointment. If a hearing officer is rejected under this subsection,
6 the department shall, within five working days after receipt of the written rejection,
7 provide a notice of appointment, including the name and a statement of qualifications, of
8 another hearing officer that the department determines is available to conduct the
9 hearing. Each appointment is subject to a right of rejection under this subsection by a
10 party who has not previously rejected an appointment.

11 (e) After a hearing officer is appointed and the time for rejection under (d) of
12 this section has expired, the hearing officer shall conduct an informal prehearing
13 settlement conference and attempt to resolve the disagreement between the parent and
14 the school district. If the conference does not result in settlement of all of the issues
15 and a hearing is conducted, the hearing officer shall issue a written decision after the
16 hearing is completed that

17 (1) upholds the school district's decision; or

18 (2) overturns the school district's decision with specific instructions for
19 modification of the identification, evaluation, educational placement, or provision of the
20 education program by the district.

21 (f) A hearing officer's decision under this section is a final administrative
22 order, subject to appeal to the superior court for review in the manner provided under
23 AS 44.62.560.

24 **Sec. 14.30.358. Teacher qualifications; substitutes.** A person may not be
25 employed as a teacher of gifted children unless that person possesses a valid teacher
26 certificate and, in addition, any training the department requires by regulation. This
27 section does not prohibit the employment of a person, otherwise qualified to serve as a
28 substitute teacher, to serve as a substitute teacher of gifted children.

29 **Sec. 14.30.359. Definitions.** Unless the context otherwise requires, in
30 AS 14.30.351 - 14.30.359,

31 (1) "appropriate education" means personalized instruction with

1 sufficient support services to permit a child to benefit educationally from the
2 instruction;

3 (2) "due process hearing" means a hearing under AS 14.30.357;

4 (3) "educational record" means those files, documents, records, and
5 other material that contain information directly related to a student and are maintained
6 by a school district or a person acting for a school district; "educational record" does
7 not include the personnel records of the school district that are maintained in the
8 normal course of business that relate exclusively to a person's capacity as an employee
9 or other records as designated by the department in regulation;

10 (4) "gifted children" means children who exhibit outstanding intellect,
11 ability, or creative talent as determined under regulations adopted by the department;

12 (5) "gifted education" means specially designed instruction, at no cost
13 to the parent, to meet the unique needs of gifted children; in this paragraph, "at no
14 cost" means that all specially designed instruction is provided without charge but does
15 not preclude incidental fees that are normally charged to students who are not gifted
16 children or their parents as a part of the regular education program;

17 (6) "informed consent" means that

18 (A) a child's parent has been fully informed, in the parent's
19 native language or other mode of communication, of all information relevant to
20 the activity for which consent is sought;

21 (B) the parent understands and agrees in writing to the carrying
22 out of the activity for which the parent's consent is sought;

23 (C) the consent describes that activity and lists any records that
24 will be released and to whom; and

25 (D) the parent understands that the granting of consent is
26 voluntary on the part of the parent and may be revoked at any time;

27 (7) "school district" means a borough school district, a city school
28 district, a regional educational attendance area, a state boarding school, and the state
29 centralized correspondence study program.

30 * **Sec. 36.** AS 14.30.640 is amended to read:

31 **Sec. 14.30.640. Eligibility for service.** The services of the agency shall be

1 available to school districts that serve children whose special education needs occur
 2 infrequently, who require specialized services not normally available in the school
 3 district, and who cannot be easily served by local school district personnel because of
 4 the low number of students in the district in need of the particular service. The agency
 5 may provide services to **a child with a disability** [EXCEPTIONAL CHILDREN], as
 6 that term is defined in AS 14.30.350.

7 * **Sec. 37.** AS 29.60.599(7) is amended to read:

8 (7) "school district" **means a borough school district, a city school**
 9 **district, or a regional educational attendance area under AS 14** [HAS THE
 10 MEANING GIVEN IN AS 14.30.350];

11 * **Sec. 38.** AS 44.21.410(a) is amended to read:

12 (a) The office of public advocacy shall

13 (1) perform the duties of the public guardian under AS 13.26.360 -
 14 13.26.410;

15 (2) provide visitors and experts in guardianship proceedings under
 16 AS 13.26.131;

17 (3) provide guardian ad litem services to children in child protection
 18 actions under AS 47.17.030(e) and to wards and respondents in guardianship
 19 proceedings who will suffer financial hardship or become dependent upon a
 20 government agency or a private person or agency if the services are not provided at
 21 state expense under AS 13.26.112;

22 (4) provide legal representation in cases involving judicial bypass
 23 procedures for minors seeking abortions under AS 18.16.030, in guardianship
 24 proceedings to respondents who are financially unable to employ attorneys under
 25 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
 26 opposing party is represented by counsel provided by a public agency, to indigent
 27 parents or guardians of a minor respondent in a commitment proceeding concerning
 28 the minor under AS 47.30.775;

29 (5) provide legal representation and guardian ad litem services under
 30 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
 31 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or

1 petitions for the termination of parental rights on grounds set out in
 2 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
 3 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
 4 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
 5 protective orders on behalf of a minor; and in cases involving indigent persons who
 6 are entitled to representation under AS 18.85.100 and who cannot be represented by
 7 the public defender agency because of a conflict of interests;

8 (6) develop and coordinate a program to recruit, select, train, assign,
 9 and supervise volunteer guardians ad litem from local communities to aid in delivering
 10 services in cases in which the office of public advocacy is appointed as guardian ad
 11 litem;

12 (7) provide guardian ad litem services in proceedings under
 13 AS 12.45.046;

14 (8) establish a fee schedule and collect fees for services provided by
 15 the office, except as provided in AS 18.85.120 or when imposition or collection of a
 16 fee is not in the public interest as defined under regulations adopted by the
 17 commissioner of administration;

18 (9) provide visitors and guardians ad litem in proceedings under
 19 AS 47.30.839;

20 (10) provide legal representation to an indigent parent of a child with
 21 a disability; in this paragraph, "child with a disability" has the meaning given in
 22 AS 14.30.350 [PARENTS UNDER AS 14.30.195(e)].

23 * **Sec. 39.** AS 47.80.090(9) is amended to read:

24 (9) provide information and guidance for the development of
 25 appropriate special educational programs and services for a child with a disability
 26 [EXCEPTIONAL CHILDREN] as defined in AS 14.30.350 and gifted children as
 27 defined in AS 14.30.359;

28 * **Sec. 40.** AS 47.80.900(6) is amended to read:

29 (6) "person with a handicap" means a person with a developmental
 30 disability as defined in (7) of this section or a person who is hard of hearing, deaf,
 31 speech impaired, visually handicapped, seriously emotionally disturbed,

1 orthopedically or otherwise health impaired, or who has a specific learning disability;
 2 the term includes a child with a disability [BUT IS NOT LIMITED TO
 3 "EXCEPTIONAL CHILDREN"] as defined in AS 14.30.350;

4 * **Sec. 41.** AS 14.30.186(b), 14.30.195, 14.30.315(b), 14.30.350(3), 14.30.350(5),
 5 14.30.350(6), and 14.30.350(7) are repealed.

6 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
 7 read:

8 TRANSITION: REGULATIONS. (a) The state Board of Education and Early
 9 Development may immediately proceed to adopt regulations necessary to implement the
 10 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
 11 Procedure Act), but not before the effective date of the statutory change.

12 (b) To the extent they are not inconsistent with the statutory changes made by this
 13 Act, regulations adopted by the state Board of Education and Early Development and in effect
 14 on July 1, 2001, continue in effect until amended or repealed by the board, and may be
 15 enforced and implemented.

16 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 REVISOR'S INSTRUCTIONS. The revisor of statutes is requested to change the
 19 following:

20 (1) the heading of Article 3 of AS 14.30 from "Education For Exceptional
 21 Children" to "Education for Children With Disabilities";

22 (2) the catchline of AS 14.30.285 from "Transfers of exceptional children" to
 23 "Transfers of children with disabilities."

24 * **Sec. 44.** Section 42(a) of this Act takes effect immediately under AS 01.10.070(c).

25 * **Sec. 45.** Except as provided in sec. 44 of this Act, this Act takes effect July 1, 2001.