

**CS FOR HOUSE BILL NO. 235(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 3/30/93**  
**Referred: Rules**

**Sponsor(s): REPRESENTATIVES BUNDE, Grussendorf**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to educational programs and services for children with  
 2 disabilities and other exceptional children and to persons with a handicap; and  
 3 providing for an effective date."

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

5 \* **Section 1.** AS 14.30.180 is amended to read:

6           Sec. 14.30.180. **PURPOSE.** It is the purpose of AS 14.30.180 - 14.30.350 to

7                   (1) provide an appropriate public education for exceptional  
 8           children in the state who are at least three years of age but less than 22 years of age;

9                   (2) allow procedures and actions necessary to comply with the  
 10           requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with  
 11           Disabilities Education Act).

12 \* **Sec. 2.** AS 14.30.191(a) is amended to read:

13                   (a) A school district shall obtain the consent of the child's parent [OR  
 14           GUARDIAN] before an initial evaluation or placement in a program of special

1 education and related services.

2 \* Sec. 3. AS 14.30.191(b) is amended to read:

3 (b) After initial placement in a program of special education and related  
4 services and not less than once every three years for as long as the child is assigned  
5 to the program, a [AN EXCEPTIONAL] child with disabilities shall receive an  
6 educational evaluation for the identification and classification of [EXCEPTIONAL]  
7 children with disabilities.

8 \* Sec. 4. AS 14.30.191(c) is amended to read:

9 (c) Before a school district initiates or refuses a change in a child's placement  
10 or program, the district shall notify the child's parent [OR GUARDIAN].

11 \* Sec. 5. AS 14.30.191(d) is amended to read:

12 (d) Upon completion of the evaluation and before placement, the school  
13 district shall provide to the parent [OR GUARDIAN] of each exceptional child an  
14 opportunity for consultation about the evaluation. A consultation must be available  
15 after each reevaluation of the condition and placement of the exceptional child.

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

17 (e) A parent may obtain an independent educational evaluation at the expense  
18 of the school district if the parent disagrees with an evaluation obtained by the school  
19 district. [THE SCHOOL DISTRICT MAY INITIATE A HEARING TO SHOW  
20 THAT ITS EVALUATION IS APPROPRIATE.] If, as a result of a hearing under  
21 AS 14.30.193(c), the hearing officer determines that the school district's evaluation  
22 is appropriate, the school district may not be required to pay for the independent  
23 educational evaluation.

24 \* Sec. 7. AS 14.30.191(f) is amended to read:

25 (f) If the parent [OR GUARDIAN] obtains an independent educational  
26 evaluation at private expense, the results of the evaluation

27 (1) must be considered by the school district in a decision made with  
28 respect to the provision of an appropriate public education to the child;

29 (2) may be presented as evidence at a hearing regarding the child.

30 \* Sec. 8. AS 14.30 is amended by adding a new section to read:

31 Sec. 14.30.193. SCHOOL DISTRICT HEARINGS. (a) If a parent refuses to

1 consent, or does not respond promptly to the school district's request for consent,  
2 under AS 14.30.191(a) or 14.30.285(f), the school district may appoint an impartial  
3 hearing officer to conduct a hearing to determine whether the school district may  
4 initiate the evaluation or placement of the child, or transfer the child.

5 (b) If a parent disagrees with the school district's intended placement of a  
6 child or program for a child, the parent may request a hearing. If a hearing is  
7 requested under this subsection, the school district shall appoint an impartial hearing  
8 officer to conduct the hearing.

9 (c) If a parent wishes to obtain an independent educational evaluation at the  
10 expense of the school district under AS 14.30.191(e), the school district may appoint  
11 an impartial hearing officer to conduct a hearing to determine whether the school  
12 district's evaluation is appropriate.

13 (d) If, after a hearing under (a) or (b) of this section, the hearing officer  
14 determines that the school district's intended action is in accordance with law and is  
15 in the child's best interest, the hearing officer shall approve that action.

16 (e) A hearing officer's decision under this section is final and binding on the  
17 school district and the parent, unless appealed under (f) of this section.

18 (f) A parent or a school district may appeal a hearing officer's decision under  
19 this section to the department by requesting an appeal hearing under AS 14.30.195.  
20 The appeal hearing request must be in writing and must be received by the department  
21 within 30 days after receipt of the relevant hearing officer's decision.

22 \* Sec. 9. AS 14.30.195(a) is amended to read:

23 (a) The department shall, by regulation, provide for administrative appeal  
24 hearings, based on the record, of impartial hearing officers' decisions under  
25 AS 14.30.193. An administrative appeal hearing shall comply with all  
26 requirements necessary for participation in federal grant-in-aid programs,  
27 including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act) [TO  
28 BE CONDUCTED UNDER AS 14.30.180 - 14.30.350].

29 \* Sec. 10. AS 14.30.195 is amended by adding new subsections to read:

30 (c) After an appeal hearing under this section, the department shall render its  
31 decision affirming, reversing, modifying, or remanding the hearing officer's decision

1 under AS 14.30.193.

2 (d) A parent or the school district may appeal to the superior court for review  
3 of the department's decision on appeal under (c) of this section.

4 \* Sec. 11. AS 14.30 is amended by adding a new section to read:

5 Sec. 14.30.235. WITHDRAWAL OF CONSENT. If under a provision of this  
6 chapter the consent of the parent is required, the parent may withdraw the parent's  
7 consent.

8 \* Sec. 12. AS 14.30.272 is amended to read:

9 Sec. 14.30.272. PROCEDURAL SAFEGUARDS. A school district shall  
10 inform the parent [OR GUARDIAN] of an exceptional child of the right to review the  
11 child's educational record, to review evaluation tests and procedures, to refuse to  
12 permit evaluation or a change in the child's educational placement, to be informed of  
13 the results of evaluation, to obtain an independent evaluation, to request an impartial  
14 hearing, to appeal a hearing officer's decision, and to give consent or deny access  
15 to others to the child's educational record.

16 \* Sec. 13. AS 14.30.272 is amended by adding a new subsection to read:

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

21 \* Sec. 14. AS 14.30.278(b) is amended to read:

22 (b) Each meeting concerning an exceptional child must include

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

25 (2) the child's teacher;

26 (3) at least one of the child's parents [OR GUARDIANS];

27 (4) the child, when appropriate;

28 (5) other individuals selected by the parent [, GUARDIAN,] or school  
29 district.

30 \* Sec. 15. AS 14.30.278 is amended by adding a new subsection to read:

31 (c) Each school district shall develop an individualized education program for

1 every exceptional child.

2 \* Sec. 16. AS 14.30.285(f) is amended to read:

3 (f) A school district shall obtain the consent of the child's parent before  
4 a child may [NOT] be transferred to a school outside the district in which the child  
5 resides [WITHOUT THE CONSENT OF THE PARENT OR GUARDIAN].

6 \* Sec. 17. AS 14.30.285(g) is amended to read:

7 (g) The withholding of consent by a parent [OR GUARDIAN] or departmental  
8 approval for the transfer of an exceptional child under this section does not relieve a  
9 school district of the obligation to provide special education and related services to an  
10 exceptional child under AS 14.30.186.

11 \* Sec. 18. AS 14.30.340 is repealed and reenacted to read:

12 Sec. 14.30.340. PROVISION OF SPECIAL EDUCATION IN A PRIVATE  
13 SCHOOL, HOME, OR HOSPITAL SETTING. (a) If a parent of an exceptional child  
14 enrolls the child in a private school at the parent's expense or teaches the child at  
15 home, the school district in which the child is located shall make special education and  
16 related services available in conformance with an individualized education program  
17 under AS 14.30.278.

18 (b) If a physician certifies in writing that, and if the child's individualized  
19 education program team then determines that, a child's bodily, mental, or emotional  
20 condition does not permit attendance at a school, the school district in which the child  
21 is located shall enroll the child in public school and provide the child with special  
22 education and related services in conformance with an individualized education  
23 program under AS 14.30.278 at the child's home or at a medical treatment facility.

24 \* Sec. 19. AS 14.30.347 is amended to read:

25 Sec. 14.30.347. TRANSPORTATION OF EXCEPTIONAL CHILDREN.  
26 When transportation is required to be provided as related services, exceptional children  
27 shall be carried with other children, except when the nature of their physical or mental  
28 disabilities [HANDICAPS] is such that it is in the best interest of the exceptional  
29 children, as determined by the school district, that they be transported separately. State  
30 reimbursement for transportation of exceptional children shall be as provided for  
31 transportation of all other pupils except that eligibility for reimbursement is not subject

1 to restriction based on the minimum distance between the school and the residence of  
2 the exceptional child.

3 \* **Sec. 20.** AS 14.30.350(2) is amended to read:

4 (2) "consent" means [IS ONLY OBTAINED IF] the parent [OR  
5 GUARDIAN] has been fully informed of all information relevant to the activity or the  
6 release of records for which [OBJECT OF THE] consent is sought and the parent  
7 understands and voluntarily agrees to the activity or release of records;

8 \* **Sec. 21.** AS 14.30.350(3) is repealed and reenacted to read:

9 (3) "exceptional children" means children with disabilities, and gifted  
10 children, who differ markedly from their peers to the degree that special facilities,  
11 equipment, or methods are required to make their educational program effective;

12 \* **Sec. 22.** AS 14.30.350(4) is amended to read:

13 (4) "related services" means transportation and developmental,  
14 corrective, and other supportive services required to assist children with disabilities  
15 [A HANDICAPPED] or gifted children [CHILD] to benefit from special education  
16 and includes but is not limited to speech pathology and audiology, psychological  
17 services, physical and occupational therapy, recreation, counseling services including  
18 rehabilitation counseling, and medical services for diagnostic or evaluation purposes;  
19 the term also includes school health services, school social work services, and parent  
20 counseling and training;

21 \* **Sec. 23.** AS 14.30.350(5) is amended to read:

22 (5) "special education" means specially designed instruction, at no cost  
23 to the parent, to meet the unique needs of exceptional children [A HANDICAPPED  
24 CHILD], including classroom instruction, instruction in physical education, home  
25 instruction, and instruction in hospitals and institutions; the term includes speech  
26 pathology, or any other related service, if the service consists of specially designed  
27 instruction, at no cost to the parents, to meet the unique needs of exceptional children  
28 [A HANDICAPPED CHILD], and is considered special education rather than a related  
29 service under state standards; the term also includes vocational education if it consists  
30 of specially designed instruction, at no cost to the parents, to meet the unique needs  
31 of exceptional children [A HANDICAPPED CHILD]; in this paragraph

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

(A) "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to nonexceptional [NONHANDICAPPED] students or their parents as a part of the regular education program;

(B) "physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, and individual and group games, and sports (including intramural and lifetime sports); the term includes special physical education, adapted physical education, movement education, and motor development;

(C) "vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree;

\* Sec. 24. AS 14.30.350 is amended by adding new paragraphs to read:

(7) "children with disabilities" means children with mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; or preschool developmental delays;

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

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

(10) "individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following:

1 (A) a representative of the school district, other than the child's  
2 teacher, who is qualified to provide or supervise the provision of special  
3 education;

4 (B) the child's teacher;

5 (C) the child's parent;

6 (D) the child, if appropriate;

7 (E) other individuals, at the discretion of the child's parent or  
8 the school district;

9 (11) "parent" includes a guardian, a person acting as a parent of a child,  
10 and a surrogate parent appointed under AS 14.30.325.

11 \* Sec. 25. This Act takes effect June 30, 1993.