

SENATE BILL NO. 315
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR MILLER

Introduced: 2/14/94
Referred: L&C, HES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to education for exceptional children; to the Governor's Council
2 on Disabilities and Special Education; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 14.07.060 is amended to read:

5 Sec. 14.07.060. REGULATIONS. The board shall adopt regulations that are
6 necessary to carry out the provisions of this title, except as provided under
7 AS 14.31.040. All regulations shall be adopted under AS 44.62 (Administrative
8 Procedure Act).

9 * Sec. 2. AS 14.16.050(a)(4) is amended to read:

10 (4) requirements relating to students and educational programs:
11 (A) AS 14.31 [AS 14.30.180 - 14.30.350] (relating to
12 educational services for exceptional children);
13 (B) AS 14.30.360 - 14.30.370 (establishing health education
14 program standards);

1 (C) AS 14.30.400 - 14.30.410 (relating to bilingual and
2 bicultural education).

3 * Sec. 3. AS 14.17.045(a) is amended to read:

4 (a) An exceptional child, as defined in AS 14.31.900 [AS 14.30.350], who is
5 enrolled in a special education program, approved by the department, on the last day
6 of the counting period for which a determination is being made, generates 0.025
7 instructional units if the child receives gifted services, 0.056 instructional units if the
8 child receives resource services, 0.1 instructional units if the child receives
9 self-contained services, or 0.333 instructional units if the child receives intensive or
10 hospital/homebound services, as those categories of service are defined by the
11 department by regulation, in the funding community in which the child is served. A
12 child may be counted in one special education category only.

13 * Sec. 4. AS 14.30.640 is amended to read:

14 Sec. 14.30.640. ELIGIBILITY FOR SERVICE. The services of the agency
15 shall be available to school districts that serve children whose special education needs
16 occur infrequently, who require specialized services not normally available in the
17 school district, and who cannot be easily served by local school district personnel
18 because of the low number of students in the district in need of the particular service.
19 The agency may provide services to exceptional children, as that term is defined in
20 AS 14.31.900 [AS 14.30.350].

21 * Sec. 5. AS 14.30.750(c) is amended to read:

22 (c) In this section,

23 (1) "counseling program" means personnel and materials, including
24 professional training in counseling program delivery, and in the use of counseling
25 materials;

26 (2) "school district" means a borough or city school district or a
27 regional educational attendance area [HAS THE MEANING GIVEN IN
28 AS 14.30.350].

29 * Sec. 6. AS 14 is amended by adding a new chapter to read:

30 CHAPTER 31. EDUCATION FOR EXCEPTIONAL CHILDREN.

31 ARTICLE 1. GENERAL PROVISIONS.

1 the person possesses the teacher qualifications required under AS 14.31.050.

2 Sec. 14.31.080. SPECIAL EDUCATION AIDES. (a) A person employed as
3 a special education aide shall be trained by a special education teacher or specialist
4 qualified to provide the services the aide will be required to perform.

5 (b) A district may not employ a person as a special education aide unless the
6 person has received a minimum of 36 hours of training, documented by the district,
7 regarding

- 8 (1) the child's exceptionalities;
9 (2) the content of the child's individualized education plan;
10 (3) the instructional and safety procedures to be used; and
11 (4) confidentiality procedures.

12 (c) A special education aide employed by the district to assist in providing
13 special education to a child shall be supervised on-site on a daily basis by the teacher
14 responsible for the child's program and shall be supervised on a weekly basis by a
15 licensed specialist identified by the individualized education plan as being responsible
16 for any specialized service.

17 Sec. 14.31.090. PSYCHOLOGIST QUALIFICATIONS. A psychologist who
18 provides services to a person with regard to an exceptional child must be licensed by
19 the state to provide general clinical services to the public and must also document at
20 least 12 credit hours at an accredited university in evaluating and serving children with
21 needs similar to the child receiving specialized services.

22 Sec. 14.31.100. INTERPRETERS. An interpreter provided as part of a
23 program of special education and related services for an exceptional child who is deaf
24 must be certified by the National Registry of Interpreters for the Deaf, or must meet
25 requirements established by the department under AS 14.31.020(c) or (d).

26 Sec. 14.31.110. OTHER QUALIFICATIONS. A person providing special
27 education services not otherwise identified in this chapter must possess at least a
28 master's degree from an accredited university in the specialty area of the services to
29 be provided and must be licensed as required by this state.

30 Sec. 14.31.120. SPECIAL EDUCATION CATEGORIES. (a) The department
31 shall adopt regulations establishing standards for endorsing special education teachers

1 in the following categories:

- 2 (1) early childhood;
- 3 (2) learning disabled;
- 4 (3) emotionally disturbed; and
- 5 (4) gifted.

6 (b) A teacher may not receive a special education endorsement unless the
7 teacher has fully complied with the standards set by the department. The department
8 may not offer or provide a waiver of required endorsement standards to a teacher.

9 (c) A standard adopted by the department under (a) of this section must be
10 stringent and comprehensive.

11 Sec. 14.31.125. APPLICATION OF EMPLOYMENT QUALIFICATIONS.
12 A district may not use a person to perform work in an area for which employment
13 qualifications are imposed under AS 14.31.050 - 14.31.110, unless the person has the
14 required employment qualifications.

15 ARTICLE 3. DISTRICT PROGRAM REQUIREMENTS.

16 Sec. 14.31.130. REQUIRED DISTRICT PROGRAMS. (a) The school board
17 of a district shall annually adopt a program for serving all exceptional children in the
18 district. The program shall be filed with the department by July 1 of each year.

19 (b) A district may not receive federal or state funds from the department unless
20 the program required under (a) of this section is timely filed and accepted by the
21 department. A district that fails to comply with (a) of this section shall be assumed
22 to be inoperative and the department shall assume the obligations of the district until
23 the district complies with (a) of this section. A district that fails to comply with (a)
24 of this section shall have its total state funding reduced for that school year by \$1,000
25 a day for each school day the district was in noncompliance.

26 (c) The department shall hold in reserve funds necessary to enforce the
27 penalties described in this section.

28 (d) The department shall accept or reject a proposed program within 30 days
29 after receipt. The department shall accept a program if it meets the standards set by
30 law. A district may set standards higher than that required by state and federal
31 requirements and all programs shall be liberally construed to provide the exceptional

1 child with the greatest benefits. A program must require segregation of all funding
2 received on account of the exceptionality of a student and must further prohibit the
3 expenditure of funds on other than the special education, related services, and support
4 services afforded to exceptional children.

5 (e) A program must include a compliance component that provides for yearly
6 compliance review of the program in its entirety by an independent agent retained by
7 the district. An independent agent may not be a recipient or grantee of state funds and
8 must be approved by a district parent advisory committee. A district shall be assessed
9 a penalty of \$1,000 for each violation of an adopted program. Each day of violation
10 constitutes a separate violation for the purpose of assessment of a penalty under this
11 subsection.

12 Sec. 14.31.140. COVERAGE; RESIDENCY. (a) A district shall provide
13 special education, related services, and support services for all the exceptional children
14 who reside in the district.

15 (b) Residency within a district is determined by the parents' residency. The
16 right to be served by the district of residence shall remain in force until the time that
17 the parent acts intentionally to specifically change residence.

18 Sec. 14.31.150. IDENTIFICATION OF EXCEPTIONAL CHILDREN. (a)
19 A district shall establish and implement written program procedures for identifying all
20 exceptional children who reside within the district and who need special education and
21 related or support services.

22 (b) The procedures established under (a) of this section must include

23 (1) annual screening of all children, which may be in cooperation with
24 other agencies, to include an assessment of not less than the child's

25 (A) health;

26 (B) vision;

27 (C) hearing;

28 (D) general development or general basic skills;

29 (E) primary language and culture; and

30 (F) daily living skills in home and community obtained through
31 parental input;

1 (2) mandatory referral for evaluation of children suspected, upon
2 screening, to be exceptional children; and

3 (3) annual public notice of the educational needs of gifted and
4 handicapped children, the right to a free appropriate public education, and the special
5 services available to them within the district; the notice must be reasonably calculated
6 to reach all persons within the district and must include the dissemination of
7 information through public meetings, posters, newspapers, radio, and television; a
8 district shall provide notice in each language in which a bilingual program must be
9 offered in the district.

10 Sec. 14.31.160. REFERRAL. (a) A district shall establish and implement
11 written procedures for receiving referrals for evaluation of all children who are
12 suspected of being exceptional children. The school district shall inform parents,
13 interested agencies, and school personnel of the referral procedures.

14 (b) Referral procedures must

15 (1) ensure that anyone can refer a child and require that all referrals are
16 promptly and accurately documented in writing and filed in a child's records kept
17 under this chapter; and

18 (2) provide that referrals may be made orally or in writing, can be
19 anonymous, and may not require the utterance or use of specific expressions; a
20 communication received by a district expressing a concern that a child is exceptional
21 shall be treated as a referral.

22 (c) The district shall inform the parent of the referral in writing within five
23 days after receipt and shall request consent to evaluate. If the parent has not
24 responded within 15 days to the request to evaluate, the district shall consider the child
25 neglected and shall take the necessary action to determine if the child is a child in
26 need of aid. In this subsection, "child in need of aid" has the meaning given in
27 AS 47.10.990.

28 (d) A district's program shall ensure that within 45 days after referral the child
29 is provided with special education, related services, and support services where each
30 of these services is permitted by the parent.

31 Sec. 14.31.170. EVALUATION. (a) A referred child shall be evaluated

1 within 30 days of referral if the parent consents to evaluation.
2 (b) Tests and other evaluation procedures shall
3 (1) be selected and administered to eliminate racial and cultural bias;
4 (2) be administered in the child's native language or other mode of
5 communication;
6 (3) have been statistically validated for the specific purpose for which
7 the tests or procedures are being used in the subject evaluation;
8 (4) be administered by trained personnel in conformity with instructions
9 of the test producer; and
10 (5) assess the effect of the child's environment including the child's
11 living conditions, family strengths and needs, effect of past or present programming
12 or involvement in any activities, and the effect of the various interactive and
13 instructional styles employed by the adults, including teachers, and peers significant
14 in the child's life.
15 (c) An evaluation shall be conducted by the child study team and must include
16 at least one specialist with expertise in each of the suspected exceptionalities.
17 (d) A child shall be assessed in all functions that may be related in any way
18 to the suspected exceptionality, including health, vision, hearing, intelligence, academic
19 performance, communication status, motor abilities, emotional adjustment, social skills,
20 creative talent, and ability.
21 (e) A test used in an evaluation shall be selected and administered to
22 accurately reflect a child's aptitude or achievement level, or any other factors the test
23 is designed to measure. A test used to measure a child's impaired sensory, manual,
24 or speaking skills must be designed to measure those skills.
25 (f) A single procedure may not be the sole criterion for determining the
26 eligibility of a child for services under this chapter.
27 (g) An evaluation of every referred child, whether or not eligible, certified, or
28 served, shall be conducted at reasonable intervals determined in light of the child's
29 progress, but not less often than once every year until a child reaches the age of six
30 and not less often than once every three years for a child six years or older.
31 Sec. 14.31.180. ELIGIBILITY. (a) A child's eligibility for special education

1 services shall be determined by a child study team.

2 (b) A child study team shall include a district representative qualified to
3 administer and supervise the provision of special education, one or more of the child's
4 teachers, if the child is already receiving services from teachers qualified to provide
5 special education services, one or more of the special education teachers, one or both
6 of the child's parents, the child unless otherwise determined by the child's parents, and
7 persons qualified and licensed to assess each of the child's suspected exceptionalities.
8 A child study team meeting may not take place unless all of the required participants
9 are present. The parents or the district may invite other individuals to attend a
10 meeting.

11 (c) A child study team shall be chaired by a parent of the child or a person
12 designated by the parent.

13 (d) In evaluating the child, the child study team shall

14 (1) draw upon information from a variety of sources, including aptitude
15 and achievement tests, teacher recommendations, physical condition, social or cultural
16 background, and adaptive behavior; and

17 (2) provide a written and dated statement confirming the determination
18 of eligibility signed by every member of the child study team.

19 (e) To be eligible for special education a child must be certified by a child
20 study team as an exceptional child.

21 Sec. 14.31.190. INDIVIDUALIZED EDUCATION PLAN MEETINGS. (a)
22 A school district shall call a child study team meeting to develop, review, and revise
23 a written individualized education plan for each child who is eligible for services.

24 (b) A child study team meeting shall be called as soon as possible but not later
25 than 20 days after determination of eligibility for special education services and shall
26 be held at a time and place mutually convenient to the district and parents.

27 (c) A child study team shall review, and revise if necessary, each
28 individualized education plan on an annual basis or more frequently if conditions
29 warrant or a parent requests the evaluation. An individualized education plan may
30 only be developed or revised by a child study team in a child study team meeting.
31

1 (d) An action required by a school district under (a) of this section does not
2 preclude a parent from calling a meeting of the child study team.

3 Sec. 14.31.200. INDIVIDUALIZED EDUCATION PLAN. An individualized
4 education plan for an exceptional child may not be prepared upon a preprinted form
5 and must include

6 (1) a specific statement of the child's present levels of educational
7 performance including detailed reference to the child's prior classroom performance
8 and the extent to which the child has performed under the curriculum presently in
9 place for the child;

10 (2) a specific statement of the measurable physical constraints on the
11 child's performance;

12 (3) a specific statement describing the child's learning style;

13 (4) a statement of long-term goals including transition plans and
14 services for and in anticipation of grade promotion, graduation, transfer to or from a
15 school or program, termination of services by way of age, or other factors;

16 (5) for every long-term goal, a statement of annual goals that would be
17 milestones in accomplishing the long-term goals;

18 (6) for each annual goal, a schedule of short-term instructional
19 objectives that if met will lead to accomplishing the annual goals;

20 (7) a statement of the entire curriculum, including full scope and
21 sequence, methodologies, and teaching approaches that will be used with respect to
22 that curriculum; a description of the child's participation in the regular education
23 program including academic and nonacademic areas; physical education, adapted as
24 necessary; and extracurricular activities.

25 (8) the projected dates for initiation of services and the anticipated
26 duration of the program;

27 (9) with respect to each element of a program required in this section,
28 appropriate objective criteria and evaluation procedures and schedules for determining,
29 on at least a monthly basis, whether the short-term instructional objectives are being
30 achieved as well as additional information, including credentials, experience, and
31 amenability of all instructors involved in the program;

- 1 (10) criteria for the child's movement to a less restrictive environment;
2 (11) a statement providing for an individualized disciplinary code if the
3 child is not expected to conform with the regular discipline code;
4 (12) a description of the related services to be provided with details as
5 to time, place, purpose, duration, and function of the service;
6 (13) any necessary instruction for the parent or child regarding the
7 time, place, purpose, duration, and function of the special education service;
8 (14) a statement of all the child's transportation and support service
9 needs and a detailed plan to meet these needs;
10 (15) a statement of the number of days a year that services will be
11 provided and, if the number of days are less than 200, an explanation as to why an
12 extended school program would be harmful to the child;
13 (16) for children under four years of age, a statement that all services
14 will be provided in the child's home and a description of how this will be
15 accomplished.

16 Sec. 14.31.210. TRANSFERS OF EXCEPTIONAL CHILDREN. (a) The
17 department shall ensure that children are educated in the state at locations in their
18 resident school district where they would attend school if they were not exceptional.

19 (b) If the parent of an exceptional child enrolls the child in an educational
20 program other than a program that the child would normally attend if the child were
21 not exceptional, and the district cannot demonstrate that it is in full compliance with
22 respect to all obligations to the child or the child's parents under this chapter, the
23 child's education expenses shall be paid as follows:

24 (1) the district of residence shall pay all costs associated with the
25 enrollment, including costs of regular transportation to and from the residence, costs
26 of interim room and board, and other expenses that ordinarily are to be expected when
27 a child attends school away from the child's residence whether or not the specific
28 expenditures are necessary under the child's individualized education plan; and

29 (2) the department may provide financial assistance to the district for
30 a child's education provided for in (1) of this subsection under regulations adopted by
31 the department.

1 (c) For the purposes of this section, a child's education expenses are not
2 limited to the actual cost of necessary care, transportation, and special education and
3 related services, where a limitation would result in an increase to the parents of the
4 total costs of caring for the child while the child is enrolled.

5 (d) A child may not be required to attend a school outside the district and the
6 school attendance area in which the child resides without the consent of the parent.

7 Sec. 14.31.220. PRIVATE AND CORRESPONDENCE SCHOOLS. (a) A
8 district shall make special education and related services available to all resident
9 children without regard to whether they attend a private school, a correspondence
10 school, or a school located outside the resident school district.

11 (b) A district may not condition provision of special education and related
12 services, for children attending a private or correspondence school, to attendance at any
13 district facility or restrict access or availability of special education services to the type
14 or location provided by the district.

15 (c) Special education and related services provided in a public facility for an
16 exceptional child enrolled at a private or correspondence school may not include
17 classes that are separated on the basis of public or private school enrollment or the
18 religious affiliation of the children.

19 (d) A district may not substitute its personnel for the personnel identified by
20 this chapter as required members of a child study team required for an exceptional
21 child attending a private or correspondence school.

22 Sec. 14.31.230. LEAST RESTRICTIVE ENVIRONMENT. (a) A school
23 district shall ensure that exceptional children, including children in public or private
24 institutions or other care facilities, are educated with children who are not exceptional
25 and that special classes, separate schooling, or other removal of exceptional children
26 from the regular educational environment in which the child is enrolled occurs only
27 when the nature or severity of the child's exceptionality is of a degree that education
28 in regular classes with the use of supplementary aids and services cannot be achieved.

29 (b) This section does not preclude placement of a child with other children
30 learning at a similar academic level in a particular subject matter when this placement
31 is approved in the individualized education plan.

1 Sec. 14.31.240. MAINTENANCE OF RECORDS. (a) A district shall
2 maintain records that demonstrate to a reasonable certainty, as determined by the
3 department, that the district is in compliance with the requirements of this chapter.

4 (b) Records required under (a) of this section must include for each child at
5 least the

- 6 (1) child's name, date of birth, and sex;
- 7 (2) category of eligibility under this chapter;
- 8 (3) date of referral;
- 9 (4) tests and other documents demonstrating eligibility under this
10 chapter;
- 11 (5) individualized education plan;
- 12 (6) services provided, including dates of initiation and termination;
- 13 (7) class and grade attendance records;
- 14 (8) grade level;
- 15 (9) name, address, and telephone number of each parent;
- 16 (10) correspondence and other communications with a parent required
17 by this chapter; and
- 18 (11) the complete credentials of all persons providing services.

19 (c) A district shall maintain the records required under (a) of this section until
20 the records are no longer needed to provide educational services, but not less than five
21 years. The records, with the exception of attendance records, shall be maintained in a
22 single file.

23 (d) If the child's residence is changed from one district to another, the district
24 that has provided special education and related services shall, subject to the
25 requirements of this chapter, transmit copies of records maintained as required by this
26 section to the other district upon request of that district or a parent of the child.

27 Sec. 14.31.250. PERSONNEL DEVELOPMENT. (a) A school district shall
28 provide for or endorse a program of ongoing training for all personnel employed as
29 special education teachers, providers of related services, and special education teacher
30 aides. The program must assure, implement, and use a system of personnel
31 development not less comprehensive than that required under 20 U.S.C. 1411 - 1420

1 on July 1, 1983.

2 (b) A training program shall provide for pre- and post-training testing with
3 respect to the material covered by each module of the training program. The test
4 results and all other records and data obtained or maintained under a plan shall be
5 maintained by the district for not less than two years after the employee has terminated
6 service with the district. A parent of an exceptional child shall be informed of the
7 existence of these materials and provided access to the materials, as required under
8 AS 14.31.310.

9 ARTICLE 4. DUE PROCESS REQUIREMENTS.

10 Sec. 14.31.260. PROCEDURAL SAFEGUARDS. A district shall inform the
11 parent of an exceptional child of the right to

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

13 (2) review evaluation tests and procedures;

14 (3) refuse to permit evaluation or a change in the child's educational
15 placement;

16 (4) be informed of the results of evaluation;

17 (5) obtain an independent evaluation;

18 (6) request an impartial hearing;

19 (7) make unilateral transfer to any other school at the district's expense
20 if the district is not in total compliance; and

21 (8) give consent or deny access to the child's educational record.

22 Sec. 14.31.270. WRITTEN NOTICE TO PARENT. (a) A district shall
23 provide written notice to a parent a reasonable time before it initiates or changes the
24 identification, evaluation, or educational placement of a child under this chapter and
25 when it refuses a parental request to initiate or change the identification, evaluation,
26 or educational placement of a child under this chapter.

27 (b) The notice required by (a) of this section must include

28 (1) a copy of this chapter;

29 (2) a detailed description of the action proposed or refused by the
30 district, along with a detailed explanation of why the district proposes or refuses to
31 take the action, a detailed description of any alternatives considered by the district, and

1 a detailed statement of the reasons why those alternatives were rejected;

2 (3) a detailed description of each evaluation procedure, test, record, or

3 report the district relied on as a basis for the proposal or refusal together with any

4 informative literature offered by the publisher of the instruments employed describing

5 the use and interpretation of the materials;

6 (4) a detailed description of any other factors that are relevant to the

7 action proposed or refused by the district; and

8 (5) a comprehensive statewide directory of persons, firms, and agencies

9 that provide legal, educational, and evaluation services.

10 (c) The notice required by (a) of this section must be written in language

11 understandable to the general public and written in the native language of the parent

12 or in another mode of communication used by the parent, unless it is not reasonably

13 feasible to do so. If the native language or other mode of communication of the parent

14 is not a written language, the district shall take reasonable steps to assure that the

15 notice is translated orally or by other means to the parent in the parent's native

16 language or other mode of communication, and that the parent understands the content

17 of the notice.

18 Sec. 14.31.280. PARENTAL CONSENT. (a) Consent of a parent shall be

19 obtained before

20 (1) an evaluation is conducted under this chapter;

21 (2) placement of a child in a program providing special education; or

22 (3) an individualized education plan is established.

23 (b) If a parent withdraws consent to an activity described under (a) of this

24 section, the district may not undertake that activity until consent is again obtained by

25 the district.

26 (c) In this section, "consent" means that the parent

27 (1) has received written notice as required by AS 14.31.270;

28 (2) has been fully informed, in the parent's native language or other

29 mode of communication, of all information relevant to the activity for which consent

30 is sought;

31 (3) agrees in writing to the carrying out of the activity for which

1 consent is sought; the written consent required under this paragraph must describe the
2 activity in detail and list any records that will be released and identify the person who
3 will receive the records; and

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

6 Sec. 14.31.290. PROTECTION OF RECORDS. (a) A district shall

7 (1) protect the confidentiality of a child's personally identifiable
8 information contained in records collected, maintained, or used by the district under
9 this chapter;

10 (2) assign to a single employee the duty to protect the confidentiality
11 of personally identifiable information contained in records collected, maintained, or
12 used by the district under this chapter;

13 (3) provide each employee who collects, maintains, or uses personally
14 identifiable information with instruction regarding the obligations of the district under
15 this section;

16 (4) maintain, for public inspection, a list of the names and positions of
17 current employees within the district who have access to personally identifiable
18 information contained in records collected, maintained, or used by the district under
19 this chapter; the list required under this paragraph shall identify the person responsible
20 under (2) of this subsection and provide the complete credentials for each listed
21 person;

22 (5) maintain a record of persons other than parents and persons listed
23 under (4) of this subsection who are provided access to records that are subject to this
24 section, including the name of the person, agency affiliation, date of access, and the
25 purpose for which access is provided.

26 (b) If a record containing personally identifiable information is not needed by
27 the district to comply with this chapter, the district shall make reasonable efforts to
28 notify the parent and offer the parent a copy of the record. The district shall destroy
29 a record described in this subsection upon request of the parent.

30 (c) A record of the child's name, address, telephone number, grades,
31 attendance record, classes attended, grade level completed, and year completed shall

1 be maintained indefinitely.

2 Sec. 14.31.300. COMPLAINT PROCEDURE. (a) The department shall
3 review, investigate, and take the action required by this chapter on complaints alleging
4 that a district or other educational agency is acting contrary to the requirements of this
5 chapter.

6 (b) A person may file a complaint under this section with the department. The
7 department shall provide the appropriate address to file a complaint, upon request.

8 Sec. 14.31.310. PARENTAL ACCESS TO RECORDS. (a) Except as
9 provided in (c) of this section, a district shall permit a parent to inspect and review a
10 record relating to the parent's child that is collected, maintained, or used by the district
11 under this chapter.

12 (b) A district shall

13 (1) provide a parent, within three days of request, a list of types and
14 locations of all records collected, maintained, or used by the district;

15 (2) comply with any reasonable request of a parent for explanation and
16 interpretation of a record;

17 (3) provide a parent with a copy of all records requested within five
18 days of receipt of the request;

19 (4) permit a representative of the parent to inspect and review a record.

20 (c) A district shall presume that a parent has authority to inspect and review
21 a record relating to the parent's child unless the district has been provided reasonable
22 grounds to believe that the parent does not have that authority.

23 (d) If a record includes information on more than one child, a parent may
24 inspect and review the information relating only to the parent's child.

25 Sec. 14.31.320. PARENTAL REQUEST FOR AMENDMENT OF RECORDS.

26 (a) A parent who believes that information in a record relating to the parent's child
27 that is collected, maintained, or used by a district under this chapter is inaccurate,
28 misleading, or otherwise in violation of rights of the child may request that the district
29 amend the record.

30 (b) The district shall, within a reasonable period of time following receipt of
31 a request under (a) of this section, decide whether to amend the record. If the district

1 refuses to amend the record, it shall inform the parent of the refusal and advise the
2 parent of the right to a hearing under this chapter.

3 (c) If a parent requests a hearing and the hearing officer decides that the
4 information is inaccurate, misleading, or otherwise in violation of rights of the child,
5 the district shall amend the record.

6 (d) If a parent requests a hearing and the hearing officer decides that the
7 information is not inaccurate, misleading, or otherwise in violation of rights of the
8 child, the district shall inform the parent that the parent may place with the record a
9 statement commenting on the information, that must be accompanied by a copy of the
10 decision of the hearing officer and attached to the disputed record.

11 (e) A statement placed with a record under (d) of this section must accompany
12 the record as long as the record is maintained by the district. If the record is disclosed
13 by the district to any person, the statement must also be disclosed.

14 Sec. 14.31.330. PARENTAL CONSENT FOR RELEASE OF RECORDS. A
15 district shall obtain written consent of a parent before disclosing personally identifiable
16 information relating to the parent's child to a person other than

17 (1) a school official, including a teacher, who has a legitimate
18 educational interest;

19 (2) an official of a school or school system in which the student intends
20 to enroll, upon condition that a parent be notified of the disclosure, offered a copy of
21 the record, and notified of the parent's right to request amendment of the record under
22 this chapter;

23 (3) a representative of the federal comptroller general, United States
24 Department of Education, or the department; and

25 (4) a person performing an audit of the district.

26 Sec. 14.31.340. PARENTAL RIGHT TO INDEPENDENT EVALUATION.

27 (a) The results of an independent educational evaluation must be considered by the
28 district in any decision made concerning the provision of a free appropriate public
29 education to the child.

30 (b) The district shall pay for the independent educational evaluation within 10
31 days of receipt of the evaluator's report. However, the district may initiate a hearing

1 under this chapter to show that the independent evaluation is totally redundant. If the
2 hearing officer decides that the independent evaluation is totally redundant, the
3 independent educational evaluation must be paid for by the parent. If a hearing officer
4 requests an independent educational evaluation as part of a hearing, the district shall
5 pay for the evaluation.

6 Sec. 14.31.350. HEARINGS. (a) A parent may initiate a hearing by filing a
7 written request with the department for a hearing regarding

8 (1) an action or refusal to initiate or change the identification,
9 evaluation, program, or educational placement of a child, or the provision of free
10 appropriate public education to the child;

11 (2) a refusal to honor the request of a parent to amend a record under
12 this chapter; or

13 (3) an alleged violation of this chapter.

14 (b) A district may initiate a hearing by filing with the department, within 10
15 days of the receipt of an independent evaluation, written notice of the district's
16 challenge to the district's payment for an independent educational evaluation under this
17 chapter.

18 (c) A hearing shall be conducted by a hearing officer appointed by the child's
19 parents. The department shall promptly provide a list of qualified hearing officers to
20 the child's parents. Within 10 days after receiving a list of qualified hearing officers,
21 the child's parents shall select a hearing officer and provide notice of the selection to
22 the department.

23 (d) The hearing officer shall deliver or mail a notice of the hearing to the
24 parents and the district at least 10 days before the hearing. The notice must be worded
25 substantially as follows:

26 You are notified that a hearing will be held before (insert
27 name of hearing officer) at (insert place of hearing) upon the
28 ____ day of ____, 19__ at the hour of ____, in response to
29 the request of ____ for a hearing on the following issue:

30 You may be represented by counsel, may present any
31 relevant evidence, and may cross-examine any witnesses

1 testifying against you.

2 (e) In the notice provided under (d) of this section, the hearing officer shall
3 inform the parent of any free or low cost legal services and other relevant services
4 available in the state.

5 (f) A hearing shall be recorded and be conducted according to the following
6 rules:

7 (1) a party may be represented by counsel or by a person of the party's
8 choice;

9 (2) oral evidence may be taken only on oath or affirmation;

10 (3) a party may call and examine witnesses, introduce exhibits,
11 cross-examine opposing witnesses on matters relevant to the issues even though those
12 matters were not covered in the direct examination, impeach a witness regardless of
13 which party first called the witness to testify, and rebut the evidence against the party;

14 (4) a hearing need not be conducted according to technical rules
15 relating to evidence and witnesses; however, relevant evidence may be admitted if it
16 is the sort of evidence on which responsible persons are accustomed to rely in the
17 conduct of serious affairs, regardless of the existence of a court rule that makes
18 improper the admission of the evidence over objection in a civil action; hearsay
19 evidence may be used to supplement or explain direct evidence but is not sufficient
20 by itself to support a finding unless it would be admissible over objection in a civil
21 action; the rules of privilege are effective to the same extent that they are recognized
22 in a civil action; irrelevant and unduly repetitious evidence may be excluded;

23 (5) a party shall disclose any evidence to be offered at a hearing for
24 other than rebuttal purposes at least five days before the hearing;

25 (6) an employee of the district may be called as a witness by a party
26 and the hearing officer shall issue subpoenas for appearance at the hearing upon
27 request of either party;

28 (7) a parent may have the parent's child present and may open the
29 hearing to the public; and

30 (8) the burden of proof is upon the district; and the burden of
31 persuasion is by clear and convincing evidence.

1 (g) A hearing officer shall render a final decision and mail a copy to each
2 party and a copy, with all personally identifiable information obscured, to the
3 Governor's Council on Disabilities and Special Education not later than 45 days after
4 receipt of a parent's request for a hearing or 45 days after a district sends a written
5 notice under (b) of this section. The decision must be in writing and must include a
6 statement of the facts on which it is based.

7 (h) The department shall bear all the costs of the hearing including the costs
8 of compensating the hearing officer. Upon request of a parent, the department shall
9 provide at no cost to the parent a written or electronic verbatim record of the hearing,
10 whichever the parent elects. The department may charge the district for costs of a
11 hearing if the parent is the prevailing party.

12 (i) The decision of a hearing officer is final unless a party to the hearing
13 appeals the decision to the commissioner under AS 14.31.370.

14 (j) Except as otherwise provided in this chapter, all hearings under this chapter
15 are subject to the provisions of AS 44.62.330 - 44.62.630.

16 Sec. 14.31.360. IMPARTIAL HEARING OFFICER. (a) A hearing officer

17 (1) may not have personal or professional interests that could affect
18 objectivity in a hearing;

19 (2) may not be employed by a public agency that is involved in the
20 education or care of the child;

21 (3) shall pass an examination to be offered at least quarterly by the
22 department for the purpose of evidencing comprehension of the rights and duties under
23 this chapter;

24 (4) shall be at least 18 years of age;

25 (5) shall otherwise comply with the provisions of AS 44.62.350
26 regarding appointment and qualifications of hearing officers.

27 (b) A person who is qualified to conduct a hearing under (a) of this section is
28 not considered an employee of a public agency solely because the person is paid on
29 a case-by-case basis by the department as a hearing officer.

30 (c) A hearing officer shall disclose to all parties any personal or professional
31 interests that could give the appearance of affecting objectivity in the hearing and

1 voluntarily disqualify and withdraw from a hearing in which the hearing officer cannot
2 conduct a fair and impartial hearing. A party may request the disqualification of a
3 hearing officer by filing with the hearing officer an affidavit, before the taking of
4 evidence at a hearing, that states the grounds for a belief that the hearing officer
5 cannot conduct a fair and impartial hearing. The issue will be determined by the
6 hearing officer.

7 (d) The department shall place a person meeting the qualifications set out in
8 (a)(2) - (5) of this section on the department's list of eligible hearing officers.

9 Sec. 14.31.370. APPEAL TO THE COMMISSIONER. (a) A party aggrieved
10 by the decision of a hearing officer under this chapter may appeal to the commissioner
11 by filing a notice of appeal with the commissioner within 30 days after the decision.

12 (b) A notice of appeal must identify the parties to the hearing, include a copy
13 of the decision, and state the grounds for the appeal.

14 (c) Upon receipt of a notice of appeal, the commissioner shall notify any other
15 parties of the pendency of the appeal and shall appoint an impartial hearing officer to
16 conduct an impartial review of the hearing and render a decision on the appeal on
17 behalf of the department.

18 (d) A hearing officer conducting a review on behalf of the department shall

19 (1) examine the entire hearing record;

20 (2) ensure that the procedures at the hearing were consistent with the
21 requirements of due process;

22 (3) afford the parties an opportunity for oral or written argument, or
23 both, at the discretion of the reviewing official; and

24 (4) make an independent written recommendation, stating the facts on
25 which it is based, on completion of the review and present the recommendation to the
26 attorney general, the parties, and the commissioner.

27 (e) The parties shall have 10 days in which to file objections to the hearing
28 officers recommendations made under (d) of this section.

29 (f) The commissioner, after considering the recommendations of the hearing
30 officer and any objections, shall mail a copy of the commissioner's final written
31 decision to each party, and a copy, with personally identifiable information obscured,

1 to the Governor's Council on Disabilities and Special Education, not later than 30 days
2 after receipt of the notice of appeal, unless an extension of time is granted by the
3 commissioner upon the stipulation of the parties.

4 (g) A decision of the commissioner is final, unless a party to the appeal files
5 an original action in the federal district court within 12 months or appeals to the
6 superior court as provided under AS 44.62.560.

7 Sec. 14.31.380. COSTS AND FEES. (a) A hearing officer shall determine
8 the prevailing party in any matter presented for adjudication. If the parents are
9 prevailing parties, then the hearing officer shall award full costs and attorney fees to
10 the parents.

11 (b) The parents shall be considered the prevailing parties if the parents prevail
12 on any issue raised on the hearing.

13 (c) The provisions of the Alaska Rules of Civil Procedure regarding an offer
14 of judgment apply to an administrative proceeding under this chapter and to an award
15 of costs and fees; however, an offer may not be found more favorable to a party where
16 resolution of an alleged noncompliance is at issue and not subject to the offer.

17 Sec. 14.31.390. PLACEMENT OF CHILD DURING PROCEEDINGS. (a)
18 During the pendency of an administrative or judicial proceeding concerning the
19 identification, evaluation, or educational placement of a child, unless the parties agree
20 otherwise, the child shall remain in an educational placement that has the current
21 approval of the parents.

22 (b) If the administrative proceedings concern an application by a parent for
23 admission to school, the child shall be admitted to school during the pendency of the
24 proceeding.

25 ARTICLE 5. FUNDING AND ENTITLEMENT.

26 Sec. 14.31.400. APPLICATION FOR ASSISTANCE FROM THE
27 DEPARTMENT. (a) A district's application for additional financial assistance under
28 this chapter shall be submitted to the department.

29 (b) An application for assistance shall be in writing and must include for each
30 child

31 (1) diagnostic information regarding the child's exceptionality;

- 1 (2) the child's individualized education plan;
2 (3) a statement of reasons why assistance is necessary;
3 (4) a description of how the requested assistance will be used to
4 implement the individualized education plan;
5 (5) a declaration that all funds for education of exceptional students
6 obtained under this chapter have already been encumbered.

7 (c) The department shall review an application, and may, within 30 days after
8 receipt of the original application, request additional information or schedule a site
9 visit to obtain additional information.

10 (d) If the department denies assistance under this section, a parent or the
11 district may initiate a hearing in the manner provided under AS 14.31.350.

12 (e) The department may not refuse assistance unless the district has failed to
13 fully expend or encumber all funds made available under this chapter for special
14 education, has expended special education funds for purposes other than special
15 education, or is not in compliance with the requirements of this chapter.

16 Sec. 14.31.410. PUBLIC SCHOOL FOUNDATION PROGRAM. (a) A
17 district providing special education to an exceptional child may apply for state
18 financial aid under AS 14.17.

19 (b) Public school foundation reports shall be submitted to the department on
20 forms provided by the department.

21 (c) The department shall notify a district of the action taken on a public school
22 foundation report.

23 (d) A district may not receive financial aid under this section for special
24 education provided by the department.

25 (e) If the department determines that an overpayment has occurred, it shall
26 require repayment or withhold all or part of future payments. The decision to require
27 repayment or withhold future payments is subject to appeal under this chapter.

28 Sec. 14.31.420. FEDERAL FINANCIAL AID. (a) A district providing
29 special education and related services may apply for federal financial aid. An
30 application for federal financial aid must be submitted on a form provided by the
31 department.

1 (b) An application must contain, in addition to other information determined
2 necessary by the department, a statement of assurance that the district will perform the
3 services described in the application in accordance with this chapter and applicable
4 state and federal law.

5 (c) The department shall notify a district of the action taken on its application
6 within 30 days after receipt of the application. Approval by the department must be
7 received before commencement of activities.

8 (d) A district applying for financial aid under this section shall submit, on a
9 form provided by the department, a statement of the number of children receiving
10 special education and related services in each of the categories set out in this chapter.
11 In addition, a district applying under

12 (1) 20 U.S.C. 238 - 241 shall submit the statement before October 16
13 of the school year preceding the school year for which application is made and shall
14 include information as of October 1 of that year;

15 (2) 20 U.S.C. 1411 - 1420 shall submit the statement before
16 December 16 of the school year preceding the school year for which application is
17 made and shall include information as of December 1 of that year.

18 (e) A district that has been determined eligible for financial aid shall submit,
19 on a form provided by the department, a quarterly financial report within 30 days after
20 the end of each quarter, and a project description report within 30 days after the close
21 of any activity for which financial aid is provided under this section.

22 (f) A district that has been determined eligible for financial aid under 20
23 U.S.C. 238 - 241 shall submit, on a form provided by the department, a report of
24 children who received special education and related services and who have also
25 received, or are expected to receive, special education and related services from a
26 district before July 1 following the school year for which financial aid is provided
27 under this section.

28 **ARTICLE 6. GENERAL PROVISIONS.**

29 **Sec. 14.31.500. PROGRAM REVIEW.** (a) The department shall review
30 school district programs to ensure compliance with the requirements of this chapter.

31 (b) Upon request by the department but not less often than every six months,

1 a district shall provide

2 (1) a list of students receiving services under this chapter, including

3 each student's name, age, exceptionality, type of service, related services, entry date,

4 exit date, and placement;

5 (2) a list of all administrators, teachers, teacher aides, and related

6 services personnel who provide special education services in the district, including, for

7 certificated staff, the teacher certificate numbers;

8 (3) a list of persons or agencies in the district from which independent

9 evaluations can be obtained;

10 (4) a statement of the criteria used to determine eligibility for services

11 as a gifted student under this chapter; and

12 (5) any other information required by the department.

13 (c) The department shall submit written results of program monitoring to the

14 district within 30 days after completion of a review under (a) of this section. The

15 written results must include a statement of necessary corrective action.

16 (d) If the department or a hearing officer determines that a district is not in

17 compliance with the requirements of this chapter, the department shall impose the

18 sanctions provided for in this chapter. Imposition of sanctions does not in any way

19 relieve a district of its obligation to provide services under this chapter.

20 Sec. 14.31.510. CIVIL DAMAGES. Notwithstanding any other provision of

21 law, the state and a district are strictly liable for civil damages that result from a

22 failure either to meet a duty to properly identify, evaluate, classify, certify, afford

23 required programming, instruction, and services, or provide necessary placement of a

24 student.

25 Sec. 14.31.520. DESIGNATION OF PARENTAL AUTHORITY. If the legal

26 custody of a child is divided between two or more persons, the department may require

27 that the people with legal custody designate one person to act on behalf of all people

28 with legal custody when parental consent is required under this chapter.

29 Sec. 14.31.900. DEFINITIONS. In this chapter,

30 (1) "age and ability" means the conjunctive or both age and ability

31 levels;

1 (2) "appropriate public education" means special education, related
2 services, and support services that are provided at no cost, meet state educational
3 standards, and are provided in conformity with an individualized educational plan that
4 meets the requirements of this chapter, that assures personalized instruction with
5 sufficient support services to permit the child to benefit educationally from that
6 instruction, and assures maximum possible development;

7 (3) "at no cost" means that all services are provided without charge but
8 does not preclude incidental fees that are normally charged to a person who is not an
9 exceptional child or the parents of the exceptional child as a part of the regular
10 education program;

11 (4) "autism" means a developmental disability significantly affecting
12 verbal and nonverbal communication and social interaction, generally evident before
13 age three, that adversely affects a child's educational performance; the term does not
14 apply to a child's educational performance that is adversely affected because the child
15 has a serious emotional disturbance;

16 (5) "child study team" means a team responsible for assessing and
17 evaluating a child and for writing and reviewing an individualized education plan;

18 (6) "customized instruction" means the child's total educational
19 placement as identified in an individualized education plan;

20 (7) "day" means calendar day and is not limited to a school day;

21 (8) "deaf-blindness" means concomitant hearing and visual impairments,
22 the combination of which causes communication and other developmental and
23 educational problems that cannot be accommodated in special education programs
24 solely for children with deafness or children with blindness;

25 (9) "deafness" means a hearing impairment that hinders the child's
26 ability to process linguistic information through hearing, with or without amplification,
27 and that adversely affects educational performance;

28 (10) "developmentally delayed" means for children under the age of six
29 that as measured by validated and appropriate diagnostic instruments and procedures
30 the child is not physically, cognitively, communicatively, socially, emotionally, or
31 adaptively developing as would be expected under national norms for the development;

1 (11) "district" means a city and borough school district and a regional
2 educational attendance area;

3 (12) "educational performance" means performance in school, or, in the
4 case of a preschool child, physical, cognitive, social, communicative, emotional, and
5 adaptive performance in an age appropriate setting;

6 (13) "exceptional children" means all persons under the age of 23 who
7 differ markedly from their peers to the degree that special facilities, equipment, or
8 methods are required to make their educational program effective or to make their
9 development maximal; these children may be identified in the following categories:
10 developmentally delayed, autism, deaf-blindness, deafness, hearing impairment, mental
11 retardation, multiple disabilities, orthopedic impairment, other health impairment,
12 serious emotional disturbance, specific learning disability, speech or language
13 impairment, traumatic brain injury, visual impairment including blindness, and gifted;

14 (14) "gifted" means children that exhibit outstanding intellect, ability,
15 or creative talent to a degree that the district's age appropriate curriculum fails to
16 provide an appropriate educational program;

17 (15) "hearing impairment" means an impairment in hearing, whether
18 permanent or fluctuating, that adversely affects a child's educational performance but
19 that is not deafness;

20 (16) "individualized educational plan" means a plan containing the
21 elements and providing for the services required in this chapter;

22 (17) "mentally retarded" means significantly subaverage general
23 intellectual functioning typically reflected in scores two or more standard deviations
24 below the national norm on an individual standardized test of intelligence and existing
25 concurrently with deficits in adaptive behavior manifested during the developmental
26 period, that adversely affect children's educational performance and that is diagnosed
27 as mentally retarded by a psychiatrist or by a psychologist who is licensed under
28 AS 08.86;

29 (18) "multiple disabilities" mean concomitant impairments the
30 combination of which causes severe educational problems that cannot be
31 accommodated in special education programs solely for one of the impairments; the

1 term does not include deaf-blindness;

2 (19) "orthopedic impairment" means a severe orthopedic impairment,
3 including impairments caused by congenital anomaly, disease, or other causes that
4 adversely affects educational performance;

5 (20) "other health impairment" means having limited strength, vitality,
6 or alertness due to chronic or acute health problems including heart condition,
7 tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia,
8 epilepsy, lead poisoning, leukemia, or diabetes that adversely affects educational
9 performance;

10 (21) "parent" means a natural or adoptive parent or a person acting in
11 locus parentis by order of a court of competent jurisdiction, but does not include a
12 person whose parental rights have been terminated by a court of competent
13 jurisdiction;

14 (22) "personally identifiable information" means information that
15 includes the name of a child, the child's parent, or other family member; the address
16 of the child; a personal identifier, including the child's social security number or
17 student number; or a list of personal characteristics or other information that would
18 make it possible to identify the child with reasonable certainty;

19 (23) "physical education" means the development of physical and
20 motor fitness, fundamental motor skills and patterns, skills in aquatics, dance,
21 individual and group games, and sports, including intramural and lifetime sports; and
22 special physical education, adapted physical education, movement education, and
23 motor development;

24 (24) "related services" means transportation and developmental,
25 corrective, and other supportive services required to assist an exceptional child to
26 benefit from special education and includes speech pathology and audiology,
27 psychological services, physical and occupational therapy, recreation, counseling
28 services, and medical services for diagnostic or evaluation purposes; school health
29 services, school social work services, and parent counseling and training;

30 (25) "screening" means a brief procedure for identifying children who
31 should receive a more comprehensive diagnostic assessment, and may include informal,

1 nonstandardized procedures, or formal, standardized procedures;

2 (26) "seriously emotionally disturbed"

3 (A) means a child that has been diagnosed as seriously
4 emotionally disturbed by a psychiatrist or psychologist licensed to practice in
5 this state; that, to a marked degree, the child's educational performance is
6 substantially and adversely affected; there is no educational benefit to the child
7 despite an educational program appropriate to the child's age and ability and
8 the child exhibits one or more of the following characteristics over a long
9 period of time:

10 (i) an inability to learn that cannot be explained by
11 intellectual, sensory, or health factors;

12 (ii) an inability to build or maintain satisfactory
13 interpersonal relationships with peers and teachers;

14 (iii) inappropriate types of behavior or feelings under
15 normal circumstances;

16 (iv) a general pervasive mood of unhappiness or
17 depression; or

18 (v) a tendency to develop physical symptoms or fears
19 associated with personal or school problems;

20 (B) includes children who are schizophrenic but does not
21 include children who are only socially maladjusted;

22 (27) "special education" means personally customized instruction, at no
23 cost to the parent, to meet the unique needs of an exceptional child and maximize the
24 child's development, including classroom instruction, instruction in physical education,
25 home instruction, and instruction in hospitals and institutions;

26 (28) "specific learning disability"

27 (A) means a disorder in one or more of the basic psychological
28 processes involved in understanding or in using language, spoken or written,
29 that may manifest itself in an imperfect ability to listen, think, speak, read,
30 write, spell, or do mathematical calculations and includes perceptual
31 disabilities, brain injury, minimal brain dysfunction, dyslexia, attention deficient

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disorders, hyperactivity, and developmental aphasia;

(B) does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage;

(29) "speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects educational performance;

(30) "support services" means all services necessary to ensure the exceptional child is maintained in an environment that will assure maximum development while being provided special education or related services and includes the costs to the child's family of maintaining a second household where the child attends school away from the child's residence, costs of transportation to and from the child's residence and domicile on a regular basis, or the costs of a residential program, whether or not any of the services described in this paragraph are educationally mandated;

(31) "traumatic brain injury" means an injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance;

(32) "visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects a child's educational performance and includes both partial sight and blindness;

(33) "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. 7. AS 14.31.050 is amended by adding a new subsection to read:

(b) A person may not be employed as a teacher of exceptional children or endorsed by the department as a special education teacher unless the person has obtained a master's degree in special education and a category endorsement as required by the department.

1 * Sec. 8. AS 47.80.040(f) is amended to read:

2 (f) In the appointment of all members other than state agency members, due
3 regard shall be given to geographically balanced representation of areas of the state
4 and to representation of persons with a variety of different mental and physical
5 handicaps. A person who received or who resides in a household that received
6 more than 25 percent in annual gross income in the previous year from a
7 government source or under a government contract may not be appointed to the
8 council as a voting member.

9 * Sec. 9. AS 47.80.090 is amended to read:

10 Sec. 47.80.090. RESPONSIBILITIES. The council shall

11 (1) serve as a forum by which issues and benefits regarding current and
12 potential services to disabled and gifted persons may be discussed by consumer, public,
13 private, professional, and lay interests;

14 (2) advocate the needs of disabled and gifted persons before the
15 executive and legislative branches of the state government and before the public,

16 (3) advise the executive and legislative branches of the state
17 government and the private sector on programs and policies pertaining to current and
18 potential services to disabled or gifted persons and their families;

19 (4) submit periodic reports to the commissioner of health and social
20 services, the commissioner of education, and to other appropriate departments, on the
21 effects of current federal and state programs regarding services to disabled or gifted
22 persons; these reports must include program performance reports to the governor, the
23 federal government, and to state agencies as required under 20 U.S.C. 1482 and 42
24 U.S.C. 6024;

25 (5) in conjunction with the Departments of Health and Social Services
26 and Education, develop, prepare, adopt, periodically review, and revise as necessary
27 an annual state plan prescribing programs that meet the needs of persons with
28 developmental disabilities as required under 42 U.S.C. 6022;

29 (6) review and comment to commissioners of state departments on all
30 state plans and proposed regulations relating to programs for persons who are
31 experiencing disabilities before the adoption of a plan or regulation; for this purpose,

1 the appropriate departments shall submit the plans and proposed regulations to the
2 council;

3 (7) recommend the priorities and specifications for the use of funds
4 received by the state under 20 U.S.C. 1471 - 1485 and 42 U.S.C. 6000 - 6083;

5 (8) submit annually to the commissioner of health and social services,
6 the commissioner of education, and the commissioner of community and regional
7 affairs a proposed interdepartmental program budget for services to disabled or gifted
8 persons that includes, insofar as possible, projected revenues and expenditures for
9 programs implemented by state agencies, local governmental agencies, and private
10 organizations; the interdepartmental program budget is an informational supplement
11 to the regular annual budgetary submissions of the departments to the Office of the
12 Governor;

13 (9) provide information and guidance for the development of
14 appropriate special educational programs and services for exceptional children as
15 defined in AS 14.31.900 [AS 14.30.350];

16 (10) monitor and evaluate budgets or other implementation plans and
17 programs for disabled and gifted persons to assure nonduplication of services and
18 encourage efficient and coordinated use of federal, state, and private resources in the
19 provision of services; members of the council, with the approval of the council, have
20 access to information in the possession of state agencies subject to disclosure
21 restrictions imposed by state or federal confidentiality or privacy laws;

22 (11) perform other duties required under applicable federal laws or
23 AS 14.31 [AS 14.30.231] and as the governor may assign; and

24 (12) govern the special education service agency and may hire
25 personnel necessary to operate the agency.

26 * Sec. 10. AS 47.80.290 is amended to read:

27 Sec. 47.80.290. DEFINITIONS. In AS 47.80.200 - 47.80.290,

28 (1) "mental illness" has the meaning given in AS 47.30.915;

29 (2) "person with a handicap" has the meaning given in AS 47.80.900,
30 except that it does not include "gifted children" as defined in AS 14.31.900
31 [AS 14.30.350];

1 (3) "self-sufficiency trust" means a trust established by a nonprofit
2 organization that

3 (A) has as its purpose the provision or care or treatment of
4 persons with handicaps or mental illnesses;

5 (B) is incorporated under AS 10.20; and

6 (C) meets the requirements of 26 U.S.C. 501(c)(3);

7 (4) "trust fund" means the fund established under AS 47.80.200.

8 * Sec. 11. AS 47.80.900(6) is amended to read:

9 (6) "person with a handicap" means a person with a developmental
10 disability as defined in (7) of this section or a person who is hard of hearing, deaf,
11 speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically
12 or otherwise health impaired, or who has a specific learning disability; the term
13 includes but is not limited to "exceptional children" as defined in AS 14.31.900
14 [AS 14.30.350];

15 * Sec. 12. AS 14.30.180, 14.30.186, 14.30.191, 14.30.193, 14.30.195, 14.30.231, 14.30.235,
16 14.30.250, 14.30.255, 14.30.270, 14.30.272, 14.30.274, 14.30.276, 14.30.278, 14.30.285,
17 14.30.305, 14.30.315, 14.30.325, 14.30.335, 14.30.340, 14.30.347, 14.30.350, and AS 47.20
18 are repealed.

19 * Sec. 13. TRANSITION. A child who has been determined by a district to be eligible
20 for special education and related services before the effective date of this chapter shall
21 continue to receive special education and related services pending reevaluation of the child
22 under AS 14.31.

23 * Sec. 14. Section 7 of this Act takes effect April 15, 1996.

24 * Sec. 15. Except as provided in sec. 14 of this Act, this Act takes effect July 1, 1994.