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AN ANALYSIS OF THE REGULATIONS FOR
BILINGUAL/BICULTURAL EDUCATION IN ALASKA
(ADOPTED BY THE STATE BOARD OF EDUCATION 10/22/77)

What follows is a somewhat cursory analysis of the new state bilingual/bicultural regulations in terms of policy. These regulations are an improvement over past state bilingual regulations but remain remarkably deficient in two major respects.

(1) The new state Bilingual Regulations fail to ensure a sufficiently high level of services to students, and (2) the regulations fail to provide any form of local control over the programs they will foster. These two major failings should be apparent in the following overview.

4 AAC 34.030 GRANT APPLICATION.

This section provides for funding of programs instituted under the new regulations by means of a competitive grant application process. This is a continuation of the present form of state funding for bilingual education under A.S. 14.30.410 by which school districts are forced to scramble for a very limited amount of money dispensed through discretionary grants from the Commissioner of Education. The effect of this procedure is to set bilingual education apart from other elements of the curriculum which are regularly funded through the state foundation formula. See A.S. 14.17.041.

Until bilingual education is on the same funding basis as other regular portions of the curriculum, it will remain particularly vulnerable to political forces and continue to be dependent upon "soft" money leaving districts to compete for too little funds with no assurance of continued funding. Additionally, districts are going to have to foot the bill for start-up costs for new programs generated by the recent regulations, which means that additional money will have to be provided, at least at the outset, for materials and curriculum development, teacher training, etc.

4 AAC 34.050 IDENTIFICATION AND ASSESSMENT OF LANGUAGE DOMINANCE.

Under this section the state for the first time requires school districts to determine the language characteristics of their students. Such a procedure is long overdue, but the scheme established by the regulations is not without its problems.

First of all, subsection (c)(2) requires the selecting, orientating and training of "qualified" persons to administer the assessment, but does not specify what those qualifications should be. It is critical that in at least some phases of the assessment people who speak the language of the children being assessed are involved, but the regulations make no such requirement.

Additionally, the mere sending out of a parent questionnaire envisioned under 4 AAC 34.050(c)(3) is a process designed to fail. There is no provision under the regulations for translating the questionnaires, where necessary, or for assuring that the questionnaire and its purpose are understood. Consider that many of the parents who will be asked to fill out this questionnaire

were themselves disciplined for speaking their native language when they were in school. One cannot endorse the accuracy of such a process without greater assurances, such as having a trained bilingual person conduct a home interview. Such assurances are absent from the new regulations.

Further examination of 4 AAC 34.050(c)(3) indicates that one of the child's monolingual English teachers may simply look at a returned questionnaire and conclude that a child is a monolingual English speaker [Category F, see 4 AAC 34.050(a)] and therefore not entitled to any services under the regulations. Such a process is particularly troublesome in light of fairly common accounts of teachers who have spent years in bush communities without having become aware of the presence of a spoken native language. In short, the assessment process fails to ensure that a child will be found eligible to receive the services to which he/she is entitled.

LEVEL OF SERVICES.

Of equal concern is the level of services provided once the assessment is completed.

(1) A & B Students.*

Students found to be in categories A and B respectively, are monolingual speakers of a language other than English or predominantly speakers of a language other than English. See 4 AAC 34.050. Such students will not be capable of understanding instructional material presented in English. Yet, under these regulations a school district can meet its obligation to these

* These categories and those following are defined in 4 AAC 34.050(a).

students and purport to be giving them a bilingual education by merely providing 15 minutes of instruction per day in their native language arts and presenting the rest of the material in English. See 4 AAC 34.065 (a)(1)(A) and 34.065(e)(1). Furthermore, these students may have to lose another two years of schooling before even that ineffective measure is taken.

4 AAC 34.055(h).

(2) C, D, and E Students.

Another problem with respect to services is that category C, D, and E students are only assured of a program if they are underachieving as defined in 4 AAC 34.055(e)(2)(A)&(B). That is unfair to the student to whom school presents a language barrier but who manages to achieve at grade level by virtue of being extremely bright. Relying upon the notion of underachievement as a factor in determining eligibility for services ignores entirely the idea of helping that student to achieve at his/her potential.

In this manner the regulations fall far short of ensuring equal educational opportunity.

There are additional problems with the definition of "underachievement" provided in 4 AAC 34.055(e)(2)(A)(B), because it uses the term "one standard deviation," a measurement which varies depending upon which grade level one is looking at. Additionally, those subsections suggest that a district can use "a" normed test or the district's student achievement testing program. The use of national or state norms in this context is not quite so much of a problem, but the subsection would allow

a district to use district-wide norms, which in some instances would be significantly lower than national norms and would serve to exclude far more students from services.

The State Board of Education has done well to call for the identification of those "students who speak English exclusively but whose manner of speaking reflects the grammatical structure of another language." 4 AAC 34.050(a). This linguistic phenomenon, sometimes referred to as "village" or "nonstandard" English, merits the attention of educators in order to identify what the children are saying and to determine the points at which one language interferes with another. The object is not to obliterate such language patterns but to provide children with the ability to switch to standard English when they would find it useful to do so. Some linguists suggest that the way to do this is to teach the native language as a second language so that the child becomes conscious of the differences between his/her native language and English.

Unfortunately, while the State Board of Education has recognized the need for identifying such students, it falls down entirely when it comes to suggesting what should be done. Under these regulations it would be sufficient for a district to treat such students as it treats its other "underachieving" students. See 4 AAC 34.055(g). In other words, a district can fulfill its responsibility to students demonstrating residual language effects by merely bumping such students into its special education program.

Another alternative secured to such students is an English as a second language program. 4 AAC 34.065(a)(4)(A). It is difficult to imagine what value such a curriculum would have for students who are, by definition, monolingual English speakers.

(3) The Absence of Provision for Bilingual Education.

In short, it is distressing to see regulations which do so little in the way of ensuring services needed or desired. There would be some measure of help if the regulations eliminated the notion of underachievement as a condition of eligibility for category C, D, and E children and, further, if the nature of the services provided were more clearly directed toward the linguistic needs of the children. Such problems are not solved by the assurance found in 4 AAC 34.055(f) that a district has the option to provide bilingual/bicultural education to students not otherwise entitled under these regulations. Such an assurance fails to provide children with an entitlement and begs the question as to what, if any, funding districts can expect for such "optional" services.

The regulations are careful to provide to a students' parents the right to opt that student out of a bilingual program. 4 AAC 34.065(c). Significantly, no such parallel right to opt a student into a program is secured.

The regulations are also very quick to endorse alternatives to bilingual/bicultural curricula, such as transitional bilingual/bicultural programs and high intensity [English] language training programs. See 4 AAC 34.065(a). Such provisions are not consistent with the state-wide demand for bilingual/bicultural

education evidenced in the public hearings on this subject. A transitional program, for instance, allows the services to be cut off entirely at the point that the student is ready to participate effectively in the English language curriculum. Such alternatives which provide less than an integrated bilingual/bicultural education show little deference on the part of the Board of Education to the numerous viable cultures present in Alaska.

In this manner a district is free to provide substantially less than a bilingual/bicultural program to its students. Yet the regulations demonstrate even greater accommodation of administrators---as opposed to students---by allowing them to obtain variances if they perceive the regulatory requirements to be overly burdensome. 4 AAC 34.055(c). The question begged is what could conceivably be left for a student if a district sought to further water down the already diluted program requirements set forth in these regulations.

PARENT AND COMMUNITY INVOLVEMENT.

One of the major failings of the regulations is their lack of a provision for a meaningful level of parent and community involvement. In virtually every facet of its bilingual/bicultural program a district is free to ignore the desires of the people in the local communities. Not even a hint of local control is provided in the areas of development and selection of an instructional program, 4 AAC 34.065, selection of instructional staff, 4 AAC 34.075, and evaluation of the programs, 4 AAC 34.080. Particularly lamentable is the absence of local community involvement in the area of materials development. See 4 AAC 34.070. Older members

of the local communities are one of the most valuable resources in the development of bilingual/bicultural materials. Absent the involvement of people from the local communities, who is left to determine whether the materials developed accurately reflect the local culture?

Basically, the regulations give lip service to the idea of local control. A superintendent can satisfy the "Parent and Community Involvement" section, 4 AAC 34.060, by merely sending a letter and requiring that a community meeting be held. There is nothing to suggest that a district must respond to any of the desires expressed by a community.

4 AAC 34.075 INSTRUCTIONAL STAFF.

Another area of disservice to local communities is the absence of a provision ensuring equal pay for equal work. In schools comprised of A and B students, instruction, to be effective, must of necessity take place primarily in the native language. Yet bilingual teachers who alone on the staff can communicate with the students and who carry full teaching responsibilities are permitted to be categorized as "bilingual aides" and to be paid at a level substantially less than type A certified teachers, merely by virtue of the fact that they lack a degree and a certificate. Subsection (b)(2) highlights the problem, but fails to require a solution. The Department of Education's earlier proposed regulation specified that teachers not holding a type A certificate, but having responsibility for planning, initiating and delivering an instructional program for more than one regular class period per day must be certified through a

Letter of Authorization under 4 AAC 12.070(b). This provision deserved to be retained.

CONCLUSION.

Viewing these regulations in light of the public hearing process which, purportedly, led to their adoption by the State Board of Education is distressing. Public comment was unequivocal that people desire both bilingual/bicultural education and local control over such programs. Ironically, the recently adopted regulations fail to secure either objective.

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