

SCR

38

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

Date March 25 1974

Mr. President

The Committee on Education considered SB 30

relating to one-time payment for the state.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 30
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

RECEIVED

NOV 4

ANNA TOBELUK, et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
MARSHALL LIND, et al., )  
 )  
Defendants. )

FILED  
IN OPEN COURT  
Superior Court  
State of Alaska  
Anchorage  
Date 10-27-76  
Wesley H. Miller, Clerk  
Shelley K. Kulk, Deputy

Office of the Attorney General  
Anchorage, Alaska

No. 72-2450

ORDER APPROVING SETTLEMENT

This cause came on before the court for a hearing in Anchorage, Alaska, on October 27, 1976, to consider objections, any, by members of the plaintiff class to the Agreement of Settlement and proposed Consent Decree filed by the parties.

The court having considered the Agreement of Settlement and proposed Consent Decree, and finding them fair and reasonable, is hereby ORDERED, ADJUDGED and DECREED that the Agreement of Settlement and Consent Decree are hereby approved and incorporated herein as part of this Order.

DATED at Anchorage, Alaska, this 27th day of October, 1976.

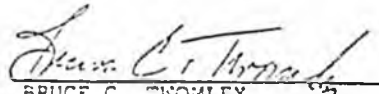
*Wesley H. Miller*  
JUDGE OF THE SUPERIOR COURT


STIPULATION

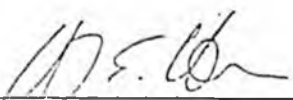
The attorneys for the respective parties hereto hereby agree and stipulate to the form and contents of the foregoing proposed Order.

Respectfully submitted,

AVRUM M. GROSS,  
Attorney General  
State Capitol  
Pouch K, Juneau, Alaska 99811  
465-3600

  
BRUCE C. TWOMLEY  
Alaska Legal Services Corp.  
524 West Sixth Avenue, No. 204  
Anchorage, Alaska 99501  
272-9431

By:   
RICHARD M. BURNHAM  
RONALD W. LORENSEN  
WILLIAM T. COUNCIL  
Assistant Attorneys General

  
STEPHEN E. COTTON  
Center for Law and Education, Inc.  
6 Appian Way  
Cambridge, Massachusetts 02138  
(617) 495-4666

Attorneys for Defendants

Attorneys for Plaintiffs

DATED October 26, 1976

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT

3 ANNA TOBELUK, et al., )  
4 Plaintiffs, )  
5 vs. )  
6 MARSHALL LIND, et al., )  
7 Defendants. )

8 No. 72-2450

9 AGREEMENT OF SETTLEMENT

10 WHEREAS, a civil action has been brought by Alaska  
11 Native (Eskimo, Indian and Aleut) children of secondary school  
12 age to secure the provision of secondary schools in their  
13 communities of residence, in which plaintiffs allege (a)  
14 a pattern and practice of racial discrimination against  
15 Alaska Natives in the non-provision of local secondary schools,  
16 in violation of the constitution and laws of the United States  
17 and Alaska (U.S. Const. Amend. XIV; 42 U.S.C. §§1981, 1983,  
18 2000d; Alaska Const. Art. I §1); and (b) a disparity between  
19 the manner in which secondary education is provided to the  
20 plaintiffs and the manner in which such education is offered to  
21 most other Alaska school children, which unduly burdens the  
22 exercise of plaintiffs' right to a public education, which is  
23 not justified by either a rational basis or a compelling state  
24 interest, and which is therefore violative of Article I §1 of  
25 the Alaska Constitution; and

26 WHEREAS, defendants allege that while they desire to  
27 provide secondary education facilities as set forth herein,  
28 and intend to do so within the limits of public funds, they  
29 have no constitutional obligation to provide the secondary  
30 facilities set out in this agreement; and  
31  
32

STATE CAPITAL  
FJUCH K JUNEAU ALASKA 99601  
PHONE 800 3331

1 WHEREAS, the parties in order to avoid lengthy liti-  
2 cation, wish to resolve this matter by means of settlement;

3 NOW, THEREFORE, the parties, through their attorneys,  
4 subject to the approval and order of this Court, hereby agree  
5 as follows:

6 STATEMENT OF AGREED FACTS

7 Jurisdiction

8 1. Jurisdiction is vested in this court by  
9 AS 22.10.020.

10 Plaintiffs

11 2. The named plaintiffs are Alaska Native children of  
12 secondary school age. They have completed the 8th grade, and  
13 are between the ages of 14 and 20. The named plaintiffs  
14 reside in six villages in various parts of the state. Each of  
15 these villages has an elementary school. In the villages of  
16 Kikachak, Kuigillingok, Nekoryuk, and Nunapitchuk, the  
17 elementary school is operated by the United States Department  
18 of the Interior's Bureau of Indian Affairs. In the villages of  
19 Ullakaket and Kongiganak, a public elementary school is  
20 operated. There are no public secondary schools (comprising  
21 grades 9-12) in these communities. In order to attend  
22 secondary school, the plaintiffs must leave their homes and  
23 families for nine months each year in order to participate  
24 in boarding programs.<sup>1/</sup> Some of the named plaintiffs have  
25 attended school in Anchorage, Bethel, Fairbanks, Kodiak,  
26 Sitka, Unalakleet, Wrangell, or Chemawa (Oregon); some have  
27 dropped out of these programs thus terminating their classroom  
28 education; others have not continued their schooling beyond  
29 the 8th grade level available in their community of residence.

30  
31 <sup>1/</sup> "Boarding programs" as used herein means boarding home  
32 programs and dormitory programs.

STATE OF ALASKA  
COURT OF JUDICIAL ADMINISTRATION  
PHONE 465-3000

Defendants

1  
2 3. Defendants Katherine T. Hurley, August Anderson,  
3 Beverly Horn, Thelma Langdon, Darwin Heine, Malcolm Roberts,  
4 Jan Hohman, as members of the State Board of Education of the  
5 State of Alaska, are responsible, pursuant to AS 14.07.020(1)  
6 and AS 14.07.075, for formulating statewide educational  
7 policy, administering funds to provide certain educational  
8 services, and directing the operations of the State Department  
9 of Education, which has general supervision over the public  
10 schools of the state.

11 4. Defendant Marshall L. Lind is the Commissioner  
12 of Education and, as such, is the principal executive officer  
13 of the Department of Education.

Class

14  
15 5. This action is properly maintained as a class  
16 action. The named plaintiffs represent a class whose members  
17 are Alaska Native children of secondary school age who reside  
18 in communities in the unorganized borough wherein (1) a public  
19 elementary school is operated, or an elementary school is  
20 operated by the Bureau of Indian Affairs; (2) a secondary  
21 school comprising grades 9-12 is not so operated, nor is daily  
22 transportation to such a secondary school available; and (3)  
23 a majority of resident children eligible to attend secondary  
24 school are Native.

25 6. The class consists of approximately 2663 Alaska  
26 Native children living in the 126 communities set forth in  
27 Schedule B, attached hereto. Because there are no accurate  
28 data on the number of children out of school, the exact size  
29 of the class is uncertain.

30 7. The class is so numerous that joinder of all  
31 members is impracticable. There are questions of law and fact  
32 common to the class, the claims of the plaintiffs are typical

1 of the claims of the class, and the plaintiffs have fairly and  
 2 adequately protected the interests of the class. Separate  
 3 actions by individual members of the class would create a risk  
 4 of inconsistent adjudications with respect to the individual  
 5 members of the class and would thereby establish incompatible  
 6 standards of conduct for the defendants. The defendants have  
 7 acted on grounds generally applicable to the class, thereby  
 8 making appropriate final injunctive or corresponding declaratory  
 9 relief with respect to the class as a whole.

10 3. Notice to members of the plaintiff class shall be  
 11 given as follows:

12 (a) by the Department of Education, by mailing  
 13 to the local school committee in each community set forth in  
 14 Schedule B, attached hereto, a Notice of Settlement in a form  
 15 approved by the Court; and

16 (b) by delivery of a joint press release of the  
 17 parties to the television and radio stations, newspapers, and  
 18 wire services in the state.

19 General Facts

20 9. Prior to the turn of the century, a dual school  
 21 system emerged unofficially in Alaska as resentment grew among  
 22 the relatively few whites over emphasis on education for Natives  
 23 and a belief that integrated schools would give only inferior  
 24 education. In towns such as Juneau, Douglas and Sitka, where  
 25 there were proportionately greater white populations, segregated  
 26 schools were established. Segregated schools were also  
 27 established at Bethel, Nome, Egegik, Chitina, Ft. Yukon, and,  
 28 as of 1929-30, at least a dozen other locations. In at least  
 29 12 of these communities there was a secondary school for non-  
 30 natives only. With the increase in population caused by the  
 31 Gold Rush in the late 1890's, agitation grew for the establish-  
 32 ment of a separate system of schools for the non-Native popula-  
 tions. In 1900, Congress provided for the establishment and

STATE COURTHOUSE  
 JUNEAU, ALASKA 99801  
 PHONE 485-3800

1 local control of independent schools for whites within  
2 incorporated towns. By 1903, 9 incorporated town schools for  
3 white children had been established; as of 1917-18, there were  
4 15 such schools, six of which graduated between 1 and 13  
5 students each from secondary school.

6 10. Two statutes enacted by Congress in the early  
7 1900's gave official sanction to this dual system. Under a  
8 1917 amendment to the Alaska Organic Act, the Territorial  
9 Legislature was empowered "to establish and maintain schools  
10 for white and colored children and children of mixed blood  
11 who lead a civilized life in said territory..." Act of March  
12 3, 1917, ch. 167, 39 Stat. 321. In the second statute, the  
13 Nelson Act originally passed in 1905, the federal government  
14 assumed responsibility for the education of Alaska Natives in th  
15 following terms:

16 The education of the Eskimos and Indians in  
17 Alaska shall remain under the direction and  
18 control of the Secretary of the Interior,  
19 and schools for and among the Eskimos and  
20 Indians of Alaska shall be provided for by  
21 an annual appropriation, and the Eskimo and  
22 Indian children of Alaska shall have the same  
23 right to be admitted to any Indian boarding  
24 school as the Indian children in the States  
25 or Territories of the United States.  
26 Act of Jan. 27, 1905, Title IX, ch. 1, §309,  
27 33 Stat. 619.

28 The Nelson Act clarified previous legislation and extended it  
29 to rural areas, relieving the U.S. Bureau of Education of  
30 responsibility for the education of white and mixed blood  
31 children, while the education of these children was provided  
32 by the Territory and local municipal authorities. The Bureau  
continued maintenance of a few white schools until local  
authorities gradually became able to assume full responsibility.  
The number of so-called Nelson schools--for children of white  
or mixed blood leading "a civilized life" in communities outside  
of incorporated towns--grew from 10 in 1907 to 46 in 1918.

1           11. The pre-statehood pattern of sending Native  
2 children away from their home villages to secondary boarding  
3 schools, which is reflected in the current system of secondary  
4 education, was generated by the dual school system. This pattern  
5 developed from the federal government's policy of sending Native  
6 children away from their home villages to secondary boarding  
7 schools, while territorial officials undertook to provide local  
8 secondary schools for white and mixed-blood children for whose  
9 education the Territory was responsible. The key to the  
10 federal government's program of acculturating Alaska Natives  
11 lay in the special education of the most intellectually advanced  
12 youth. In spite of many criticisms, the U.S. Bureau of Education  
13 continued this policy of sending the brightest children to  
14 boarding schools for a basically vocational education, and then  
15 returning them to their villages. Most were sent to Indian  
16 schools in the United States. However, the deleterious effects  
17 of sending children to school so far away, including health  
18 hazards and sociological maladjustments, soon became evident,  
19 and in 1925 the federal government initiated a program of  
20 establishing vocational boarding schools within Alaska. Schools  
21 were opened in Eklutna, near Anchorage; at Kanakanak, on  
22 Bristol Bay; and at White Mountain, on the Seward Peninsula.  
23 These schools were eventually superceded by Mt. Edgecumbe, a BIA  
24 boarding school for Natives established at the former naval  
25 air station of Sitka in 1947. Rural Native students were presented  
26 with the choice of either staying at home and forgoing  
27 attendance at a secondary school or leaving home and  
28 attending Mt. Edgecumbe. When enrollment at Mt. Edgecumbe  
29 eventually exceeded the school's capacity, the BIA began  
30 admitting Native Alaskans to Indian boarding schools in other  
31 states. Hundreds of Alaska Natives entered boarding  
32 schools in Chemawa, Oregon and Chillico, Oklahoma.

LEWIS W. JUNEAU, ALASKA 99511  
PHONE 451-3800

1 12. While secondary school opportunities for  
2 Natives were generally limited to enrollment in the boarding  
3 schools, secondary schools for whites were started in an  
4 increasing number of communities, including those with small  
5 secondary enrollments. By 1950-51, there were 34 public  
6 secondary schools in the state. Only 5 had enrollments  
7 exceeding 100; 24 had enrollments under 50, and 12 had  
8 enrollments of 10 or fewer. As of 1958-59, there were 34 public  
9 secondary schools in the state. Only six of these schools were  
10 in communities with a school population at least 50 per cent  
11 Native.

12 13. The cumulative effect of instituting boarding  
13 programs for Natives, while local secondary schools were  
14 generally provided where non-Natives resided, is indicated by  
15 the relative proportions of Native and non-Native secondary  
16 school age children who presently reside in communities which  
17 have elementary schools but not secondary schools. The  
18 proportion of such "unhoused" Native children to the total  
19 Native secondary school population in the state (including  
20 public and BIA schools) is 42 per cent. The proportion of  
21 "unhoused" non-Native children to the total non-Native  
22 secondary school population in the State (including public  
23 and BIA schools) is .4 per cent.

24 14. At the time statehood was attained, a vestige  
25 of the dual system existed in Alaska, in that the BIA operated  
26 schools for Alaska Natives while Alaska's territorial legislature  
27 and Department of Education provided schools primarily  
28 attended by non-Natives. This vestige has hindered the State's  
29 provision of secondary schools in villages wherein the BIA  
30 operates elementary schools. The state followed a policy  
31 through the early 1970's of leaving to the discretion of the  
32 BIA, in the villages wherein the BIA operates elementary  
schools, the extent and nature of primary and secondary

FOUCH W. JUNIOR, ALASKA BIA  
PHONE 489 3100

1 education, including whether a local secondary school should  
2 be operated in such villages. The state's policy included not  
3 constructing secondary schools in villages which had BIA elementary  
4 schools.

5 15. After 1966, the state adopted a policy of  
6 constructing regional secondary schools and dormitories and  
7 developing boarding home programs. While affording a greater  
8 number of Natives residing in the unorganized borough a  
9 secondary education within the state, these efforts did not  
10 completely eradicate the pattern--generated by the former dual  
11 school system established prior to statehood--of requiring a  
12 large proportion of Native children to board away from home  
13 if they wished to attend a secondary school. Boarding Home  
14 Programs have existed in Anchorage, Bethel, Fairbanks, Kodiak,  
15 Nome and a number of villages. A total of 32 boarding home  
16 programs are now operating, with a total enrollment of 851  
17 students. Dormitories have been operated in Bethel, Nome,  
18 and Kodiak. The only dormitory now operating is in Bethel,  
19 with 175 students.

20 16. Since 1967 the State has reduced the number of  
21 Native students leaving the state for a secondary education  
22 from 850 to 39 in 1975. These 39 students continued to attend  
23 secondary schools outside the state by choice, in order to  
24 complete programs of study.

25 17. In the late 1960's officials in the Department  
26 of Education concluded that the regional secondary school  
27 program was failing to provide all the benefits originally  
28 envisaged, and had detrimental effects upon some of the students  
29 which outweighed the benefits they were deriving from the  
30 program. Furthermore, technological advances enhanced the  
31 quality of secondary education which could be provided in  
32 rural locations. In 1970, the Department discontinued the  
33 construction of dormitories and large regional secondary schools

and began a program of providing local secondary schools. Since 1970, this program has resulted in the unorganized borough in the completion of 11 local secondary schools with 7 more presently under construction, and funds appropriated for an additional 6. As a result of steps taken prior to the negotiation of this agreement, 29 of the 140 predominantly Native communities in the unorganized borough which presently have an elementary school will, by 1977, have a local secondary school, grades 9 to 12, or daily access to such a school. There are 26 predominantly non-Native communities in the unorganized borough which presently have an elementary school. Sixteen of these communities have had local secondary schools or daily access to such schools within the last three years or will have such schools or daily access by 1977.<sup>2/</sup> There are a total of 170 communities in the unorganized borough which have elementary schools.

18. The absence of local secondary schools in each of the 126 villages set forth in Schedule B, attached hereto, is attributable at least in part to the pattern of secondary education produced by the dual school system established prior to statehood.

19. Approximately 2783 secondary school age children reside in communities in the unorganized borough which have a public elementary school or an elementary school operated by the Bureau of Indian Affairs, but which do not have a secondary

---

<sup>2/</sup> Of the 10 predominately non-Native communities without local secondary schools, 9 are located in the southeastern portion of the state. These 9 communities are "logging camps", which are constructed temporarily on U.S. Forest Service land leased for a period of approximately twenty years for the purpose of conducting logging operations. Seven of the 10 villages have projected secondary enrollments of 7 or fewer students; 3 of the villages have projected secondary enrollments of 13-18 students.

STATE CAPITOL  
FOUCH & JONES, ALASKA BARR  
PHONE 483-3800

1 school through the 12th grade nor daily access to such a school.

2 The State Department of Education refers to such children for  
3 statistical purposes as "unhoused". Over 95 percent (2663)  
4 of these unhoused children are Native; less than 5 percent  
5 (120) are non-Native. This compares with a 1974-75 secondary  
6 student population enrolled in the unorganized borough school  
7 district of 1301 Native and 617 non-Native children,<sup>3/</sup> and a  
8 secondary student population enrolled state-wide in public and  
9 EIA schools of 6288 Native and 28,105 non-Native children.

10 20. Members of the plaintiff class enrolled in the  
11 boarding program have experienced accelerated drop-out rates,  
12 psychological and social problems, including disruption of  
13 family life and loss of sense of identity, and failure to live  
14 up to educational potential. Studies of drop-out rates  
15 indicate far higher rates among Native children attending  
16 boarding programs than among Native children residing at home  
17 while attending secondary school. This drop-out problem is  
18 in part attributable to severe homesickness often experienced by  
19 students in the boarding program. Some children who have  
20 finished the eighth grade in their villages have never gone  
21 away to attend secondary school. Others, while enrolled in  
22 a boarding program, have transferred on numerous occasions  
23 from program to program, without attaining discernible  
24 educational benefits from any program.

25 21. Dormitory and boarding home programs have  
26 high costs in relation to the educational benefits provided  
27 Typically, school absenteeism has been high. Furthermore,  
28 many village students are unable to benefit from the wide

29 <sup>3/</sup> These figures do not include 11 Native and 1,056 non-Native  
30 children enrolled in on-base secondary schools. Prior to the  
31 establishment of AUBSD, these on-base schools have been  
32 operated by the Alaska State-Operated School System. All  
33 children attending on-base elementary schools were  
34 provided secondary schools or daily access to such schools.

POUCCY R. JUREAU ALASKA 03511  
PHONE 483 3000

1 range of courses available at urban schools because they  
2 do not have the academic background to take advantage of  
3 them. Frequently, they end up in courses for slow learners.  
4 Yet these are the most expensive secondary school programs.  
5 In FY 1974, the rural boarding program cost an average of  
6 \$4,200 per student per year for education and boarding,  
7 while dormitory programs cost \$5,600 per student per year.  
8 The per student cost of local secondary school programs  
9 in the unorganized borough in FY 1974 was approximately  
10 \$2,000. In FY 1975, the per student instructional cost for rural  
11 secondary school programs was approximately \$2,300. For rural  
12 boarding home programs, the cost was approximately \$4,600  
13 per student. The cost of dormitory programs remained  
14 substantially higher. Actual costs per student in dormitory  
15 programs may end up higher because of the high drop-out rate,  
16 while the dormitory's fixed costs remain the same.

17 22. Harmful effects have resulted from the boarding  
18 programs. Village students placed in both dormitory and  
19 boarding home programs often do not receive the guidance  
20 necessary to enable them to cope with town life or with  
21 emotional problems which they experience. Also, the sending  
22 of Native children to secondary schools outside of their villages  
23 has had harmful effects on village cultural and family life  
24 and on the student's relationship to each. When the student  
25 who attends a boarding program returns to his village in the  
26 summer, he finds it difficult to readjust to village life  
27 because of the increasing differences between himself and  
28 the other members of his village. He is unable to fully  
29 identify with either the town or village way of life. Such  
30 students are in the process of becoming what anthropologists  
31 term "marginal" people: usually, they are not assimilated into  
32 the town culture with which they must contend in order to  
attend secondary school, while at the same time they have become

1 estranged from the village way of life. For many of these  
2 students, secondary school graduation represents the point of  
3 no return. If they have come this far, it is unlikely that  
4 they will ever return to the village permanently.

5 23. Although village children who choose not to  
6 board away from home to attend secondary school are eligible to  
7 enroll in correspondence study, this program has in the past  
8 been unsatisfactory for most such children.<sup>4/</sup> This is so in  
9 large part because, for most students, parental interest and  
10 supervision are essential if the student is to complete correspondence  
11 courses successfully, and most village parents have not had  
12 sufficient formal education to supervise such courses  
13 effectively. Though the Department has greatly upgraded the  
14 elementary and secondary correspondence program in recent years  
15 by increasing the budget therefor from \$61,405 in 1970 to  
16 \$848,373 for the unorganized borough for 1975-76; secondary  
17 correspondence courses, which have been obtained from programs  
18 in Nebraska and Illinois, have not been sufficiently adapted  
19 to the educational needs and the culture of village children.  
20 Furthermore, the problem of parental inability to supervise a  
21 secondary school course of study continues to limit the effective-  
22 ness of the correspondence program for many students.

---

23 <sup>4/</sup> Historically, the number of children in the plaintiff  
24 class who have been served by secondary correspondence is small,  
25 as indicated by the overall figures for correspondence  
26 participation. For example, as of June, 1973, there were 60  
27 active secondary students enrolled in correspondence studies  
28 statewide out of a total of between 600-700 elementary and  
29 secondary students. Between 1959 and 1972, 41 students  
30 received diplomas via correspondence study. Between 1960  
31 and 1963, 7 students received high school diplomas after  
32 having completed 2 years or more study via secondary correspondence.  
The number of these students, if any, who meet the criteria of  
membership in the plaintiff class is not known.

STATE COURTS  
POUCH N. JUNEAU, ALASKA, 99811  
PHONE 483-3005

1 24. Small secondary schools have long been an  
2 accepted and, unlike the boarding programs, a successful  
3 feature of the State's educational program, and it has been  
4 the Department's policy since 1970 to construct such schools  
5 in Native villages in the unorganized borough.

6 25. A 9th grade program was provided beginning  
7 in 1971-72 to accommodate 8 students in Anderson Village, and  
8 successive grades were added yearly through 1974-75, when 52  
9 students were enrolled in grades 9-12, notwithstanding that  
10 such students had daily access to a larger secondary school  
11 in Nenana; a secondary school facility, including a gymnasium,  
12 chemistry laboratory, workshop, home economics room and  
13 academic classrooms, has been constructed in Thorne Bay (1974-  
14 75 enrollment, grades 9-12; 23); secondary school instruction,  
15 under the supervision of a certificated teacher, was begun in  
16 Whittier in 1974-75 (enrollment, grades 9-11: 8); secondary  
17 school instruction under the supervision of the certificated  
18 elementary school teacher employed in the community, utilizing  
19 correspondence materials, was provided in Gustavus in 1972-73  
20 for 5 students and in 1972-73 for 2 students, in Cape Pole  
21 in 1972-73 for 5 students, in Port Alice in 1973-74 for 5  
22 students, and in Paxson in 1972-73 for 1 student, in 1973-74  
23 for 2 students, and in 1974-75 for 1 student. The communities  
24 of Anderson Village, Thorne Bay, Whittier, Gustavus, Cape Pole,  
25 Port Alice, and Paxson are predominantly non-Native. Of the  
26 126 communities on Schedule B, attached hereto, 5 have larger  
27 projected secondary enrollments than the 1974-75 enrollment  
28 of Anderson Village; 48 have projected secondary enrollments  
29 equal to or larger than the 1974-75 enrollment of Thorne Bay;  
30 111 have projected secondary enrollments equal to or larger  
31 than the enrollment of Gustavus in 1971-72, Cape Pole in  
32 1972-73, or Port Alice in 1973-74; and all have larger  
projected secondary enrollments than the enrollment of Gustavus

1 in 1972-73 or Panson in 1972-75.

2 26. Prior to the initiation of this action, local  
3 secondary schools were not provided in other large  
4 Native communities. The largest such community was Barrow,  
5 which did not have a secondary school through the 12th grade  
6 until 1974-75, when enrollment, grades 9-12, was 161.

7 27. Though the cost of constructing rural schools  
8 was quadrupled since 1966, the per-pupil operating costs of  
9 boarding programs is and historically has been far higher  
10 than the per-pupil costs of rural schools, since the State  
11 must assume the financial burden of housing, feeding and  
12 supervising children who do not reside at home. When  
13 construction costs for new secondary school facilities are  
14 included in the per-pupil costs of providing local secondary  
15 schools, the long-range costs remain comparable to, and in  
16 many instances lower than, the costs of providing boarding  
17 programs.

18 28. In addition to the fiscal costs of operating  
19 boarding programs, there may be heavy social costs, in  
20 addition to those set forth in paragraphs 20 and 22, above.  
21 Because of these social costs, the State may well bear increased  
22 costs for social services--including welfare, rehabilitative  
23 programs, and law enforcement--which will be lessened to the  
24 extent that children living at home with their families in  
25 their own villages are not subjected to the problems which  
26 have arisen in the boarding programs.

27 29. The parties agree that the relief herein  
28 provided, whereby each community set forth on Schedule B,  
29 attached hereto, will be afforded the opportunity to have its  
30 own secondary program, is an educationally sound approach for  
31 a number of reasons. It is the present policy of the State  
32 Board of Education and the Commissioner to provide local  
secondary schools because, based upon the best information

FRANK P. BROWN, ALASKA BICENTENNIAL  
PHONE 4623800

1 currently available, such schools offer the greatest educational  
2 benefits for most students in the unorganized borough at  
3 the lowest over-all costs. The assumed educational benefits  
4 of larger secondary schools have not materialized for most  
5 village students. The majority of such students have not  
6 enrolled in specialized curricula but in basic courses which  
7 can be taught in village schools. Village secondary schools  
8 offer a basic skills curriculum, which can be enriched  
9 by a variety of supplementary programs, in a personal  
10 atmosphere and in small-group situations. Local traditions,  
11 customs, and skills can be transmitted from the adult generation  
12 without the severe social dislocation inherent in removing  
13 adolescents from familiar surroundings.

14 30. The parties further agree that it is an  
15 educationally sound approach, based upon the best information  
16 currently available, to offer to each community set forth on  
17 Schedule B, attached hereto, the opportunity to choose not to  
18 have a secondary school program, to have a partial program,  
19 or to have a four-year program, in accordance with the  
20 regulatory provisions set forth in Schedule A, attached hereto.

FOULM P. LONZAU, ALASKA DEEDS  
PHONE 465 3630

CONSENT DECREE

1  
2 1. The provisions of the regulations set forth  
3 in Schedule A, attached hereto, are hereby incorporated  
4 herein as provisions of this Consent Decree. No change  
5 in the regulations which affects plaintiffs' entitlements  
6 thereunder shall be permitted.

7 2. The Commissioner of the Department ("Department"  
8 herein means the Department of Education as defined by AS  
9 14.07.010, sec. 1, ch. 98 SLA 1966) shall designate a person  
10 who shall be responsible for administering the implementation  
11 of this Consent Decree. This person shall have such administra-  
12 tive authority, fiscal resources and staff support, including  
13 clerical assistance, as are necessary effectively to administer  
14 this decree. Attorneys for the plaintiffs shall be entitled to  
15 frequent access to this person to review and make inquiries  
16 regarding the implementation of this decree.

17 3. The Department shall ensure that no later  
18 than November 1, 1976, the governing body of the appropriate  
19 school district shall notify the residents of all communities  
20 identified in Schedule B, attached hereto, of the community's  
21 entitlement to a secondary school, pursuant to 4 AAC 05.040.  
22 The Department shall require that the governing body of  
23 the school district, at the time it provides written notification,  
24 file with the Commissioner a copy of such written notice  
25 (or, if a form is used a copy of such form), together with  
26 a statement of the date(s) such notification was provided to  
27 each community. On request of the local school committee  
28 in any community identified in Schedule B, attached hereto,  
29 the Department shall within a reasonable time conduct a  
30 meeting in such community at which the entitlements secured  
31 by this decree will be explained. In any community which  
32 requests that a secondary school not be conducted in such

STATE CAPITAL  
FOURTH FLOOR, JUNEAU, ALASKA 99801  
PHONE 465 3500

1 community, the Department shall, in any subsequent school  
2 year, on request of the local school committee, promptly  
3 conduct such a meeting.

4 4. The Department shall conduct an inventory  
5 during 1976 in all communities identified in Schedule B,  
6 attached hereto, except those which have expressed their  
7 opposition to a secondary school in accordance with 4 AAC  
8 05.050, of public facilities which could be converted, either  
9 temporarily or permanently, into secondary classroom space. In  
10 conducting this inventory, the Department shall contact the  
11 local school committee in each village, and shall incorpo-  
12 rate in the inventory report the committee's view regarding  
13 the conversion of facilities to secondary classroom space.

14 5. The Department shall prescribe by regulation  
15 that the governing body of a school district, with the  
16 assistance of the local school committees, shall conduct, no  
17 later than June 1, 1977, and May 1 of each subsequent school  
18 year, a survey of secondary school-age children who are not  
19 enrolled in school. The Department shall require that the  
20 information gathered by each survey shall be submitted to the  
21 Department by the governing body of the school district. The  
22 Department shall ensure that the governing body of the school  
23 district establishes a program to encourage each secondary  
24 school-age child who is not enrolled in secondary school, as  
25 identified in the annual survey, to finish secondary school.

26 6. The Department shall secure compliance with  
27 the provisions of 4 AAC 05.040 regarding the establishment  
28 of local secondary schools in accordance with the following  
29 schedule:

30 (a) In any community wherein there is available  
31 a suitable facility in which to conduct a local secondary  
32 school (or certain grades thereof), a local secondary school  
(or those grades which can be reasonably accommodated in  
the facility) shall be established as soon as practicable,

1 with classes commencing no later than Fall, 1977.

2 (b) In any community where an existing  
3 public facility may be temporarily rendered suitable by  
4 means of renovation at a cost not to exceed \$10,000, the  
5 renovation, subject to the availability of funds, shall  
6 be undertaken and a secondary school shall thereafter be  
7 established as soon as practicable.

8 (c) In any community wherein there is available  
9 no suitable facility in which to conduct a local secondary  
10 school, and wherein no existing public facility may be rendered  
11 suitable by renovation under subparagraph (b) above, major  
12 renovation will be undertaken or a new secondary school  
13 facility shall be constructed as soon as practicable. The  
14 Department shall take all reasonable steps to ensure that  
15 construction of each such secondary school facility for  
16 which construction funds are provided in a 1976 bond issue  
17 is completed no later than Fall, 1977, or, if such facility  
18 is designated on Schedule C, attached hereto, as a major  
19 facility, no later than Fall, 1978; and that each such secondary  
20 school facility for which construction funds are provided  
21 in a 1978 bond issue is completed no later than Fall, 1979,  
22 or if such facility is designated on Schedule C, attached  
23 hereto, as a major facility, no later than Fall, 1980.

24 7. The Department agrees that money presently  
25 available to the State for rural secondary school construction,  
26 heretofore unexpended, shall be expended at the sites specified  
27 in Schedule D, attached hereto, in the amounts necessary to  
28 provide at each site a comprehensive secondary education  
29 facility, which shall include, but not necessarily be limited  
30 to, academic classrooms, facilities appropriate for instruction  
31 in vocational education and home economics, indoor physical  
32 education space and related support facilities and mechanical  
space. The Department further agrees and represents that

ROUCH K. JUNEAU, ALASKA 99511  
PHONE 462-3600

1 construction of facilities at these sites shall be completed  
2 no later than Fall, 1977.

3 8. (a) Funds from en. 131 SLA 1976 shall  
4 be utilized in a total amount not less than \$20,000,000 for  
5 the purpose of paying the costs of rural secondary school  
6 construction. The parties recognize that the Department  
7 cannot guarantee passage of this bond issue by the voters.  
8 If this bond issue is not passed, the plaintiffs reserve  
9 their remedies under law.

10 (b) The Department shall exercise its best  
11 efforts to secure legislative approval of an act providing  
12 for the issuance of general obligation bonds in an amount  
13 not less than the sum of \$20,570,000 (multiplied by the  
14 appropriate inflationary factor derived in accordance with  
15 subparagraph (d) below) and the amount, if any, determined  
16 pursuant to paragraphs 12 and 13 below, for the purpose  
17 of paying the costs of rural secondary school construction  
18 at the sites set forth in Schedule C, and at the sites and  
19 in the amounts determined pursuant to paragraphs 12 and 13,  
20 and providing that the question of whether such bonds shall  
21 be issued shall be submitted to the voters at the  
22 State general election in November, 1978. Such best efforts  
23 shall include, but not necessarily be limited to, recommending,  
24 in the Governor's Capital Budget for Fiscal Year 1979,  
25 construction of rural secondary schools at the sites set forth  
26 in Schedule C and those determined pursuant to paragraphs 12  
27 and 13, and good faith testimony before the legislature by  
28 appropriate personnel of the Department on behalf of such  
29 recommendations. The Department represents that it has  
30 consulted with the Governor as to the provisions of this Consent  
31 Decree, and that the Governor is committed to securing approval  
32 by the legislature, and thereafter by the voters, of a bond issue

WILSON K. JONES, ALASKA DEBIT  
PHONE 4833000

1 in an amount not less than the sum of \$20,570,000 (multiplied  
2 by the appropriate inflationary factor) and the amount, if  
3 any, determined pursuant to paragraphs 12 and 13, below, for  
4 the purpose of paying the costs of rural secondary school  
5 construction at the sites designated herein. The parties  
6 recognize that the Department cannot guarantee passage of  
7 a bond issue by either the legislature or the voters. If  
8 a bond issue is not passed, or if lesser amounts are made  
9 available, the plaintiffs reserve their remedies under law.

10 (c) In the event the voters approve ch. 131  
11 SLA 1976, the sum to be recommended pursuant to subparagraph  
12 (b), above, in the Governor's Capital Budget for Fiscal Year  
13 1979 may be reduced as follows: the amount of \$20,570,000  
14 set forth in subparagraph (b) above, may be reduced by  
15 subtracting therefrom amounts, if any, in excess of \$20,000,000  
16 which are utilized in accordance with this decree.

17 (d) The inflationary factor to be applied  
18 to the amounts set forth in Schedule C, for the purpose of  
19 determining amounts to be made available in a 1978 bond  
20 issue, shall be computed according to the formula,

21  $I = 1 + r_1 + r_2 (1 + r_1)$  in which:

- 22
- 23 (1)  $I$  = the inflationary factor;
  - 24 (2)  $r_1$  = the rate of increase in average building  
25 construction costs in Alaska in the 12  
26 months preceding November, 1976; and
  - 27 (3)  $r_2$  = the rate of increase in average building  
28 construction costs in Alaska in the 12  
29 months preceding November, 1977.

30 The rate of increase in average building construction costs  
31 shall be computed as the product obtained from multiplying  
32 1.25 by the percent change in building construction costs in

1 the Seattle metropolitan area, as reported by Dodge Building  
2 Cost Services, McGraw-Hill Systems Company, or shall be  
3 determined by such other means to which the parties, through  
4 their attorneys, may hereafter agree.

5 9. Rural secondary school construction funds  
6 made available pursuant to paragraph 8, above, shall be  
7 utilized as follows:

8 (a) Sufficient funds shall be made available  
9 to ensure, at each of the 37 "Major Construction Sites"  
10 set forth in Schedule C, the provision of comprehensive  
11 secondary education facilities at each site, which shall  
12 include, but not necessarily be limited to, academic classrooms,  
13 facilities appropriate for instruction in vocational education  
14 and home economics, indoor physical education space and related  
15 support facilities and mechanical space. Such facilities  
16 shall in other respects conform to Minimum Guidelines for  
17 the construction of small secondary schools, hereafter to  
18 be promulgated by the Department.

19 (b) Sufficient funds shall be made available  
20 to ensure, at each of the 35 sites designated in Schedule C  
21 as "Construction Sites for Projected Enrollments of 11 - 20  
22 Students", the provision of secondary education facilities  
23 (including classroom and indoor physical educational space  
24 and related support facilities and mechanical space. The  
25 funds may be used for construction of new secondary facilities  
26 or renovation of existing public facilities.

27 (c) Sufficient funds shall be made available  
28 to ensure, at each of the 36 sites designated in Schedule C  
29 as "Sites of Minimal Construction or Renovation", the  
30 provision of adequate secondary classroom space. The funds  
31 shall be expended for the construction of secondary education  
32 facilities or the renovation of existing public facilities.

1           10. Residents of each community in which a facility  
 2 is to be constructed or renovated pursuant to this decree  
 3 shall be afforded an opportunity, prior to final approval  
 4 of the architectural plan for such construction or renovation,  
 5 to present their ideas on the design of the facility in  
 6 their community. Such ideas shall, to the extent practicable,  
 7 be incorporated into the architectural plan. To the maximum  
 8 extent consistent with education needs, a design for a school  
 9 building constructed pursuant to this decree shall provide  
 10 for multiple use of the building for community purposes.

11           11. Any resident of a community specified in  
 12 Schedules C or D who is between the ages of 20 and 25 and has  
 13 completed the 8th grade but has not completed the 12th grade  
 14 shall be entitled for the purpose of earning a high school  
 15 diploma to attend, without payment of tuition, the local  
 16 secondary school established in his community pursuant to this  
 17 decree.

18           12. Should additional funds be necessary for the  
 19 provision of adequate secondary school facilities, pursuant  
 20 to paragraph 9 and 4 AAC 05.040, at any location in the  
 21 unorganized borough whether or not such location is specified  
 22 in Schedule C, the Department shall seek additional capital  
 23 funds in sufficient time to permit construction of such  
 24 facilities to commence no later than Spring, 1979.

25           13. In determining whether additional funds are  
 26 necessary, pursuant to the preceding paragraph, the  
 27 Department shall take the following steps:

28           (a) The Department shall prepare a report,  
 29 which shall be filed with the court and provided to attorneys  
 30 for the plaintiffs no later than September 1, 1977, setting  
 31 forth in reasonable detail the information upon which the  
 32 Department has based or intends to base its determination.

ROUCHER & JENSEN  
 ATTORNEYS AT LAW  
 PHONE 462-7800

1 The Department shall make available to attorneys for the  
2 plaintiffs such additional information as reasonably bears  
3 upon the determination.

4 (b) The Department shall, at the time the  
5 Department submits its capital budget request for Fiscal  
6 Year 1979 to the Department of Administration, provide to  
7 attorneys for the plaintiffs a copy of such budget request,  
8 together with the report (unless such information is plainly  
9 set forth in the capital budget request) of the amounts,  
10 by site, for which the Department is requesting funding  
11 pursuant to this decree.

12 (c) In the event that plaintiffs object  
13 that the amounts for secondary school construction which  
14 the Department has determined to be necessary, under the  
15 provisions of this paragraph, are insufficient in any respect,  
16 the plaintiffs shall within 21 days of the filing by the  
17 Department of the reports required by this paragraph, file with  
18 the court, and provide to the Department, plaintiffs'  
19 objections to the Department's determinations. If objections  
20 have been filed, the Department's capital budget request shall  
21 not be submitted to the legislature until the court shall have  
22 determined, after notice and hearing, the amounts which shall  
23 be included in such budget request in order to carry out the  
24 provisions of paragraph 12 of this decree.

25 14. The Department shall revise the Small Secondary  
26 Schools Administrative Manual, First Edition, September, 1971,  
27 to accord with the provisions of this decree.

28 15. The Department shall exercise its best efforts  
29 to ensure that no school, required by this decree, fails to  
30 operate because of a shortage of teacher housing. However,  
31 nothing in this paragraph shall be interpreted as requiring  
32 the Department to provide teacher housing directly.  
33

1           16. The Department shall file with the court,  
2 and provide to attorneys for plaintiffs, reports every four  
3 months regarding the Department's progress in implementing  
4 this decree. The first such report shall be filed within  
5 four months of the date on which this decree is approved  
6 by the court. Each report shall specify in reasonable detail  
7 the actions taken to implement each provision of this decree,  
8 except that no further report need be made as to any provision  
9 which has been fully implemented. Each report shall describe  
10 progress made in planning and executing construction at  
11 each site specified on Schedule C. Each report shall include  
12 a copy of the materials received or prepared by the Department  
13 (unless such copy was included with a previous report) which  
14 are specified in the provisions of paragraphs 1,3,4, and 5  
15 of this Consent Decree.

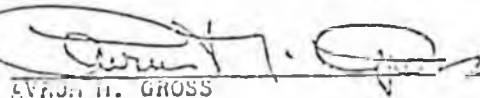
16           17. The Department shall exercise its best efforts  
17 to make available, during Fiscal Year 1977, a minimum of  
18 \$100,000 for the implementation of this decree. Such sum  
19 shall be utilized solely for the purpose of providing grants  
20 to local districts for the renovation of existing public  
21 facilities for the purpose of operating, during the 1976-77  
22 school year, secondary school programs in any community  
23 specified in Schedule C. Any unexpended balance of this amount  
24 shall thereafter be available to implement the provisions of  
25 this decree.

26           18. The court shall retain jurisdiction of this  
27 action until such time as the construction provided for  
28 herein has been substantially completed at each of the sites  
29 on Schedule C and the other provisions of this Consent  
30 Decree have been substantially fulfilled. On or about October 1,  
31 1980, there shall be a general review of the progress to  
32 determine whether, in light of said progress, the jurisdiction  
of the court over this case shall terminate.

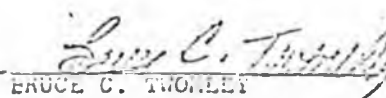
19. The parties agree that it is desirable to minimize, where possible, judicial involvement in the internal affairs of the Department. Therefore, the parties agree to make good faith efforts to resolve by negotiation all disagreements arising under this Consent Decree.

20. The parties agree that all of the foregoing provisions of this Consent Decree are contingent upon the approval by the voters of the issuance of general obligation school construction bonds as provided in ch. 131 SLA 1976. In the event said bond issue fails of passage and funds are not available to carry out the commitments made in this Consent Decree, the foregoing provisions of this Consent Decree shall be null and void. The parties further agree that, notwithstanding a failure of said bond issue to be approved, the facts set forth in the Statement of Agreed Facts shall be considered established and the parties shall not relitigate such facts.

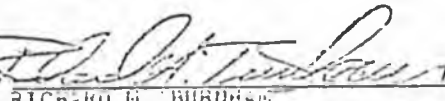
DATED Sept 13, 1976.



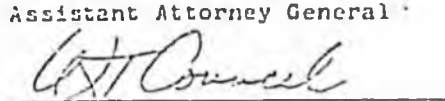
AVRON H. GROSS  
Attorney General



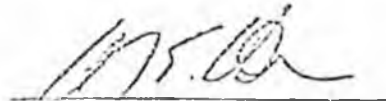
BRUCE C. TWOMEY  
Alaska Legal Services Corp.  
524 West Sixth Avenue, Ho. 203  
Anchorage, Alaska 99501  
272-9431



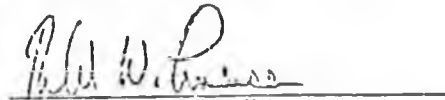
RICHARD H. BURNHAM  
Assistant Attorney General



WILLIAM T. COUNCIL  
Assistant Attorney General



STEPHEN E. COTTON  
ERIC E. VAN LOON  
Center for Law and Education  
Larsen Hall, 14 Appian Way  
Cambridge, Massachusetts 02138  
(617) 495-4666

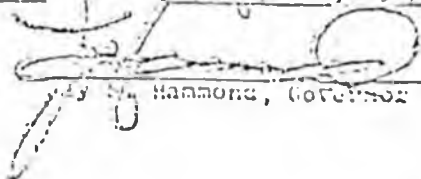


RONALD W. LORENSEN  
Assistant Attorney General

Attorneys for Defendants

Attorneys for Plaintiffs

Approved this 3 day of Sept, 1976.

  
Hammond, Governor

STATE CAPITAL  
FOUCH K. JUNEAU, ALYSSA BOGHI  
PHONE 483-2610

SCHEDULE A

Register 1976

EDUCATION

4 AAC 05.010  
4 AAC 05.020

4 AAC is amended by adding a new chapter to read:

CHAPTER 05. LOCAL EDUCATION

Section

- 10. Purpose
- 20. Definitions
- 30. Local education
- 40. Establishment of local schools
- 50. Requests that no local secondary school or only a partial school program be established
- 60. Extensions of time in which to establish local schools
- 70. Program planning and evaluation
- 80. School curriculum and personnel
- 90. Discontinuation of schools

4 AAC 05.010. PURPOSE. (a) The purpose of this chapter is to ensure that, consistent with the desires of parents and of local communities, the school-age children in the State of Alaska have the opportunity to attend an elementary or secondary school in the local communities in which they reside.

(b) Nothing in this chapter is intended to require the construction of a new facility in which to conduct a school established pursuant to this chapter, if there exists in the community a suitable facility in which the school may be conducted. (Eff. / /, Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

4 AAC 05.020. DEFINITIONS. In this chapter, unless the context requires otherwise:

- (1) "commissioner" means the Commissioner of Education;
- (2) "community" means a home-rule city, city of any class, and incorporated and unincorporated villages;
- (3) "department" means the Department of Education;
- (4) "local school committee" or "committee" means the community school committee established pursuant to AS 14.14.170 or, if there is no such committee in the community, the BIA advisory school board, or a borough school district advisory school board established pursuant to AS 14.12.035, if there is no BIA advisory school board, or borough school district advisory school board, the village or city council;
- (5) "school" means a program of instruction which complies with all statutes, regulations and requirements applicable to the operation of public schools in the state. (Eff. / /, Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

Register 1976

EDUCATION

4 AAC 05.030  
4 AAC 05.040

4 AAC 05.030. LOCAL EDUCATION. (a) Every child of school age has the right to a public education in the local community in which he resides.

(b) Neither the department nor a district may require a child to live away from the local community in which he resides to obtain an education. (Eff. / /, Reg. )

AUTHORITY: AS 14.03.080(a)  
AS 14.07.020(1) & (2)  
AS 14.07.050

4 AAC 05.040. ESTABLISHMENT OF LOCAL SCHOOLS. (a) The governing body of a district shall provide an elementary school in each community in which eight or more children are available to attend elementary school.

(b) Unless the local school committee of the community requests that no secondary school be provided in that community pursuant to sec. 50 of this chapter, the governing body of the school district shall provide a secondary school or, if so requested by the local school committee, a partial secondary school program in each community in the district in which:

(1) there is one or more children available to attend a secondary school; and

(2) there is, or there is required to be pursuant to (a) of this section, an elementary school operated by the district, or there is an elementary school operated by the Bureau of Indian Affairs.

(c) If the conditions in (a) or (b) of this section are satisfied on the effective date of this section and there is at that time no elementary or secondary school, respectively, in operation, a local elementary or secondary school required to be established under this section should be in operation by September 1, 1976 if there is a suitable facility in the community in which to conduct the school. A school must be in operation no later than September 1, 1977, unless the commissioner has granted additional time in which to comply with this section pursuant to sec. 60 of this chapter. If a school is not in operation by September 1, 1976, the governing body shall provide to the commissioner a first interim report on Dec. 1, 1976, and a second interim report on February 15, 1977, containing information he considers necessary to demonstrate that adequate planning and preparations are being made to begin operation of schools required by this section no later than September 1, 1977. Applications for additional time beyond September 1, 1977 in which to establish a school required by this section must be filed with the commissioner no later than February 15, 1977.

(d) If the conditions contained in subsections (a) or (b) of this section are first satisfied at some time after the effective date of this section and there is at that time no elementary or secondary school, respectively, in operation, a local elementary or secondary school required to be established by this section must be in operation no later than September 1 of the school year following the date on which the conditions were first satisfied, unless the commissioner has granted additional time in which to comply with this section pursuant to sec. 60 of this chapter.

(c) For purposes of this section, a school-age child who has not completed the eighth grade is considered available to attend a local elementary school, and a school-age child who has completed the eighth grade but not the twelfth grade is considered available to attend a local secondary school, unless he or she:

(1) is provided daily access to a school of the appropriate grade level by being transported a reasonable distance;

(2) desires to enroll or is enrolled and desires to remain enrolled in a private school or a program of private tutoring in which the teachers are certificated according to AS 14.20.020;

(3) desires to enroll or is enrolled and desires to remain enrolled in a full-time program of correspondence study approved by the department;

(4) has a physical or mental condition which medical authority determines will make attendance impractical;

(5) is in custody of a court or law enforcement officials; or

(6) is under suspension or has been denied admittance pursuant to AS 14.30.045. (Eff. , reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

4 AAC 05.050. REQUESTS THAT NO LOCAL SECONDARY SCHOOL OR ONLY A PARTIAL SCHOOL PROGRAM BE ESTABLISHED. (c) Sec. 40 of this chapter applies to any given community unless its local school committee has requested, by formal action of the committee at a public meeting, that only a partial secondary school program be provided in that community.

(b) The governing body of a school district shall provide a partial local secondary school program in conformity with the committee's request in any community where the local school committee has requested, by formal action of the committee at a public meeting, that only a partial secondary school program be provided in that community.

(c) The governing body of a district shall require any committee making a request under (a) or (b) of this section to file with the request the name, age, and grade level of each child who is available to attend secondary school and who, by reason of the request, will not be afforded a local secondary school. The governing body shall by written notice promptly inform the parents of each of these children that the governing body will review the committee's action if so requested by a parent, or the parent's designated representative, within 60 days of the board's mailing to the parent of the notice. If a review is requested, the governing body shall afford the parent, or the parent's designated representative, an opportunity to be heard. The governing body shall determine whether it will provide a local secondary school for any child on whose behalf a review is sought, taking into account the educational or other best interests of the child.

the desires of the child's parents, and the feasibility of providing a local school for the child. The governing body's decision must be in writing, must set out the facts upon which it is based, and must, within 45 days after the parent's mailing to the governing body a request for a review, be mailed to the parent, and a copy sent to the commissioner, Pouch F, Juneau, Alaska 99801 and a local school committee. The governing body's decision is final.

(d) A committee under (a) or (b) of this section remains effective until formally rescinded. If a committee's initial request remains effective until the close of the full school year after the request was made even though rescinded thereafter, thereafter, rescissions made during a school year but before February 1 of that school year shall be given effect for the following school year and thereafter. Requests under (a) or (b) of this section and subsequent notices of rescission of these requests must be submitted by the committee, in writing, to the governing body of the school district in which the community is located and must contain an explanation of the reason for which it is being made. The committee shall also send a copy of the request or notice of rescission to the commissioner, Pouch F, Juneau, Alaska 99811.

(e) For a request or subsequent rescission of a request made under this section to have effect, the local school committee must have conducted a public hearing on the proposed request or rescission of the request after giving residents of the community reasonable notice of the hearing. A record must be kept of the persons speaking at the hearing and the substance of their testimony. (Eff. 1/1/76, Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

4 AAC 05.060. EXTENSIONS OF TIME IN WHICH TO ESTABLISH LOCAL SCHOOLS.  
(a) A district may apply to the commissioner for additional time in which to establish an elementary or secondary school required under sec. 40 of this chapter. The application must be in writing and must set out: (1) the community affected; (2) a detailed statement of the reason why a school cannot be provided by the date specified in sec. 40(c) and (d) of this chapter; (3) a description of the steps taken or to be taken to achieve compliance with sec. 40 of this chapter; (4) an estimate of the date upon which compliance can be achieved; (5) the number of children available to attend school but unhoused; and (6) if the reason the district is unable to comply with sec. 40 of this chapter is that it lacks a suitable facility in the community, the estimated size and cost of the facility required and a proposed timetable for construction of a suitable facility.

(b) Upon receipt of an application for an extension of time in excess of 90 days, the commissioner shall provide a copy of the application to the

Register , 1976

EDUCATION

4 MAC 05.060

local school committee in the community affected and shall notify the committee that comments and information relating to the application will be considered by him if he receives it within 30 days after the date of mailing that notice. The commissioner shall also notify the committee that he or his designee will conduct a public hearing on the application in the community if the committee so requests and presents to him a genuine issue of material fact. A similar notice, summarizing the application, shall be provided to the village or city council and to each postal customer in the community by the commissioner.

(c) A hearing under (b) of this section shall be conducted as soon as practicable after the receipt of a bona fide request. The commissioner shall provide reasonable notice of the hearing, at least 20 days in advance, to the committee, the village or city council and to each postal customer in the community. A record must be kept of the persons at the hearing and the substance of their testimony. The proceedings must, if necessary, be translated into the native language of the persons at the hearing. The application and such further information as may have been submitted by the district, or a summary of it, must be read at the hearing.

(d) The commissioner, upon reviewing an application, may require the district to submit additional information and may investigate the facts surrounding the application on his own motion. He shall, within a reasonable period, render his decision, in writing, setting out the facts upon which it is based and taking into account reasonable alternatives to an extension of time which may be available. If the commissioner approves the application, he shall require the district to take all reasonable steps to establish an elementary or secondary school at the earliest practicable time and shall set forth a timetable for establishing the school. The total amount of additional time allowed, including later modifications, may not exceed one year, unless further time is necessary for the construction or major renovation of a suitable facility.

(e) Later modifications to an approved compliance date may be requested in the same manner as the initial application for additional time under this section. An allowance of additional time or subsequent modification of an approved compliance date may be shortened or revoked by the commissioner if the conditions upon which the approval of additional time were based cease to exist.

(f) An application by a regional educational attendance area school board for additional time, for the reason that there is no suitable facility in the community in which to establish an elementary or secondary school required by this section, is considered a recommendation to the commissioner for construction of a new facility pursuant to AS 14.08.101(7).  
(Eff. 1/1, Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060  
AS 14.08.101(7)

4 AAC 05.070. PROGRAM PLANNING AND EVALUATION. (a) For each of the first three years of operation of a school established under sec. 40 of this chapter, the chief school administrator of a school district shall develop and have approved by the governing body of that district, annually and no later than that body's first meeting in October, an educational plan for each school established.

(b) After the close of each school year for which an educational plan must be developed under (a) of this section, but no later than the governing body's first meeting in September, the chief school administrator shall prepare and submit to the governing body of the school district an evaluation of each new school operated by the district.

(c) The chief school administrator of a district shall assure maximum on-going local community participation in the development and preparation of the educational plans and evaluations of the plans required by this section.

(d) Copies of the plans and evaluations developed under this section must be maintained on file for public inspection in the school district office. A copy of each plan and evaluation must also be filed with the commissioner, Pouch F, Juneau, Alaska 99811. A copy must also be furnished to the local school committee of the community in which the school to which the plan or evaluation relates is located. (Eff. / / , Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

4 AAC 05.080. SCHOOL CURRICULUM AND PERSONNEL. (a) The curriculum of a local school may be supplemented through the use of correspondence course materials approved by the commissioner. This use is not grounds for shortening the day in session, as prescribed by AS 14.03.040, for any student.

(b) The governing body of a district shall employ, for each school, certificated teachers for the instruction of the pupils enrolled in it as necessary to provide the educational program described in the plan developed under sec. 70(e) of this chapter.

(c) The governing body of a district may make provision for the employment of qualified residents of the community served by the school who hold an appropriate certificate (e.g., emergency or recognized expert) to teach particular skills or courses, and for the employment as teacher aides of qualified residents of the community served who do not hold an appropriate certificate. (Eff. / / , Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

Register , 1976

EDUCATION

4 AAC 05.050  
4 AAC 09.050

4 AAC 05.050. DISCONTINUATION OF SCHOOLS. Once provision of a school in a community has been initiated by undertaking major renovation of an existing facility or construction of a new facility, that school may only be discontinued through action of the governing body of the district. Plans for discontinuation of a school under this section must be submitted to the department for approval and may not be executed until they are approved. Plans will be considered approved if the department does not disapprove them within 90 days after submission. (Eff. / / , Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.07.060

2. 4 AAC 06.020. SECONDARY EDUCATION. Repealed. (Eff. / / , Reg. )

3. 4 AAC 06.027(b) is amended to read as follows:

(b) Pupils may be required to attend schools in other districts, subject to the provisions of Ch. 5 of this title, when, in the judgment of the commissioner, the best interests of the state will be served. Either the district of residence or the district named as the attendance area may appeal the commissioner's decision to the state board. The decision of the state board will be final. (Eff. 7/9/72, Reg. 42; am / / , Reg. )

4. 4 AAC 09.030(B) is repealed. (In effect before 7/26/59; am 6/9/61, Reg. 3; am 10/14/68, Reg. 27; am 8/30/75, Reg. 55; am / / , Reg. )

5. Note to Publisher: Change title of 4 AAC 09.030 to read "Tuition costs".

6. A new section, 4 AAC 09.050, is adopted to read as follows:

4 AAC 09.050. SECONDARY BOARDING PROGRAMS. (a) The governing body of a district shall make available, at no cost to the student or his parent, a basic boarding program to all secondary school age children in the district who do not have daily access to a school of the appropriate grade level by being transported a reasonable distance.

(1) A basic boarding program must provide for each student:

(A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;

(B) round trip transportation to and from the student's usual home; and

(C) daily access to a school offering the appropriate grade level.

(2) Students in a basic boarding program shall be placed in accordance with their best interests, taking into account special educational needs.

(3) To qualify for funding by the department of education, a district's basic boarding program must satisfy the requirements of (1) and (2) of this subsection. Applications for funding must contain the following:

- (A) the name, village and grade level of each student;
- (B) the location of each student's boarding placement and;
- (C) a budget showing transportation, room and board, and out-of-school supervision costs.

(4) Costs for items other than transportation, room and board, and out-of-school supervision must be borne by the district.

(b) The governing body of a district may provide, at no cost to the student or his parents, a supplemental boarding program open to secondary school age children in the district who have daily access to a school program of the appropriate grade level, but who have special needs that cannot be provided for in their local school program.

(1) A supplemental boarding program shall provide for each student:

- (A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;
- (B) round trip transportation to and from the student's usual home; and
- (C) daily access to a school offering the appropriate grade level.

(2) Criteria for eligibility and participation in a supplemental boarding program must be established by the governing body. Notice of the eligibility criteria must be provided at least annually to the parents of the children who have daily access to a school of the appropriate grade level.

(3) All costs of a supplemental boarding program must be borne by the district unless funds are otherwise provided by the state or federal government.

(c) No student may be suspended or expelled from a boarding program without due process of law. A student suspended or expelled from a boarding program is not thereby considered unavailable to attend a local secondary school required by 4 AAC 05.040. (Eff. / /, Reg. )

AUTHORITY: AS 14.07.020(1) & (2)  
AS 14.03.030(5) & (10),  
AS 14.07.060

SCHEDULE B

- |                    |                        |
|--------------------|------------------------|
| 1. Akiachak        | 34. Ekvok              |
| 2. Akiak           | 35. Elim               |
| 3. Akutan          | 36. False Pass         |
| 4. Allakaket       | 37. Fortuna Ledge      |
| 5. Aleknagik       | 38. Gambell            |
| 6. Ambler          | 39. Golovin            |
| 7. Angoon          | 40. Goodnews Bay       |
| 8. Anvik           | 41. Grayling           |
| 9. Arctic Village  | 42. Holy Cross         |
| 10. Atka           | 43. Hooper Bay         |
| 11. Atmautluak     | 44. Hughes             |
| 12. Beaver         | 45. Huslia             |
| 13. Belkofski      | 46. Igiugig            |
| 14. Bettles        | 47. Ivanof Bay         |
| 15. Birch Creek    | 48. Kalskag            |
| 16. Brevig Mission | 49. Kaltag             |
| 17. Buckland       | 50. Kasigluk           |
| 18. Chalkyitsik    | 51. Kipnuk             |
| 19. Chefornak      | 52. Kivalina           |
| 20. Chevak         | 53. Kobuk              |
| 21. Chignik        | 54. Kokhanok           |
| 22. Chignik Lagoon | 55. Koliganek          |
| 23. Chignik Lake   | 56. Kongiganak         |
| 24. Chuathbaluk    | 57. Kotlik             |
| 25. Circle         | 58. Koyuk              |
| 26. Clark's Point  | 59. Koyukuk            |
| 27. Council        | 60. Iwethluk           |
| 28. Crooked Creek  | 61. Kwigillingok       |
| 29. Deering        | 62. Levelock           |
| 30. Diomedea       | 63. Lime Village       |
| 31. Dot Lake       | 64. Lower Kalskag      |
| 32. Eek            | 65. Hanley Hot Springs |
| 33. Egegik         | 66. Nanokotak          |

## SCHEDULE B

-2-

67.	Nekoryuk	101.	Savoonga
68.	Nentasta Lake	102.	Scammon Bay
69.	Ninto	103.	Shageluk
70.	Napakiaik	104.	Shaktoolik
71.	Napaskiak	105.	Sheldon Point
72.	Nelson Lagoon	106.	Shishmaref
73.	Newhalen	107.	Shungnak
74.	New Kasaan	108.	Sleetmute
75.	New Stuyahok	109.	Stebbins
76.	Newtok	110.	Steven's Village
77.	Nightmute	111.	Stoney River
78.	Nikolai	112.	Takotna
79.	Nikolski	113.	Tatitlek
80.	Noatak	114.	Telida
81.	Nondalton	115.	Teller
82.	Northway	116.	Tetlin
83.	Nunapitchuk	117.	Togiak
84.	Oghsenakale	118.	Toksook Bay
85.	Oscarville	119.	Tuluksak
86.	Pedro Bay	120.	Tuntutuliak
87.	Perryville	121.	Tununak
88.	Pilot Point	122.	Twin Hills
89.	Pilot Station	123.	Unalakleet
90.	Pitka's Point	124.	Venetie
91.	Platinum	125.	Wales
92.	Pt. Helden	126.	White Mountain
93.	Quinhagak		
94.	Rampart		
95.	Red Devil		
96.	Ruby		
97.	Russian Mission		
98.	St. George		
99.	St. Michael		
100.	St. Paul Island		

SCHEDULE C  
CONSTRUCTION SITES

<u>LOCATION</u>	<u>ESTIMATES</u>
<u>MAJOR CONSTRUCTION SITES</u>	
1. Akiachak <i>Not done This Spring</i>	\$1,260,000
2. Allakaket <i>Full Burned Elem 1/79</i>	690,000
3. Ambler <i>done - Addition Spring</i>	930,000
4. Angoon <i>done</i>	500,000
5. Atmautluak	720,000
6. Bucklana <i>done</i>	630,000
7. Cheforak <i>This Spring</i>	720,000
8. Chuathbaluk	630,000
9. Crooked Creek	630,000
10. Eek <i>This Spring</i>	630,000
11. Elin	630,000
12. Fortuna Ledge <i>This Spring</i>	720,000
13. Goodnews Bay	870,000
14. Kalskag (upper & lower) <i>done</i>	990,000
15. Kasigluk <i>done - school building</i>	1,110,000
16. Kipnuk <i>done - school building</i>	470,000
17. Koliganek <i>This Spring</i>	690,000
18. Kongiganak	1,050,000
19. Kotlik <i>This Spring</i>	1,230,000
20. Kwethluk	1,770,000
21. Kwigillingok	810,000
22. Manokotak <i>done</i>	1,100,000
23. Mekoryuk <i>done This Spring</i>	690,000
24. Napakiak <i>done - school building</i>	960,000
25. Napaskiak <i>This Spring</i>	1,020,000
26. New Stuyahok	1,000,000
27. Newtok <i>This Spring</i>	690,000
28. Noatak	770,000
29. Nondalton <i>done</i>	690,000
30. Nunapitchuk <i>This Spring</i>	1,290,000
31. Pilot Station	1,050,000
32. Quinhagak	1,170,000
33. Scammon Bay	810,000
34. Stebbins	1,050,000
35. Tuluksak	780,000
36. Tuntutuliak	840,000
37. Tununak	1,080,000
TOTAL	<u>\$32,670,000</u>

CONSTRUCTION SITES FOR PROJECTED ENROLLMENTS OF 11-20 STUDENTS

Estimate per site : \$200,000  
 TOTAL (35 sites): \$7,000,000

- |                                       |  |
|---------------------------------------|--|
| 1. Akiak Under Construction           | 19. Minto Partially Completed            |
| 2. Anvik This Spring                  | 20. Newhalen don't know                  |
| 3. Arctic Village Partially Completed | 21. Nightmute This Spring                |
| 4. Brevig Mission ?                   | 22. Nikolai " " "                        |
| 5. Chignik Lake ?                     | 23. Perryville                           |
| 6. Clark's Point ?                    | 24. Pitka's Point This Spring            |
| 7. Deering don't know                 | 25. Ruby don't know                      |
| 8. Diomedea ?                         | 26. Russian Mission This Spring          |
| 9. Dot Lake                           | 27. St. George Island Under Construction |
| 10. Egegik New Possibility            | 28. St. Michael ?                        |
| 11. Ekvok don't know                  | 29. Shageluk don't know                  |
| 12. Golovin ?                         | 30. Shaktolik ?                          |
| 13. Grayling Partially Completed      | 31. Sheldon Point This Spring            |
| 14. Huslia " " " " " "                | 32. Sleetmute Partially Completed        |
| 15. Kokhanok This Spring              | 33. Teller Partially Completed           |
| 16. Koyuk ?                           | 34. Tetlin " " " " " "                   |
| 17. Koyukuk This Spring               | 35. Twin Hills " " " " " "               |
| 18. Levelock: " " " " " "             |  |

*estimate is \$200,000  
 don't know  
 only need 100,000  
 Government is building  
 just need it.*

SCHEDULE C

PAGE 3

SITES OF MINIMAL CONSTRUCTION OR RENOVATION

Estimate per site: \$ 25,000  
TOTAL (36 Sites) : 900,000

- |                               |                        |
|-------------------------------|------------------------|
| 1. Alutan                     | 18. Manley Hot Springs |
| 2. Atka                       | 19. Nelson Lagoon      |
| 3. Beaver                     | 20. Nikolski           |
| 4. Belkofski                  | 21. New Kasaan         |
| 5. Bettles                    | 22. Oghsenakale        |
| 6. Birch Creek                | 23. Oscarville         |
| 7. Chalkyitsik                | 24. Pedro Bay          |
| 8. Chignik                    | 25. Pilot Point        |
| 9. Chignik Lagoon             | 26. Platinum           |
| 10. Circle                    | 27. Pt. Heiden         |
| 11. Council                   | 28. Rampart            |
| 12. False Pass                | 29. Red Devil          |
| 13. Hughes                    | 30. Steven's Village   |
| 14. Igiugig                   | 31. Stoney River       |
| 15. Ivanof Bay. <i>C/1000</i> | 32. Takotna            |
| 16. Kobuk                     | 33. Tatitlek           |
| 17. Lime Village              | 34. Venetie            |
|                               | 35. Wales              |
|                               | 36. White Mountain     |

SCHEDULE D

Presently Committed Construction Funds

	<u>Site</u>	<u>Amount</u>
1.	Angoon	720,000
2.	Chevak #	
3.	Gambell	1,400,000
4.	Holy Cross	440,000
5.	Hooper Bay #	
6.	Kaltag	2,212,000
7.	Kipnuk	1,000,000
8.	Kivalina	2,300,000
9.	Kongiganak	2,200,000
10.	Manokotak	400,000
11.	New Stuyahok	200,000
12.	Noatak	400,000
13.	Northway	1,800,000
14.	St. Paul Island	1,000,000
15.	Sand Point	1,000,000
16.	Savoonga	1,600,000
17.	Shishmaref	2,492,000
18.	Shungnak	2,800,000
19.	Togiak	1,835,000
20.	Toksook Bay	2,100,000
21.	Unalakleet	2,000,000

# Construction of secondary schools at Chevak and Hooper Bay has been undertaken by the Federal Government with no commitment of State funds.