

HB

235

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 235

Revision Date: _____
Title: An Act relating to educational programs and services for children with disabilities and other exceptional children
Sponsor: Representative Con Bunde
Requestor: Representative Con Bunde

Department Affected: Education
BRU: Educational Program Support
Component: Special and Supplemental Services

COMPONENT SERIAL NO. _____ 166

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| REVENUE FUND SOURCE: | | | | | | |
|----------------------|--|--|--|--|--|--|

FUNDING:

(Thousands of Dollars)

| | | | | | | |
|--------------------------|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.) At present, Alaska's State Plan for fiscal years FY 92-94 under Part B of the Individuals with Disabilities Education Act has conditional approval by the U.S. Department of Education and is contingent upon federal acceptance of changes to Alaska statutes and regulations making them consistent with Part B requirements. HB 235 provides for federal acceptance. If HB 235 fails to become law, the state may lose \$8,344,517 in federal funds. See attached sheets for additional information

Prepared by: Mike Maner
Division: Commissioner's Office

Phone: 465-2803
Date: 3/19/93

Approved by Commissioner: 
Agency: Education

Jerry Covey
Date: 3-19-93

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House Bill 235 provides for compliance with federal statutes under Part B of the Individuals with Disabilities Education Act by amending Alaska statutes to make them consistent with Part B requirements. Failure to pass HB 235 could result in the loss of both dollars and services provided by the department and the school districts to educate children with disabilities.

If Alaska does not meet the terms of the conditional approval of its State Plan, the Federal Office of Special Education Programs could withhold our Part B funds and PL 89-313 funds in the amount of 8.3 million dollars. This would result in the loss of 3.8 FTE special education program managers at the department which now has 4.0 FTE. It also would result in the loss of 1.0 FTE Clerk Typist III and 1.3 FTE Grant Managers in special education which now has 1.0 FTE Clerk Typist III and 2.0 FTE Grant Managers.

In addition, there would be no money to pay for department-sponsored special education state-wide professional training opportunities, technical assistance to school districts, and special projects such as preparation and printing of the Alaska Special Education Handbook and booklets regarding parent rights.

Failure to pass HB 235 could result in the loss of 6.9 million dollars, of the 8.3 million dollars Alaska receives, in direct grants to school districts based on submitted child counts of children with disabilities. The following three pages show how the federal dollars would be allocated for FY 94 based on the December 1992 child count and the FY 93 per pupil amount.

| Title VI-B | | |
|-------------------|---|------------------|
| 5,148,324 | Total Allocation From USDOE | |
| 1,235,598 | Administrative funds for DOE and discretionary projects | |
| 3,912,726 | Total Allocation to LEAs based on formula (child count) | |
| 280.582735 | Per Pupil Amount | |
| | Dec . 92 | Projected |
| | Child | FY 94 |
| | Count | Allocation |
| 056 Aleutian East | 62 | 17,396 |
| 005 Anchorage | 6,021 | 1,689,389 |
| 012 Cordova | 72 | 20,202 |
| 000 Denali | 10 | 2,806 |
| 015 Dillingham | 75 | 21,044 |
| 016 Fairbanks | 1,713 | 480,638 |
| 022 Juneau | 781 | 219,135 |
| 024 Kenai | 1,490 | 418,068 |
| 025 Ketchikan | 318 | 89,225 |
| 028 Kodiak | 401 | 112,514 |
| 030 Lake & Pen | 43 | 12,065 |
| 033 Matsu | 1,426 | 400,111 |
| 035 Norne | 100 | 28,058 |
| 036 North Slope | 163 | 45,735 |
| 037 NW Arctic | 289 | 81,088 |
| 039 Petersburg | 106 | 29,742 |
| 042 Sitka | 219 | 61,448 |
| 048 Valdez | 95 | 26,655 |
| 049 Wrangell | 81 | 22,727 |
| Subtotal | 13,485 | 3,778,047 |
| 017 Galena | 20 | 5,612 |
| 034 Nenana | 34 | 9,540 |
| 053 Tanana | 20 | 5,612 |
| Subtotal | 74 | 20,763 |
| 008 Bristol Bay | 41 | 11,504 |
| 013 Craig | 55 | 15,432 |
| 018 Haines | 45 | 12,626 |
| 019 Hoonah | 55 | 15,432 |
| 020 Hydaburg | 15 | 4,209 |
| 023 Kake | 45 | 12,626 |
| 027 Klawock | 42 | 11,784 |
| 038 Pelican | 13 | 3,648 |
| 046 St. Marys | 24 | 6,734 |
| 043 Skagway | 11 | 3,088 |
| 047 Unalaska | 32 | 8,979 |
| 050 Yakutat | 28 | 7,856 |
| 155 SERRC | 406 | 113,917 |
| Total | 13,945 | 3,912,726 |

| Pre School | | |
|---|--------------|----------------|
| 1,043,491 Total Allocation from USDOE | | |
| 208,698 Administrative funds for DOE and discretionary projects | | |
| 834,793 Total Allocation to LEAs based on formula (child count) | | |
| 560.2636 Per pupil allocation | | |
| | Dec-92 | Projected |
| | Child | FY94 |
| | Count | Allocation |
| 005 Anchorage | 623 | 349,044 |
| 016 Fairbanks | 205 | 114,854 |
| 022 Juneau | 104 | 58,267 |
| 024 Kenai | 131 | 73,395 |
| 025 Ketchikan | 49 | 27,453 |
| 028 Kodiak | 40 | 22,411 |
| 030 Lake & Pen | 14 | 7,844 |
| 033 Mat Su | 140 | 78,437 |
| 000 Nenana | 2 | 1,121 |
| 036 North Slope | 14 | 7,844 |
| 037 NW Arctic | | 10,085 |
| 038 Pelican | | 0 |
| 042 Sitka | 35 | 19,609 |
| Subtotal | 1,375 | 770,362 |
| 039 Petersburg | 7 | 3,922 |
| 048 Valdez | 15 | 8,404 |
| Subtotal | 22 | 12,326 |
| 056 Aleutian East | 5 | 2,801 |
| 008 Bristol Bay | 0 | 0 |
| 012 Cordova | 12 | 6,723 |
| 013 Craig | 8 | 4,482 |
| 015 Dillingham | 13 | 7,283 |
| 017 Galena | 1 | 560 |
| 018 Haines | 6 | 3,362 |
| 019 Hoonah | 10 | 5,603 |
| 020 Hydaburg | 0 | 0 |
| 023 Kake | 7 | 3,922 |
| 027 Klawock | 4 | 2,241 |
| 035 Nome | 1 | 560 |
| 046 St. Marys | 2 | 1,121 |
| 043 Skagway | 1 | 560 |
| 053 Tanana | 3 | 1,681 |
| 047 Unalaska | 2 | 1,121 |
| 049 Wrangell | 10 | 5,603 |
| 050 Yakutat | 8 | 4,482 |
| 155 SERRC | 93 | 52,105 |
| Total | 1,490 | 834,793 |

| P.L. 89-313 DISTRICT | | |
|---|-------------|--------------------|
| PROJECT APPLICATIONS | | |
| FY 94 ESTIMATE | \$2,152,702 | State total |
| | \$629.08 | per child |
| | | FY 94 Allocation |
| | Count 12/92 | Estimate |
| REAA | | |
| Adak | 80 | \$50,326 |
| Alaska gateway | 78 | \$49,068 |
| Aleutian | 7 | \$4,404 |
| Anchorage OnBase | 245 | \$154,124 |
| Annette Island | 77 | \$48,439 |
| Bering St. | 268 | \$168,593 |
| Chatham | 62 | \$39,003 |
| Chugach | 13 | \$8,178 |
| Copper River | 76 | \$47,810 |
| Delta | 152 | \$95,620 |
| Fairbanks OnBase | 255 | \$160,415 |
| Hess | 558 | \$351,025 |
| Iditarod | 70 | \$44,035 |
| Kashunamuit | 30 | \$18,872 |
| Kuspuk | 93 | \$58,504 |
| Lake & Pen | 0 | \$0 |
| Lower Kuskokwim | 429 | \$269,874 |
| Lower Yukon | 254 | \$159,786 |
| Pribof | 34 | \$21,389 |
| Raiet | 0 | \$0 |
| Southeast Is | 66 | \$41,519 |
| Southwest Region | 82 | \$51,584 |
| Yukon Flats | 50 | \$31,454 |
| Yukon Koyukuk | 118 | \$74,231 |
| Yupik | 79 | \$49,597 |
| Mt Edgecumbe | 5 | \$3,145 |
| total | 3181 | \$2,001,094 |
| LEA | | |
| Aleutian East | 2 | \$1,258 |
| Denali | 32 | \$20,130 |
| Fairbanks, LEA | 80 | \$50,359 |
| Haines | 7 | \$4,404 |
| Lake & Peninsula | 42 | \$26,421 |
| Mat-Su | 48 | \$30,193 |
| Nome | 21 | \$13,211 |
| NW Arctic | 0 | \$0 |
| Petersburg | 0 | \$0 |
| Wrangell | 1 | \$629 |
| total | 241 | \$151,006 |
| GRAND TOTAL | 3422 | \$2,152,702 |
| NOTE: Based on FY 93 Allocation and FY 94 Child Count | | |

STATE OF ALASKA

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894

April 20, 1993

The Honorable Steve Rieger
Senate HESS Committee, Chair
State Capitol, Room 516
Juneau, AK 99801

Dear Senator Rieger:

Thank you very much for scheduling a hearing before the Senate HESS Committee to consider HB 235, "An Act relating to education programs and services for children with disabilities and other exceptional children and to persons with a handicap."

This legislation amends existing statutes relating to the education programs for exceptional children. As you know, educational programs for children with disabilities receive substantial money from the federal government. Receipt of federal money is contingent upon compliance with the federal requirements. Five statutory changes in this bill are necessary to keep Alaska in compliance with the recent changes to the federal requirements.

The following sections of HB 235 address the changes required by the U.S. Department of Education:

Section 8. Alaska statutes presently allow a school district to initiate a due process hearing only to prove that its evaluation of a child is correct. Federal statutes permit a school district or a parent to initiate a hearing on all hearable topics. This section will allow a school district to initiate a hearing for the same reasons a parent initiates a hearing.

Section 11 and Section 20. The U.S. Department of Education has specified that the definition of consent must contain the required federal components as presented in these sections.

Section 22. The re-authorization of P.L. 94-142, now named Individuals with Disabilities Education Act (*IDEA*), includes rehabilitation counseling as a related service.

Section 24. Two new categories of children with disabilities were mandated by *IDEA*, autism and traumatic brain injury. The definition of "educational records" listed in this section is also required by the U.S. Department of Education.

Letter, Senator Rieger
April 20, 1993
Page 2

At present, Alaska's State Plan for FY 1992-94 under Part B of *IDEA* has conditional approval by the U.S. Department of Education and is contingent upon federal acceptance of changes to Alaska statutes. If Alaska does not meet the terms of the conditional approval, the Federal Office of Special Education has indicated that it is highly probable that Part B and PL 89-313 funds in the amount of \$8,344,517 for FY 94 will be withheld. This would result in the loss of \$1,444,296 in administrative and discretionary funds, and \$6,900,221 in direct grants to school districts.

Loss of the administrative and discretionary funds will eliminate the Department of Education's ability to provide statewide leadership to and supervision of programs for children with disabilities throughout the state. It also will eliminate funds for program development activities, technical assistance to districts and training and support for parents.

Loss of direct grants to the school districts will seriously limit a district's ability to provide a variety of special education and related services such as speech therapy, occupational and physical therapy to children, diagnostic services, staff development and parent training and support.

Passage of HB 235 will address the compliance issue raised by the Federal Office of Special Education and will ensure additional resources to meet the needs of Alaska's children with disabilities. Thank you very much for your support on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Covey". The signature is stylized with large, sweeping loops and a long, thin tail extending downwards and to the right.

Jerry Covey
Commissioner

cc: Representative Con Bunde

**Senate CS for CS for House Bill No. 235 (STA)
Sectional Analysis**

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

- Sec. 1. Indicates that AS 14.30.180 - 14.30.350 are intended to allow procedures and actions necessary to comply with the requirements of federal law, Individuals with Disabilities Education Act (IDEA).
- Sec. 2. Clarifies that an exceptional child has the right to special education services. An exceptional child educated under AS 14.30.010(b) may not be compelled to receive special education services.
- Sec. 3. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 4. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 5. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 6. Outlines that a parent may obtain an independent education evaluation by a person of the parent's choosing or by a person selected by agreement between the parent and the school district.
- Sec. 7. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 8. Clarifies two separate hearing processes -- an informal or formal due process hearing involving a parent and a school district and an appeal hearing to the department.

A school district may appoint an impartial hearing officer to conduct a hearing to determine whether a child should receive special education services if a parent refuses to consent or does not respond in 30 days. Also, if a parent disagrees with the district's placement or program for a child, a parent may request a hearing.

A hearing officer must be approved in writing by the parent unless the parent has been offered and has rejected three different hearing officers.

The appointed hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district.

A hearing officer's decision is binding, unless the decision is appealed. A parent or a school district may appeal a hearing officer's decision under this section to the Department of Education.

A child may not be compelled to receive special education services until the appeal process is completed.

The department shall maintain a list of qualified hearing officers who have been qualified for a period not to exceed five years through a training program.

- Sec. 9. Clarifies that appeal hearings shall be based on the record of the impartial hearing officer's decisions and that the hearings shall comply with all requirements necessary for participation in federal grant-in-aid programs.
- Sec. 10. After the department renders its decision, a parent or the school district may appeal the decision to the appropriate court. A parent who appeals to the court and who is an "indigent person" may be provided with a court appoint attorney at public expense.
- Sec. 11. Clarifies that consent granted by a parent may be withdrawn.
- Sec. 12. Clarifies the school district's responsibility to inform the parent of the right to appeal a hearing officer's decision.
- Sec. 13. Grants the department the authority to establish, by regulations, impartial procedures for a school district to follow for hearings under AS 14.30.193.
- Sec. 14. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 15. Adds a new subsection to clarify that each school district shall develop an individualized education program for every exceptional child who receives services under AS 14.30.180 - 14.30.350.
- Sec. 16. States clearly that the district must obtain consent from the child's parent before a child may be transferred to a school outside the district in which the child resides.
- Sec. 17. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 18. Requires the school district to make available special education and related services to an exceptional child even if the child is taught at home, at a private school, or in a hospital. This section reflects current practice.

- Sec. 19. Replaces the phrase "handicaps" with "disabilities" to match federal terminology.
- Sec. 20. Conforms the definition of "consent" to the required federal components. Consent means the parent has been fully informed and voluntarily agrees.
- Sec. 21. Simplifies the definition of "exceptional children".
- Sec. 22. Includes "rehabilitation counseling" as a related service provided under special education as mandated by the federal re-authorization of PL 94-142.
- Sec. 23. Replaces the term "handicapped child" with the defined term "exceptional children".
- Sec. 24. Defines "children with disabilities", "educational records", gifted children", "individualized education program team" and "parent".

Two new disability categories are included - autism and traumatic brain injury. The definition of "educational records" is required by the U.S. Department of Education. Actual current practice is mirrored in the phrase "individualized education program team".

- Sec. 25. Establishes June 30, 1993, as the effective date of the legislation.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DRAFT

Ms. Myra Howe
Director
Office of Special and Supplemental
Services
Office of Special Education
Alaska Department of education
801 West 10th Street, Suite 200
Juneau, Alaska 99801-1894

Dear Ms. Howe:

This is in response to your conversation with Chuck Laster during the week of February 14, 1993, at which time you posed questions regarding the Alaska Department of Education's (AKDE) conditional approval of its 1992-1994 State Plan. It is the understanding of the Office of Special Education Programs (OSEP) that AKDE has continued to have difficulty in completing the statutory and regulatory changes that were required as a condition of OSEP's approval of AKDE's 1992 State Plan.

In a letter from former AKDE State Director of the Office and Special and Supplemental Services, Jim Rich, to former OSEP Director, Judy Schrag, on June 1, 1992, Alaska House Bill 419 and Senate Bill 371 were tabled by the legislature. Mr. Rich assured OSEP that the legislation would be resubmitted when the legislature resumed in January of 1993. According to the information you shared with Mr. Laster in February, you are concerned that these Bills may again be tabled.

Although OSEP commends AKDE for its efforts to ensure that the required statutory and regulatory requirements be amended and included in its State Plan, OSEP must advise you that AKDE's upcoming 1994 grant award cannot be released until the required revisions to its 1992 State Plan have been completed. (See OSEP Memo 93-13, page 2, item B., dated March 12, 1993, copy attached.)

Please note the following excerpt from OSEP's letter of September 11, 1992 to Commissioner Gerald Covey:

As soon as possible, but not later than July 1, 1993, your agency must provide OSEP with copies of all amended State Plan documents, including the revised regulations that have been adopted by the State Board of Education, the revised statute that has been enacted by the State Legislature, and the required documents to the monitoring system.

Page 2 - Ms. Myra Howe

In addition, OSEP advised AKDE that:

Your State's Part B grant award for 1994 (i.e., the grant period beginning July 1, 1993) will be issued as funds become available for obligation at the Federal level, and if, in addition to meeting the conditions noted above, the following criteria are met:

- (1) The State meets the conditions of eligibility required under section 612 of the Act, including having in effect an approved Part B State Plan for the period of the FY 1994 award;
- (2) Your agency submits amendments to the Part B State Plan to conform to the changes required by P.L. 101-476 and P.L. 102-119 and those amendments are approved by OSEP; and
- (3) Your agency provides OSEP with copies of (a) all required certifications, including ED Form 80-0013, and (b) all required reports, including the Annual Data Report and Annual Performance Report.

I hope that this letter is responsive to your request for information regarding your 1994 grant award. Thank you for your continuing efforts to ensure the provision of quality educational services to children and youth with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc. Honorable Gerald Covey



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 12, 1993

Contact Person:
Thomas B. Irvin
Telephone: (202) 205-8825

OSEP 93-13

OSEP MEMORANDUM

TO : State Directors of Special Education

FROM : Patricia J. Guard, *Patricia J. Guard*
Acting Director
Office of Special Education Programs

SUBJECT: Reminder About Grant Requirements Under IDEA-Part B and
the Preschool Grants Program for FY 1994 (i.e., the
Grant Period Beginning July 1, 1993)

This memorandum is a brief follow-up to OSEP Memo 93-3, dated November 9, 1992 -- which set out the requirements your State must meet to receive grant awards for Fiscal Year (FY) 1994 under Part B of the Individuals with Disabilities Education Act (Act; Part B), and the Preschool Grants Program under section 619 of the Act. The purposes of the memorandum are (1) to remind you about the requirements in OSEP 93-3, and (2) to ask that you inform us, as appropriate, of the dates(s) on which you will be submitting the various State Plan documents to the Office of Special Education Programs (OSEP).

A. New State Plan Requirements -- APPLICABLE TO ALL STATES

In order for your State to receive a grant under Part B for FY 1994, the State must (1) submit information demonstrating that it is meeting the new State Plan requirements that were added by the September 29, 1992, final Part B regulations, and (2) meet any other applicable provisions -- including the public participation requirements -- that apply. (See OSEP Memo 93-3 for specific information about the grant requirements for FY 1994.)

In meeting the new State Plan requirements, please follow the appropriate procedures, below, that apply to your State.

1. States Submitting New 3-year State Plans (i.e., Group I States).¹ If your State is submitting an FY 1994-96 State Plan, please address the new requirements added by the 9-29-92 final Part B regulations -- by incorporating the new material into each specific State Plan section that is covered by those requirements.
2. All Other States (i.e., those whose current Part B Plans remain in effect throughout FY 1994). If your State is in this category, please provide OSEP with ONLY the changes in your State Plan that have been made as a result of the 9-29-92 final Part B regulations.² Please do not re-submit the entire State Plan.

These changes may be typed on a single document -- with specific headings to identify the precise section of the plan that is being amended. Alternatively, each change may be included on a separate page(s), with specific identifying information to correspond to the specific section of the Plan that is being amended;

B. States with Conditionally Approved Plans

In addition to meeting the new requirements added by the September 29, 1992, final Part B regulations, any State that currently has a State Plan that was conditionally approved last year must also submit information demonstrating that it has met the conditions in its FY 1993 conditional approval letter. (As you know, a State's Part B grant award for FY 1994 cannot be issued until documentation is received that those conditions are met.)

C. Certification Forms and other Requirements

Please be sure to submit a signed copy of ED Form 80-0013 ("Certifications Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace

¹ Group I States include AR, CA, DE, GA, HI, IN, KS, KY, LA, MD, MA, MN, NV, OH, OK, RJ, SC, TX, WV, and CNMI, Guam, and Palau.

² If you have made any other changes in your State Plan since it was last approved, those changes also must be submitted to OSEP, and would be subject to public comment.

Requirements") with your State Plan documents. Also, if you have not already done so, please submit your State's Annual Data Report and Annual Performance Report.

D. Preschool Grants Application with Your State Plan Documents

If your State is submitting an FY 1994-96 State Plan, please submit your State's 3-year Preschool Grants Application with the State Plan documents identified above.

E. Public Participation Requirements

Please note that all States are required to meet the public participation requirements under Part B and General Education Provisions Act (GEPA) -- for any changes in State Plans required by the new Part B regulations, and for relevant changes that the State makes on its own. (See OSEP Memo 93-3, pages 2-3). Group I States that are submitting Preschool Grants Applications also must meet applicable public participation requirements.

F. Timelines

Your agency may submit the materials discussed above as soon as possible after the documents are final and the public participation requirements are met. However, in order to facilitate timely review, these materials must be received no later than Monday, May 3, 1993. If you will not be able to meet the above timeline, please let us know by Friday, April 2, 1993, the date that you will be submitting the State Plan materials from your State.

We look forward to receiving the information that is requested in this memorandum. In the meantime, if you have comments or questions about the memorandum, or if we can be helpful in meeting the various State Plan requirements in your State, please call your OSEP/DAS State contact.

MEMORANDUM

State of Alaska

Department of Law

TO Sheil Peterson
Legislative Liaison
Department of Education

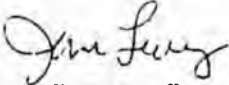
DATE March 22, 1993

FILE NO

TEL NO 465-3603

SUBJECT HB 235

FROM


Jan Gregg Levy
Assistant Attorney General
Human Services-Juneau

You have asked us whether we read 34 C.F.R. §§ 300.504 - 506 to require the state to provide for a district-initiated hearing procedure when a parent refuses to consent to evaluation of a child for special education. HB 235 would provide such a procedure in section 8. It is our opinion that a procedure must be provided.

The regulations deal with two types of states: those that require consent before a handicapped child is evaluated and those that do not require consent. Alaska law requires that a district "obtain the consent of the child's parent or guardian before an initial evaluation or placement in a program of special education and related services." AS 14.30.191. Thus, we deal with the portions of the regulations addressing our type of state.

34 C.F.R. § 300.506 states "[a] parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2)." (Emphasis added.) The matters described therein include initiation of evaluation and educational placement. Thus, the law clearly permits the state to initiate a hearing on the issue of whether an evaluation should take place. An administrative law judge (ALJ) came to the same conclusion in an Iowa case involving parental refusal to consent to a district's request to evaluate a student. The ALJ held that "[t]he authority to grant to educational agencies through hearings, over the objection of parents, permission to conduct individual education evaluations is established clearly by federal regulations." 16 EHLR 1166 (1990).

Section 300.504(c) addresses what procedures are to be used for the hearings. Where, as in Alaska, parental consent is required before evaluation, the regulation establishes that "[s]tate procedures govern the public agency in overriding a parent's refusal to consent." (Where parental consent is not required and a state agency wishes to initiate a hearing, the hearing procedures set out in the regulations govern.)

Sheila Peterson
Department of Education

March 22, 1993
Page 2

The problem, of course, is that currently there are no state procedures for a district-initiated hearing, although there is a procedure for a parent-initiated hearing. It is our view that the regulations as a whole clearly contemplate that states provide such a procedure. Without the procedure, § 300.506, permitting a public educational agency to initiate a hearing, would be meaningless.

HB 235, section 8, operates to fill the void that currently exists. It is not the only procedure that would satisfy the regulations, but it is a procedure that is consistent with the procedures for other administrative hearings in the state, and appears to provide safeguards to all parties involved, including a right of appeal.

I am attaching a copy of the July 1, 1991, regulations, as the copy you faxed us was from an earlier edition. The comment to § 300.506 mentions that a number of states have found mediation a successful step to have available prior to a formal hearing. Formal hearings tend to set up adversarial relationships that make it difficult for parties to work with each other in the future. To the extent that such tension can be avoided, it probably serves the educational interests of the child. I bring it to your attention as a possible compromise in the event that the differing views on this section necessitate a reworking of the bill as proposed.

Please feel free to call if we can be of further assistance.

JGL:jal:bap

Attachment

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation.

(Authority: 20 U.S.C. 1415(b)(1)(A))

§ 300.504 Prior notice; parent consent.

(a) *Notice.* Written notice that meets the requirements of § 300.505 must be given to the parents of a child with a disability a reasonable time before the public agency—

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) *Consent; procedures if a parent refuses consent.* (1) Parental consent must be obtained before—

(i) Conducting a preplacement evaluation; and

(ii) Initial placement of a child with a disability in a program providing special education and related services.

(2) If State law requires parental consent before a child with a disability is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent.

(3) If there is no State law requiring consent before a child with a disability is evaluated or initially provided special education and related services, the public agency may use the hearing procedures in §§ 300.506–300.508 to determine if the child may be evaluated or initially provided special education and related services without parental consent. If it does so and the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under §§ 300.510–300.513.

(c) *Additional State consent requirements.* In addition to the parental consent requirements described in paragraph (b) of this section, a State may require parental consent for other

services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

(d) *Limitation.* A public agency may not require parental consent as a condition of any benefit to the parent or the child except for the service or activity for which consent is required under paragraphs (b) or (c) of this section.

(Authority: 20 U.S.C. 1415(b)(1)(C), (D); 1412(2), (6))

Note 1: Any changes in a child's special education program after the initial placement are not subject to the parental consent requirements in paragraph (b)(1) of this section, but are subject to the prior notice requirement in paragraph (a) of this section and the IEP requirements of §§ 300.340–300.350.

Note 2: Paragraph (b)(2) of this section means that if State law requires parental consent before evaluation or before special education and related services are initially provided, and the parent refuses (or otherwise withholds) consent, State procedures, such as obtaining a court order authorizing the public agency to conduct the evaluation or provide the education and related services, must be followed.

If, however, there is no legal requirement for consent outside of these regulations, the public agency may use the due process procedures of §§ 300.506–300.508 to obtain a decision to allow the evaluation or services without parental consent. The agency must notify the parent of its actions, and the parent has appeal rights as well as rights at the hearing itself.

Note 3: If a State adopts a consent requirement in addition to those described in paragraph (b) of this section and consent is refused, paragraph (d) of this section requires that the public agency must nevertheless provide the services and activities that are not in dispute. For example, if a State requires parental consent to the provision of all services identified in an IEP and the parent refuses to consent to physical therapy services included in the IEP, the agency is not relieved of its obligation to implement those portions of the IEP to which the parent consents.

If the parent refuses to consent and the public agency determines that the service or activity in dispute is necessary to provide FAPE to the child, paragraph (c) of this section requires that the agency must implement its procedures to override the refusal. This section does not preclude the agency from reconsidering its proposal if it believes that circumstances warrant.

§ 300.505 Content of notice.

(a) The notice under § 300.504 must include—

(1) A full explanation of all of the procedural safeguards available to the

parents under § 300.500, §§ 300.502–300.515, and §§ 300.562–300.569;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

(4) A description of any other factors that are relevant to the agency's proposal or refusal.

(b) The notice must be—

(1) Written in language understandable to the general public; and

(2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the SEA or LEA shall take steps to ensure—

(1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(2) That the parent understands the content of the notice; and

(3) That there is written evidence that the requirements in paragraphs (c)(1) and (2) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(1)(D))

§ 300.506 Impartial due process hearing.

(a) A parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2).

(b) The hearing must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

(c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if—

(1) The parent requests the information; or

(2) The parent or the agency initiates a hearing under this section.

(Authority: 20 U.S.C. 1415(b)(2))

Note: Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of children with disabilities, and

the provision of FAPE to those children. Mediations have been conducted by members of SEAs or LEA personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights under §§ 300.500-300.515.

§ 300.507 Impartial hearing officer.

(a) A hearing may not be conducted—

(1) By a person who is an employee of a public agency that is involved in the education or care of the child; or

(2) By any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(Authority: 20 U.S.C. 1414(b)(2))

§ 300.508 Hearing rights.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses.

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing.

(4) Obtain a written or electronic verbatim record of the hearing.

(5) Obtain written findings of fact and decisions. The public agency, after deleting any personally identifiable information, shall—

(i) Transmit those findings and decisions to the State advisory panel established under § 300.850; and

(ii) Make those findings and decisions available to the public.

(b) Parents involved in hearings must be given the right to—

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

(Authority: 20 U.S.C. 1415(d))

§ 300.509 Hearing decision; appeal.

A decision made in a hearing conducted under § 300.508 is final,

unless a party to the hearing appeals the decision under § 300.510 or § 300.511.

(Authority: 20 U.S.C. 1415(c))

§ 300.510 Administrative appeal; impartial review.

(a) If the hearing is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.

(b) If there is an appeal, the SEA shall conduct an impartial review of the hearing. The official conducting the review shall:

(1) Examine the entire hearing record.

(2) Ensure that the procedures at the hearing were consistent with the requirements of due process.

(3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in 300.508 apply.

(4) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.

(5) Make an independent decision on completion of the review.

(6) Give a copy of written findings and the decision to the parties.

(c) The SEA, after deleting any personally identifiable information, shall—

(1) Transmit the findings and decisions referred to in paragraph (b)(6) of this section to the State advisory panel established under § 300.850; and

(2) Make those findings and decisions available to the public.

(d) The decision made by the reviewing official is final unless a party brings a civil action under § 300.511.

(Authority: 20 U.S.C. 1415(c), (d); H. R. Rep. No. 94-864, at p. 49 (1975))

Note 1: The SEA may conduct its review either directly or through another State agency acting on its behalf. However, the SEA remains responsible for the final decision on review.

Note 2: All parties have the right to continue to be represented by counsel at the State administrative review level, whether or not the reviewing official determines that a further hearing is necessary. If the reviewing official decides to hold a hearing to receive additional evidence, the other rights in § 300.508 relating to hearings also apply.

§ 300.511 Civil action.

Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under § 300.510, and any party aggrieved by the decision of a reviewing officer under § 300.510, has the right to bring a civil action under section 815(e)(2) of the Act.

(Authority: 20 U.S.C. 1415)

§ 300.512 Timelines and convenience of hearings and reviews.

(a) The public agency shall ensure that not later than 45 days after the receipt of a request for a hearing—

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The SEA shall ensure that not later than 30 days after the receipt of a request for a review—

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

(Authority: 20 U.S.C. 1415)

§ 300.513 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(Authority: 20 U.S.C. 1415(e)(3))

Note: Section 300.513 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.

§ 300.514 Surrogate parents

(a) *General.* Each public agency shall ensure that the rights of a child are protected when—

(1) No parent (as defined in § 300.13) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of public agency.* The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for

MEMORANDUM

State of Alaska
Department of Law

TO: Sheila Peterson
Legislative Liaison
Department of Education

DATE: March 23, 1993

FILE NO:

TEL. NO: 465-3603

SUBJECT: HB 235

FROM:

Jan Gregg Levy
Jan Gregg Levy
Assistant Attorney General
Human Services-Juneau

You have asked whether the children in need of aid statute, AS 47.10.010, provides a procedure for a district initiated hearing as authorized by 34 C.F.R. § 300.506(a). As I understand the question, a member of the public has advanced the view that the existence of the statute obviates the need for section 8 of HB 235. In our opinion, AS 47.10.010 does not provide the procedure required by the federal regulations.

34 C.F.R. § 300.506(a) provides that "[a] parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2)." Those sections include proposals and refusals to initiate an evaluation of a child. The law thus grants the right to a hearing. Section 8 of HB 235 sets out a procedure for such a hearing.

AS 47.10.010 is simply not a functional substitute for a hearing. It would be extremely unlikely that failure to consent to an evaluation would ever be enough to invoke the statute. Thus, the statute does not permit a district to exercise its right to a hearing as provided by federal regulation. The statute provides for a state court proceeding relating to minors who are found to be in need of aid. Examples of situations that qualify children being in need of the state's aid are those where the children have violated criminal laws, are absent from the home or physically abandoned, have suffered substantial physical harm, and have or are in danger of being sexually abused. AS 47.10.010(a)(2)(B) is the only paragraph that could even arguably be broad enough to bring failure to consent to a special education evaluation within its language. It applies where the child is in need of aid as a result of

the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the

Sheila Peterson
 Department of Education
 HB 235

March 23, 1993
 Page 2

child's parent, guardian, or custodian has knowingly failed to provide the treatment[.]

Id. Even this language, however, requires a finding that the parents are withholding certain treatment. Failure to consent to an evaluation is not failure to provide treatment. Thus, this statute cannot be invoked to remedy failure to consent to a special education evaluation.

Even if the statute could be construed to cover such a case, it still would not operate to provide the hearing authorized by federal regulation. Federal regulation states that the "hearing must be conducted by the State educational agency or the public agency directly responsible for the education of the child." 34 C.F.R. § 300.506(b). Any hearing under AS 47.10.010 will be in state court, and not conducted by a public educational agency.

Finally, the usual remedy under the children in need of aid statute is additic al evidence that this statute should not be invoked when parents refuse to consent to evaluation: the most common remedy is assumption of custody by the court -- removal of the child from the home. It is highly unlikely that such a result would be desired by any of the parties, and underscores why this state court proceeding is not a suitable vehicle for providing the hearing authorized by 34 C.F.R. § 300.506(a).

Thus, we are unpersuaded that the children in need of aid statute provides a hearing procedure that satisfies 34 C.F.R. § 300.506.

JGL/bap

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|--|---------------|--------------|--|
| Post-It™ brand fax transmittal memo 7071 | | # of pages 2 | |
| To Sheila Peterson | From Jan Levy | | |
| On | On | | |
| Dept. DoE | Phone # | | |
| Fax # 4156 | Fax # | | |

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SCSCS HB 235 (STA)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to educational programs and services for children with disabilities..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Blonde
 Requestor: Senate State Affairs COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 |
|------------------------|----------|----------|----------|----------|----------|----------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
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| | | | | | | |
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| REVENUE FUND SOURCE: | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------------|---|---|---|---|---|---|

FUNDING:

| | | | | | | |
|--------------------------|----------|----------|----------|----------|----------|----------|
| 1002 Federal Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF Match | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/Program Receipts | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MI-TIA | 0 | 0 | 0 | 0 | 0 | 0 |
| Other | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 4/20/93
 Agency: Department of Administration

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AMENDMENT

TO: SCS CSHB 235 (STA)

Page 9, line 3.

Add a new section as follows:

* Sec. 25. AS 44.21.410(a) is amended by adding a new paragraph to read:

(10) provide legal representation to indigent parents under AS 14.30.195.

Renumber subsequent sections accordingly.

14.21.320

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§ 44.21.410

STATE GOVERNMENT

§ 44.21.410

Effect of amendments. -- The 1990 for "annual report" in the 'ence
amendment substituted "biennial report" in subsection (e).

Article 7. Office of Public Advocacy.

Section
410. Powers and duties

Sec. 44.21.410. Powers and duties. (a) The office of public advoca-
cacy shall

(1) perform the duties of the public guardian under AS 13.26.360 —
13.26.410;

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

(3) provide guardian ad litem services to children in child protec-
tion actions under AS 47.17.030(e) and to wards and respondents in
guardianship proceedings who will suffer financial hardship or be-
come dependent upon a government agency or a private person or
agency if the services are not provided at state expense under AS
13.26.112;

(4) provide legal representation in guardianship proceedings to re-
spondents who are financially unable to employ attorneys under AS
13.26.106(b), to indigent parties in cases involving child custody in
which the opposing party is represented by counsel provided by a
public agency, to indigent parents or guardians of a minor respondent
in a commitment proceeding concerning the minor under AS
47.30.775;

(5) provide legal representation and guardian ad litem services un-
der AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate
Compact on Juveniles); in cases involving petitions to adopt a minor
under AS 25.23.125(b) or petitions for the termination of parental
rights on grounds set out in AS 25.23.180(c)(3); in cases involving
petitions to remove the disabilities of a minor under AS 09.55.590; in
children's proceedings under AS 47.10.050(a); and in cases involving
indigent persons who are entitled to representation under AS
18.85.100 and who cannot be represented by the public defender
agency because of a conflict of interests;

(6) develop and coordinate a program to recruit, select, train, as-
sign, and supervise volunteer guardians ad litem from local communi-
ties to aid in delivering services in cases in which the office of public
advocacy is appointed as guardian ad litem;

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

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

(9) provide visitors and guardians ad litem in proceedings under AS 47.30.839.

(b) The commissioner of administration may

(1) adopt regulations that the commissioner considers necessary to implement AS 44.21.400 — 44.21.470;

(2) report on the operation of the office of public advocacy when requested by the governor or legislature or when required by law;

(3) solicit and accept grants of funds from governments and from persons, and allocate or restrict the use of those funds as required by the grantor.

(c) [Repealed, § 28 ch 90 SLA 1991.] (§ 1 ch 55 SLA 1984; am § 21 ch 140 SLA 1986; am § 16 ch 50 SLA 1987; am §§ 1, 2 ch 5 SLA 1988; am § 3 ch 92 SLA 1988; am § 28 ch 90 SLA 1991; am § 1 ch 109 SLA 1992; am § 28 ch 2 FSSLA 1992)

Revisor's notes. — Paragraph (a)(7) was enacted as (a)(6); renumbered in 1988. Paragraph (a)(9) was enacted as (a)(8); renumbered in 1992.

Effect of amendments. — The 1991 amendment, effective July 3, 1991, repealed subsection (c).

The first 1992 amendment, effective September 20, 1992, added paragraph (a)(9).

The second 1992 amendment, effective July 1, 1992, added paragraph (a)(8) and made a related stylistic change.

NOTES TO DECISIONS

Disposition phase of delinquency proceedings. — Office of public advocacy was required to represent a minor's indigent parents at the disposition phase of delinquency proceedings, where the state

actively sought to remove the minor from his parents' custody. *Office of Pub. Advocacy v. Superior Court*, 779 P.2d 809 (Alaska Ct. App. 1989).

Article 8. Office of Equal Employment Opportunity.

Section
 500. Office established
 501. Powers and duties of the office
 502. Administrative regulations
 503. Affirmative action plan
 504. Compliance with affirmative action plan

Section
 505. Employment discrimination complaints
 506. Retaliation prohibited
 507. Access to confidential records
 508. Definitions

Cross references. — For transitional provisions relating to the transfer of the office of equal employment opportunity to the Department of Administration by E.O. 78, see § 5, E.O. 78, in the Executive Orders pamphlet.

Effective date of article. — Section 6, E.O. No. 78, (1991) makes this article effective March 23, 1991.

Dennis Wetherell
P.O. Box 876862
Wasilla, AK 99687
April 19, 1993

Sen. Loren Leman
State Capitol
Juneau, AK 99801-1182

Dear Sen. Leman:

Thank you for the responsiveness you and the members of your staff have shown with respect to concerns raised by members of the public about HB235. I support this bill as amended and hope it is passed by the legislature.

I appreciate the open forum of the teleconferences your committee has hosted on this bill. This conveyed a sense that public input was important and that the committee was willing to listen and entertain reasonable discussion. This contrasts with other committees where the public has been made to feel that their testimony was unimportant, that testimony was being taken only because it was a requirement and not from any desire of legislators to listen to constituents. In other committees, testimony was often rushed and the public was not allowed to ask questions or provide rebuttal to conflicting testimony.

Throughout this process, I have had the sense that you really cared and wanted to accommodate the wishes of the public where possible and appropriate. Thanks again for your responsiveness and for the courtesy and professionalism of your staff.

Sincerely,

Dennis G. Wetherell

Dennis G. Wetherell

P.S. Could you please fax me a copy of the bill as amended and as it will be received by the Senate HESS committee? Thanks (265-6928 Fax)

