

**HB**

**158**

(7)

Date Referred to Committee: February 25, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/25/97

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 158

HOUSE BILL NO. 158

RIGHT TO ATTEND SCHOOL ON PART-TIME BASIS

"An Act relating to attendance at a public school on a part-time basis."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DOE

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Earl D...</i>	✓			
<i>Car B...</i>	✓			
<i>Brian D. Porter</i>			✓	
<i>M. V...</i>	✓			

CHAIR'S SIGNATURE *Car B...*

# FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 158

1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Education

Title: An act relating to attendance at a public school on a part-time basis.

BRU: K-12 Support

Sponsor: Representative Dvson

Component: Foundation Program

Requester: HESS

COMPONENT SERIAL NO. 141

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES</b>						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: -0-

**ANALYSIS:** (Attach a separate page if necessary.) Section 1 requires a local school board to allow a child who is enrolled at a private school, is a correspondence student or is being home schooled, to enroll as a part-time student. Currently AAC 05.035, allows a school district to enroll a part-time student. School districts that permit part-time enrollment shall adopt a policy how the district will comply with certain requirements and process a request for part-time enrollment. Districts may enroll part-time students if there is space available, if requested by the student's parent, if the student has met the prerequisites for the course and if the enrollment does not result in an expenditure of public money for the direct benefit of a private educational institution. 4 AAC 09.050 establishes the methodology for counting part-time students for foundation funding.

Prepared by: Eddy Jeans, School Finance Manager

Phone: 465-8679

Division: Education Support Services

Date: 3-10-97

Approved by Commissioner: Shirley Holloway, Ph. D., Commissioner

Agency: Education

Date: 3-10-97

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

3/20 adopt

3/25 second adoption

Amendment No. 1  
Offered by Rep. Kemplen

HB 158

Page 1 Line 6

After "who" delete

"is also enrolled at a private school,"



Alaska State Legislature

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Eagle River, Alaska 99577  
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FAX (907) 694-1015

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Alaska State Capitol  
Juneau, Alaska 99801-1182  
☎ (907) 465-2199  
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Toll free (800) 342-2199

## REPRESENTATIVE FRED DYSON

### HB 158 Sponsor Statement

**"An Act relating to attendance at a public school on a part-time basis."**

In the Alaska State Constitution, Article VII, Section 1 (Public Education) states, "The legislature shall by general law establish and maintain a system of public schools open to all children of the State...."

A few Alaska school districts do not allow part-time students. This bill ensures that all qualified Alaska students are allowed to participate in public schools, including part-time students. Discrimination against part-time students is prohibited.

The Alaska Administrative Code makes provisions and establishes a funding mechanism for part-time students. These provisions are weighted in favor of the schools that accept part-time students. According to 4 AAC 09.040, "a student enrolled in one course in a semester equals 0.25 full-time equivalent" of the foundation formula. This graduated scale gives a school full credit for a student who attends four courses daily.

Many of Alaska's part-time public school population are private or home schooled students. They attend public schools in order to take advantage of public school facilities such as computer labs, chemistry labs, foreign language courses or other specific classes for which the private or home school does not have the resources.

For students who have been expelled from the public schools and are being home schooled in the interim, this option will allow them to gradually make the transition back into the public school system.

Most Alaska schools and school districts gladly encourage and accept part-time students. They realize that our public schools are an important resource and have found part-time students to be academic and social assets to their schools. The experience also helps the public schools build bridges to the private and home school movements.

- E-mail -  
Representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
<http://www.akrepublicans.org>



*LAW*  
Lawrence A. Wiget, Ed.D.  
Director, Government Relations/Legislative Liaison  
Anchorage School District  
4600 Debarr Road  
Anchorage, Alaska 99519-6614  
(W) 907 269-2255 (FAX) 907 269-2340

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TO: REPRESENTATIVE CON BUNDE  
SUBJECT: HB 158: SUMMARY OF ASD CONCERNS  
DATE: MARCH 24, 1997

6 pages including cover sheet

DEAR REPRESENTATIVE BUNDE:

PLEASE DISTRIBUTE THE ATTACHED LETTER SUMMARIZING ASD CONCERNS REGARDING HB 158 TO MEMBERS OF THE HESS COMMITTEE.

PLEASE FEEL FREE TO CALL IF YOU HAVE ANY QUESTIONS.

THANK YOU!

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# Anchorage School District

## Anchorage, Alaska 99519-6614

Bob Christal, Superintendent  
 (Phone) 907 269-2813 (FAX) 907 269-2340

Re: HB 158

Dear Chairman Bunde:

I am writing to summarize Anchorage School District concerns regarding HB 158. The brief time allotted for public testimony plus confusion regarding constitutional and other issues has made it difficult for the District to clearly set forth the basis for its opposition to this bill which would compel Anchorage, as well as all other public school districts, to admit as part-time students individuals who primarily are enrolled at private schools or through correspondence or home school.

Initially, we wish to make it absolutely clear that ASD schools are open to every school aged child residing in Anchorage. The District eagerly looks forward to educating each such child. We recognize that for a variety of reasons, some students and parents prefer the educational opportunities provided through private schools or through home or correspondence schooling. By providing quality programs, the ASD hopes to attract and retain an increasing number of students in our public schools.

As pertains to the situation which exists in Anchorage, HB 158 will not accomplish this purpose. Rather, HB 158 assuredly will decrease enrollment in and funding for public schools. The prediction of decreased enrollment and funding is based on our actual experience--not speculation.

As some of you are aware, the District was sued several years ago by students and parents who sought to compel the District to permit private and home school students to participate on District athletic teams. Blomfield v. Anchorage School District, Civil Action No. 3AN-93-2740 Civil. The Superior court issued a lengthy opinion affirming the District acted legally when it did not admit students who attended private and home schools.

In addition to confirming the legality and constitutionality of the District's policy not to accept part-time or otherwise unenrolled students, the Blomfield case also provided a significant insight into the actual impact of admitting part-time students. The named plaintiffs were in fact students who were enrolled as full time ASD students. However, if permitted, as they sought in the law suit, to participate in programs not offered outside the public school system, they fully intended to leave the public schools. In other words, the only reason these students remained enrolled in the ASD as full-time students was to participate in programs which were very important to them which programs private

and home schools did not offer.

If HB 158 is enacted into law, the District will lose many students who are currently enrolled full time. Such students will become part-time students, participating only in courses or programs which are not available through private or home schools. As a result, the ASD will lose funding. At the same time, we will experience increased demand for those offerings (such as science courses, computer and technological courses, vocational education courses, etc.) which are the most expensive to operate and which require the smallest class size.

Ultimately, then, HB 158 will lead to a decrease in the overall quality of our program by leading to increased class sizes and less funding. Thus while the motivation behind HB 158--to increase educational opportunities for private and home school students--is laudable, in fact any such increase in opportunities for private school students will come at the expense of opportunities available to fully enrolled students.

Moreover, while jeopardizing the quality of programs the ASD offers, HB 158 also raises a number of serious legal and administrative problems. The costs associated with addressing these problems will further dilute funds available to provide educational programs.

Legally, we have been advised by our attorney that HB 158 will almost certainly be found to be unconstitutional since it would provide a direct benefit to private educational institutions (see Sheldon Jackson University v. State, \_\_\_ P.2d \_\_\_ (Alaska 1979)) and it would create significant entanglements between the public school system and private schools.

We realize the legislative legal counsel has suggested constitutional problems would not be raised. Assuming for the sake of argument that the constitutional issues are murky, the ASD will assuredly be enmeshed in litigation if HB 158 is enacted. We will be sued by the ACLU or similar interest if private students are admitted, or we will be sued by private students or their parents if we do not admit such students. Since the plaintiffs in either type of suit will certainly be viewed as "public interest litigants", the District will not be able to recover whatever costs it is required to expend if it wins such litigation, while it will have to use public funds to pay the costs and attorneys fees of the other side as well as its own costs if the District loses. Unless the constitutional issue has been clearly resolved, the ASD should not be compelled to risk this additional expenditure of funds.

Beyond the question of the constitutionality of HB 158, there are a host of other legal and associated administrative issues

which this bill as drafted raises.<sup>1</sup> To summarize, let me enumerate just a few of these issues:

--It is unclear how HB 158 would interface with the state compulsory education law (AS 14.30.010). First it will be both difficult and expensive (and require significant entanglement) for the ASD to verify whether part-time students meet compulsory education requirements. Moreover, AS 14.30.010(b) exempts from the compulsory education law students who attend "comparable" programs at private schools. If a student must seek out ASD offerings, a question would arise whether the private school program is "comparable."

--As drafted, HB 158 appears not to differentiate between primary and secondary students. Assuming it applies to elementary students, would application for part-time enrollment be limited to defined programs such as band, or could a parent demand part-time enrollment for a certain number of hours each day (say from 9 to 11 each morning), thus obtaining what could amount to little more than free part time day care?

--What leeway will a district have to reject a part-time applicant because particular courses or programs are already full? Would the District have to add additional sections to meet the demand created by part-time applicants? Would the District have an obligation to notify private schools or unenrolled students about registration each semester so that such students would have the same opportunity to apply for limited enrollment courses? If part-time students fill limited enrollment offerings, how would the District deal with full-time students who could not meet graduation or college admission requirements because desired courses were no

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<sup>1</sup>An amendment which the Committee considered at its meeting last week would limit the bill's application to home school and correspondence students. If adopted, this amendment would appear to lessen the constitutional problem created by Article VII, Section 1 of the Alaska Constitution which prohibits payment of any money from public funds "for the direct benefit of any religious or other private educational institution." (emphasis added) However, we envision a possible law suit by students attending private educational institutions questioning whether such a law would violate their rights to equal protection. Moreover, even if the constitutional problem is avoided, the other practical and legal concerns which we have would exist without regard to whether part-time students come from private institutions or from home and correspondence schools.

longer available? The course registration process is already complex and time consuming. Adding part-time students into the mix can only complicate this process and make it increasingly difficult for the District to meet the demands and expectations of our students.

--As drafted, is HB 158 intended to apply only to academic offerings, or does it also apply to participation on athletic teams and other extra-curricular activities? In other words, is HB 158 intended to over rule the Bloomfield decision by allowing a private school or home school student to demand the right to participate on public school teams? Alternatively, could a part-time student who took one course only at a public school thereby claim enrollment in the school sufficient to allow participation on the school athletic teams?

--Must a part-time applicant seek out courses only at his "home" school, or could the student enroll at any school in the District? For instance, could a child living near West High School demand the right to take Japanese at Service High School? Or could that student enroll in Japanese at Service and Chemistry at West? Could a part-time student demand admission to a course at an authorized charter school or at one of the District's optional schools such as Steller or Polaris where full-time students gain admission only through lottery?

--Does the public school district have any responsibility under HB 158 to provide transportation to part-time students?

--What liability will the public school have in the event that a part-time student is injured or causes injury to others on his/her way to or from the public school?

--To avoid prohibit "direct benefits" to private educational institutions, will the ASD be required to investigate why each part-time student seeks to enroll? In other words, if a particular private school followed a practice of directing its students to take chemistry at ASD schools so the private school did not have to incur the cost of operating a chemistry program, this would certainly be a "direct benefit" to that school. However, the ASD would not necessarily know this was occurring unless it investigated each part time enrollment application. Obviously, this type of obligation would be expensive and time consuming and would involve a high level of entanglement between the ASD and the private schools.

The potential for legal claims and the additional

administrative costs associated with each of these issues is substantial. Addressing these issues will unavoidably siphon off the District's limited resources from its existing programs.

In conclusion, in those districts where admission of part-time students is identified as a benefit to both those students and to the public schools, it may be worth assuming the risk of a constitutional or legal challenge. Existing Department of Education regulations allow each district to determine whether the benefit to be gained is worth the administrative burden and risk of legal challenge. In the situation which exists in Anchorage with numerous non-public school alternatives, mandating enrollment of part-time students would weaken the public school system and expose the District to a variety of legal challenges and administrative headaches.

Under these circumstances, the ASD strongly believes enactment of HB 158 would constitute bad (and likely illegal) public policy, despite the laudable concerns which have motivated this proposed legislation. While perhaps unrealistic at the current time, the more sensible way to address the concerns which have motivated this legislation would be to fund public education more fully so the ASD could reduce class sizes and provide other improvements which would make full-time public school enrollment a desirable alternative to those who now choose to obtain their education outside of the public school system..

Thank you for considering our concerns. Representatives of the District remain available to provide you with such information as may be of assistance in your consideration of this important matter.

Sincerely,



Bob Christal

cc House HESS Committee Members



# FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

520 Fifth Avenue

Fairbanks, Alaska 99701-4756

(907) 452-2000

March 17, 1997

Attention: Lisa  
Representative Fred Dyson  
Alaska State Capitol, Room 428  
Juneau, AK 99801

**MAR 20 1997**

Dear Representative Dyson:

I am writing this letter in response to your staff's query regarding whether or not the Fairbanks North Star Borough School District has been implementing the requirements of 4 AAC 05.035 regarding part-time students. For the past several years, Fairbanks has allowed part-time students, both elementary and secondary, to attend schools/classes in our school. These students are coded as part-time and (if they were enrolled during our October count period) are included in official student enrollments.

Each year, the staff in our student records office reviews the class schedules of all secondary students and calculates the part-time FTE of each student based on the number of classes in which they are enrolled. Your proposed House Bill No. 158 would not cause our district to do anything different from what we have already been doing for years.

If you have any questions about this, feel free to contact either Mr. Bob Shefchik, the Assistant Superintendent for Business and Finance or myself at 452-2000.

Sincerely,

Dr. Nicholas Stayrook, Director  
Program Planning and Evaluation

cc: Bob Shefchik

cc:Mall for: Representative Fred Dyson

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**Subject:** HB 158

**From:** Christine\_OConnor@compuserve.com ("Christine N. O'Connor") at CC2MHS1 3/15/97 4:34 PM

**To:** Representative Fred Dyson at LAA\_TRANS

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Dear HESS Committee members,

March 15, 1997

I am writing to express my support for HB 158 which would allow homeschooled students to attend classes part time at public schools. I am a homeschooling Mother of two elementary age children. While I believe homeschooling is best for my family at this time, I would like the option of using public school classes as a supplement when my children get older.

Alaska politicians are constantly stating their commitment to excellence in education. Allowing students more access to public schools is a common sense step in achieving this excellence.

I urge you to support this bill and see that it becomes law. After all, it's only fair that my family be allowed to use facilities our tax dollars help pay for.

Sincerely,  
Christine O'Connor

Mrs. Sylvia Dean  
2225 Meadow Lane  
Juneau, AK 99801

MAR 19 1997

March 19, 1997

Rep. Fred Dyson and HESS Committee Members

Dear Rep. Fred Dyson and HESS Committee Members,

I would like to encourage your strong support for HB #158. This bill would serve the parents who are the most committed to their children's education with more options. One great need in our public school systems is parent support. The people concerned enough to put their children in home schools or private schools have shown their commitment to education by their investment of time and money. If they choose to use public school options it will be an asset to that system.

The public school need not fear large numbers as the people who are choosing other options have strong convictions about education. It may take more of the load of over crowding off public schools as other options open.

*Sylvia Dean*

Ms. Sylvia  
2225 Meadow Ln

Dean

789-3512

	Distribution	Affiliation	Reg Voter
Juneau AK 99801	07		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
03/19/97	N	HB 158	Supports	

AS A HOMESCHOOL PARENT AND ALSO A PUBLIC SCHOOL TEACHER, I SEE GREAT MERIT IN OPENING UP ACCESS TO ALL SCHOOL FACILITIES BECAUSE IT WOULD CREATE MORE PARENT INVOLVEMENT.

Mrs. Sarah  
PO Box 3155

Jackson

373-5493

	Distribution	Affiliation	Reg Voter
Palmer AK 99645	07		Y

Date POM Sent	Constituency	Bill Number	Response	Subject
03/19/97	N	HB 158	Supports	

I AM IN FAVOR OF THIS LEGISLATION.

430 Hermit

	Distribution	Affiliation	Reg	Voter
Juneau AK 99801	18			Y

Date POM Sent	Constituency	Bill Number	Response	Subject
03/17/97	N	HB 158	Supports	

MY CHILDREN HAVE BEEN HOMESCHOOLED FOR MANY YEARS, BUT ALSO ATTENDED THE GIFTED AND TALENTED PROGRAM IN THEIR LOCAL SCHOOL. I WOULD LIKE TO SEE THE OPTION AVAILABLE FOR THEM TO ATTEND PUBLIC SCHOOL PART-TIME FOR SPECIALIZED

COURSES IN THE FUTURE. SINCE WE HAVE BEEN PAYING THROUGH TAXES FOR EDUCATION, I THINK THIS IS A BENEFIT DESERVED BY OUR CHILDREN.

Mr. Adrian  
430 Hermit

D. Slater

463-3321

	Distribution	Affiliation	Reg	Voter
Juneau AK 99801	18			Y

Date POM Sent	Constituency	Bill Number	Response	Subject
03/17/97	N	HB 158	Supports	

I WOULD LIKE TO STATE MY SUPPORT FOR HB 158. I PAY PROPERTY TAXES THAT ARE USED TO RUN THE PUBLIC SCHOOLS. THEREFORE, I WISH THE RIGHT TO SEND MY CHILDREN TO THE SCHOOLS. AS HOMESCHOOL PARENTS, WE SEE THE CHILDREN ARE THE

DIRECT BENEFICIARIES, NOT ANY PRIVATE INSTITUTION. I BELIEVE MY CHILDREN CAN ALSO HAVE A POSITIVE EFFECT ON PUBLIC SCHOOL CHILDREN.

Ms. Kathy L Haywood  
2221 Muldoon Rd #547

333-6930

			Distribution	Affiliation	Reg Voter
Anchorage	AK	99504	40		Y
Date POM Sent	Constituency	Bill Number	Response	Subject	
03/14/97	N	HB 158	Supports		

IT IS ABOUT TIME.

Mr. Samuel S Haywood  
2221 Muldoon Rd #547

227-5329

			Distribution	Affiliation	Reg Voter
Anchorage	AK	99504	02		Y
Date POM Sent	Constituency	Bill Number	Response	Subject	
03/14/97	N	HB 158	Supports		

I HAVE CHILDREN ATTENDING HOME SCHOOL, PRIVATE SCHOOL, AND PUBLIC SCHOOL. AS A PROPERTY OWNER AND TAXPAYER, I THANK YOU FOR HB 158. I HOPE IT WORKS.

Ms. Kathy L Haywood  
2221 Muldoon Rd #547

333-6930

			Distribution	Affiliation	Reg Voter
Anchorage	AK	99504	01		Y
Date POM Sent	Constituency	Bill Number	Response	Subject	
03/14/97	N	HB 158	Supports		

WAY TO GO! I AM PLUGGING AWAY AT MY CAMPAIGN AND LOOKING FORWARD TO WORKING WITH LEGISLATORS LIKE YOU WHEN I GET ON THE SCHOOL BOARD. KEEP UP THE GOOD WORK.



**Lawrence A. Wiget, Ed.D.**  
**Director, Government Relations/Legislative Liaison**  
**Anchorage School District**  
**4600 Debarr Road**  
**Anchorage, Alaska 99519-6614**  
**(W) 907 269-2255 (FAX) 907 269-2340**

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**TO: House HESS**

**Subject: HB 158**

**Date: March 13, 1997**

The Anchorage School District opposes the passage of HB 158. Attached please find legal research and a position paper prepared for the District in year's past regarding this issue which we believe supports our position on this bill.

Thank you!



November 20, 1995

Mark Begich  
Assembly Vice-Chair  
P.O. Box 201627

**Anchorage** Anchorage, AK 99520  
**School**  
**District**

4600 DeBarr Road  
P. O. Box 196614  
Anchorage, Alaska 99519-6614  
(907) 333-9561

**SCHOOL BOARD**

Peggy Robinson-Wilson  
President

Lorraine M. Farrell  
Vice President

Hamet A. Drummond  
Clerk

Patti Higgins  
Treasurer

Kathi Gillespie

Kelly Haney

Debbie Osslander  
Past President

**SUPERINTENDENT**

Bob Chnstal

Dear Mark:

You requested information on whether the Anchorage School District allows children who attend home school or a private school to participate in sports or other extracurricular activities at their area school. You also requested a copy of the written policy that addresses this issue and the reasons for the decision.

On January 10, 1994 the School Board unanimously passed (7-0) Memorandum #244 which opposed the Proposed Changes in the Regulations of the Department of Education Memorandum Number 94-07, Subject: Participation in Public Education Programs. I have included this Memorandum as Attachment A.

The School Board reaffirmed the Administrative recommendation to continue with the District's then current practices of not allowing private or home school students to participate in sports or other extracurricular activities and other educational programs. Included with this letter is a copy of the official minutes of the meeting (Attachment C) and the notification of this position to employees (Attachment D).

Extensive legal research was done preparing the District's position paper prior to testifying before the State Board of Education in the Summer and Fall of 1993 and into the winter of 1994. I have included that information for your use as Attachment B.

I hope that this response answers your questions. Please do not hesitate to contact me, Bill Mell, or Carol Comeau if you have need for additional information.

Sincerely,

Bob Christal  
Superintendent

cc Carol Comeau  
Bill Mell

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

ASD MEMORANDUM #244 (93-94)

January 10, 1994

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT *Ed Churita*

SUBJECT: RESPONSE TO PROPOSED CHANGES IN REGULATIONS OF  
THE DEPARTMENT OF EDUCATION: PRIVATE SCHOOLS'  
STUDENTS PARTICIPATION IN PUBLIC SCHOOLS

RECOMMENDATION

It is recommended that the School Board support the Administration's position in opposition to the Proposed Changes in the Regulations of the Department of Education Memorandum Number 94-07, Subject: Participation in Public Education Programs.

- (1) 4 AAC 05.035 is proposed to be adopted as follows:  
Regarding part-time enrollment of private, correspondence, and home school students in their local public schools.
- (2) 4 AAC 90.015 (k) is proposed to be adopted and 4 AAC 09.040 is proposed to be amended as follows:  
To prescribe a method for counting part-time students for funding under the state's public school foundation funding program.
- (3) 4 AAC 06.111 is amended as follows:  
Regarding the participation of private, correspondence, and home school students in the interscholastic activities of public schools.

It is recommended that the School Board approve the Administration's recommendation to oppose the proposed changes and continue with current regulations.

PERTINENT FACTS

The Anchorage School Board has previously received substantial back-up information on the District's position on the ability of non-public school students to participate in selected aspects of the public school program. The State School Board is considering regulations that will require public school districts to allow private school, home school and correspondence school students to participate in public school programs including after-school activities on a part-time basis

while retaining their status as non-public school students. A Public Hearing is scheduled for January 19, 1994 in Anchorage on these issues. Due to Anchorage School District involvement in a law-suit on one aspect of this issue, extensive research has been done in this area. The administration opinion on each of the three proposed regulations is discussed below.

- (1) 4 AAC 05.035 is proposed to be adapted as follows:  
Regarding part-time enrollment of private, correspondence, and home school students in their local public schools.

It is our position that permitting private school students to attend public school classes would violate the Alaska Constitution's prohibitions against providing direct benefits to private schools and appropriating public funds for non-public purposes. In addition, permitting private school students to attend public school classes would likely violate the Establishment Clause of both the state and federal constitutions. By taking over a portion of the parochial schools' responsibility for teaching secular subjects, the District would, in effect, be subsidizing the religious functions of the parochial schools. Although these constitutional prohibitions do not apply to Centralized Correspondence School students, the District would not be required, under state or federal law, to permit CCS students to attend District classes.

- (2) 4 AAC 09.014 (k) is proposed to be adopted and 4 AAC 09.040 is proposed to be amended as follows:  
To prescribe a method for counting part-time students for funding under the state's public school foundation funding program.

Current regulations require the District to report students by membership. With the exception of students attending the King Center, all students enrolled are counted as full-time students. This practice has been satisfactory to the Department of Education in the past. The proposed change may reduce the total number of instructional units on which state funding for the District is based, thereby lowering the actual amount of state foundation support to which the District is entitled. The change in the regulation is an attempt to appear to fund participation by part-time non-public school students. The actual result will be either serving the same student population with less state funding or serving a larger student population with current levels of funding. It is our opinion the proposed change will not provide additional funding for operation of schools and will increase pupil accounting cost significantly.

- (3) 4 AAC 06.111 is amended as follows:  
Regarding the participation of private, correspondence, and home school students in the interscholastic activities of public schools.

It is our position that neither state nor federal law requires the District to permit non-ASD students, whether from private schools or CCS, to participate in District

sponsored extracurricular activities. A much more difficult question is whether the U.S. Constitution and the Alaska Constitution actually prohibit private school students from participating in public school extracurricular activities. Based on our review of state and federal case law, it is possible that the courts would find that the state and federal constitutions neither prohibit nor mandate such participation by non-ASD students, thereby relegating the matter to the discretion of state and local school boards. It is our position that this remain a board issue.

In summary, the District is not required to permit non-ASD students to participate in District sponsored activities, the District is probably prohibited by both state and federal constitutions from permitting private school students to attend regular education classes, and the District will not benefit from the proposed changes in pupil accounting practices. The proposed changes are therefore not recommended.

We realize there may be limited opposition from other school districts in the State since many of the districts will not be faced with dealing with the issues because of the limited numbers of students in their districts and the lack of private school options in these districts. Nevertheless, it is an important issue in Anchorage and we cannot support the recommended changes.

BC/WFM/mh

Municipality  
of  
Anchorage



Mark Begich

Anchorage Assembly  
P.O. Box 201627  
Anchorage, Alaska 99520

October 31, 1995

*Copy to Carol  
Bill M.  
Please prepare a  
response  
letter for  
me*

Bob Christal, Superintendent  
Anchorage School District  
P.O. Box 196614  
Anchorage, Alaska 99519-6614

Dear Bob:

I have recently received a letter from a constituent requesting the Anchorage Assembly to pass an ordinance related to student participation in school sports. I know this is totally out of our "arena", but I would appreciate you sharing the following information:

Does the Anchorage School District not let children who home school or attend private school, participate in sports or other extracurricular activities at their area school? If this is indeed the case, could you send me a copy of the written policy that addresses this issue and the reasons for this decision?

Thanks in advance for your time.

Sincerely,

Mark Begich  
Assembly Vice-Chair

*See  
letter +  
attachments*


95 NOV -2 AM 11:11

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

MEMORANDUM

January 7, 1994

TO: SCHOOL BOARD

FROM: BOB CHRISTAL   
SUPERINTENDENT

SUBJECT: PROPOSED DEPARTMENT OF EDUCATION REGULATIONS  
REGARDING PRIVATE SCHOOL STUDENTS INVOLVEMENT  
IN PUBLIC SCHOOLS

I provided to you in October the information regarding our position on the proposed Department of Education regulations that allow for private school students participation in selected courses and school activities. I have provided that again for you in case you have not retained the packet.

Our position administratively is to oppose these regulations for several reasons. If the School Board does not agree with this direction, we should know that prior to our presentation to the State Board of Education on January 19, 1994. I have placed this item on the agenda for Monday night after consulting with Board President, Sharon Richards.

gl  
Attachment

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

ASD MEMORANDUM

October 22, 1993

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT *Baldwin*

SUBJECT: PRIVATE SCHOOL STUDENTS IN-DISTRICT PROGRAMS

There has been a series of requests by parents of students attending private schools for access to regular classes and extra-curricular activities over the past several months. In order to check our current practice and position in relation to the Blomfield law suit (demanding access to junior high activities) and other questions potential and actual, legal council was requested to prepare a position paper for our review. The paper is attached as item A.

The issues discussed are:

1. Is the District required, prohibited or permitted under state and federal law to allow students who are enrolled in private schools or the Alaska Centralized Correspondence Studies Program ("CCS") to participate in District sponsored extracurricular activities?
2. Is the District required, prohibited or permitted under state or federal law to allow students who are enrolled in private schools or the CCS to attend regular education classes in the Anchorage School District?
3. Do the answers to issues #1 and #2 differ for special education students who are enrolled in private schools or CCS and wish to attend regular education classes in the District or participate in District sponsored extracurricular activities?
4. If the District is permitted or required to allow private school or CCS students to attend classes on less than a full-time basis and/or participate in extracurricular activities, may the District count these students for purposes of receiving state funding under the Alaska public school foundation program?
5. May the District enroll home school students in the District and count them for state foundation funding by providing them with a

correspondence study program which the District obtains by contracting with the Alaska Centralized Correspondence Studies Program?

In summary current practice is within the scope of the law as it now exists. We are aware that the state is interested in expanding the rights of private school students access to public school programs. The Department of Education has proposed private school regulations that will be discussed by the State School Board on Friday, October 29, 1993, in Fairbanks. The announcement dated October 13, 1993, is attached as item B. This will be an item extensively discussed over the next several months and has the potential of ~~attaining~~ ASD policy and practice in these areas.

*changing*  
BC/WFM/rs

ITEM A

PRIVATE SCHOOL PARTICIPATION  
POSITION PAPER

MEMORANDUM

Attorney-Client Privileged

TO: Carol Comeau, Ex. Dir. Elementary Education  
Bill Mell, Ex. Dir. Secondary Education

FROM: Laurel Tatsuda *LKT*

DATE: September 27, 1993

RE: Participation By Private School Students In District  
Classes Or Extracurricular Activities

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INTRODUCTION: A number of parents, whose children are enrolled or desire to be enrolled in private schools,<sup>1</sup> have asked the Anchorage School District to allow their children to attend a particular class offered by the District or participate in District sponsored extracurricular activities. Presently, the District is a defendant in a lawsuit brought by one such parent who alleges that the District's policy of permitting only students enrolled in the District to participate in extracurricular activities is unconstitutional.<sup>2</sup> Participation by private school or homeschool students in District classes or extracurricular activities raises both legal and policy considerations. This memorandum will discuss the types of requests that have been made and the legal and/or policy considerations raised by each category of request.

REQUESTS BY PARENTS:

1. Parents of an elementary age homeschool student have

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The Alaska Constitution does not distinguish between religious or non-religious affiliated private schools for purposes of public funding. It provides that "[n]o money shall be paid from public funds for the direct benefit of any religious or other private educational institution." AK. Const. art. VII, §1 (emphasis added). Therefore, for purposes of this memorandum, I will use the term "private school" to include both religious and non-religious affiliated private schools. Homeschool students who are enrolled in the Alaska Centralized Correspondence Studies ("CCS") program will be considered to be public school students.

<sup>1</sup> Sandra I. Blomfield, minor children, A.J.B.; L.A.B.; and M.S.G. v. Anchorage School District; Alaska School Activities Association, Inc.; and the State Board of Education, Case No. JAN 93-2740 Civil (Super.Crt. Anchorage filed April 6, 1993).

requested that their child be permitted to attend band classes which meet four days per week at Oceanview Elementary School. In addition, an elementary age homeschool student has asked to compete in the Young Composers Contest which is only available to ASD students.

2. Parents of junior and senior high age students who are currently enrolled in the Anchorage School District wish to send their children to a private religious-affiliated school and would do so if the ASD would allow their children to participate in District sponsored ASAA sanctioned activities while enrolled at the private school.

3. Parents of a special education student who was formerly enrolled in the ASD but who is now enrolled in a private school have requested that their child be permitted to continue taking a foreign language class at a District high school in accordance with the child's individualized education plan (IEP).

4. Parents of a special education student who was formerly enrolled in the ASD but who is now enrolled in a private school have requested that their child be permitted to continue taking a band class at a District high school. Several other special education students who are enrolled in the same private school have indicated that they, too, would like to attend band classes in the Anchorage School District.

#### ISSUES PRESENTED:

1. Is the District required, prohibited or permitted under state or federal law to allow students who are enrolled in private schools or the Alaska Centralized Correspondence Studies Program ("CCS") to participate in District sponsored extracurricular activities?

2. Is the District required, prohibited or permitted under state or federal law to allow students who are enrolled in private schools or the CCS to attend regular education classes in the Anchorage School District?

3. Do the answers to issues #1 and #2 differ for special education students who are enrolled in private schools or CCS and wish to attend regular education classes in the District or participate in District sponsored extracurricular activities?

4. If the District is permitted or required to allow private school or CCS students to attend classes on less than a full-time basis and/or participate in extracurricular activities, may the District count these students for purposes of receiving state funding under the Alaska public school foundation program?

5. May the District enroll homeschool students in the

District and count them for state foundation funding by providing them with a correspondence study program which the District obtains by contracting with the Alaska Centralized Correspondence Studies Program?

SHORT ANSWERS:

1. Re: Extracurricular Activities: It is our opinion that neither state nor federal law requires the District to permit non-ASD students, whether from private schools or CCS, to participate in District sponsored extracurricular activities. A much more difficult question is whether the U.S. Constitution and/or the Alaska Constitution actually prohibit private school students from participating in public school extracurricular activities. Based on our review of state and federal case law, it is possible that the courts would find that the state and federal constitutions neither prohibit nor mandate such participation by non-ASD students, thereby relegating the matter to the discretion of state and local school boards.

2. Re: Regular Education Classes: It is our opinion that permitting private school students to attend public school classes would violate the Alaska Constitution's prohibitions against providing direct benefits to private schools and appropriating public funds for non-public purposes. In addition, permitting private school students to attend public school classes would likely violate the Establishment Clause of both the state and federal constitutions. By taking over a portion of the parochial schools' responsibility for teaching secular subjects, the District would, in effect, be subsidizing the religious functions of the parochial schools. Although these constitutional prohibitions do not apply to CCS students, the District would not be required, under state or federal law, to permit CCS students to attend District classes.

3. Re: Special Education Students: State and federal statutes require the District to make special education and related services available to children who attend private schools/CCS within the District. The statutes require the District to provide a free appropriate education in conformity with each student's individualized education program ("IEP"). Thus, if the student's IEP specifies a particular class or extracurricular activity, the District is obligated to permit the private school student to attend the specified ASD class, whether it be a special education or regular education class, and participate in the ASD extracurricular activity. However, in the absence of a requirement in the IEP, the same constitutional considerations discussed in paragraphs #1 and #2 above would apply to special education students enrolled in private schools. A student's IEP may be reevaluated and modified by a properly convened IEP meeting and in accordance with state and federal regulations. Although the District need not provide particular classes to private school/CCS

special education students simply because the students or parents prefer such classes, the District may not, on the other hand, totally exclude regular District classes and extracurricular activities from being considered by an IEP team.

4. Re: State Foundation Funding: The Alaska Public School Foundation Program ("PSFP") is silent on whether students who are enrolled in private schools and attend only one or two classes in the District may be counted in regular education ADM. The PSFP permits the District to receive special education funding for private school and CCS special education students who reside in the District and receive services from the District. The PSFP appears to prohibit CCS students from being counted in both CCS and a local school district under the regular education ADM formula.

5. Re: Contracting With CCS: The District may contract with CCS for materials and teaching services for its students. The CCS Courses and Services Price List (1992-1993) indicates that under such an arrangement, the District "collects funding for the students and pays a fee for CCS services." We have not yet received a copy of the most current CCS Handbook which may provide a more detailed explanation of this service.

#### DISCUSSION:

1. Is The District Required, Prohibited Or Permitted Under State Or Federal Law To Allow Students Who Are Enrolled In Private Schools Or CCS To Participate In District Sponsored Extracurricular Activities Or Regular Education Classes?

We have previously provided the District with a legal opinion regarding the constitutionality of permitting private school students to participate in District sponsored classes and activities. See "Legality of Policy Allowing Students From Local Private Schools to Attend District Classes," Memorandum to Fred Stoffler, dated January 24, 1992, attached hereto as Exhibit A. We believe our previous opinion is still valid and therefore will not repeat the legal analysis provided therein.

It is necessary, however, to clarify our previous opinion insofar as it did not distinguish between academic classes and extracurricular activities. Under the Alaska PSFP, the District does not receive categorical funding for extracurricular activities. Although these activities are, of course, paid for by public funds, it might be difficult to quantify any financial benefit to an individual student or private school. It is therefore possible that the Alaska courts would treat participation by private school students in extracurricular activities differently from participation in regular education classes where state aid is generated by the number of students in average daily

membership. This distinction could prompt the Alaska courts to determine that any benefit to private schools from participation by its students in public school extracurricular activities is merely indirect, incidental and insubstantial. Although we believe it is unlikely that the court would mandate that the District permit private school students to participate in extracurricular activities, it is possible that the court would rule that such participation does not violate either the state or federal constitutions and is therefore permissive."

Interestingly, we have just received notice from the ASAA that the Commissioner of Education plans to announce that the Department of Education recommends changing the ASAA Bylaws to

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Courts which have addressed the issue of participation in interscholastic activities have generally held that such participation is not a property right, but rather a privilege which the school may deny or withdraw if the student fails to qualify for the privilege. See e.g., Denis J. O'Connell High Sch. v. Virginia High Sch., 581 F.2d 81 (4th Cir. 1978) (participation in interscholastic activities not a federally protected property right); accord Mitchell v. Louisiana High School Athletic Association, 430 F.2d 115 (5th Cir. 1970); Hamilton v. Tenn. Secondary Sch. Athletic Ass'n, 552 F.2d 681 (6th Cir. 1976); Cooper v. Oregon School Activities Ass'n, 629 P.2d 386 (Or.App. 1981). Therefore, in the absence of a finding that the District's eligibility policies are arbitrary and capricious, it is unlikely that the courts would order the District to allow non-ASD students to participate in extracurricular activities.

It is uncertain whether the Alaska courts will continue to rely on the strict interpretation of what constitutes a "direct benefit" or a "public purpose" that it formulated in Matthews v. Quigley, 362 P.2d 932 (Alaska 1961). In that case, the Alaska Supreme Court held that free transportation for private school children to non-public schools violated the "direct benefit" and "public purpose" provisions of the Alaska Constitution, even though the U.S. Supreme Court had ruled in similar cases that such transportation did not violate the U.S. Constitution. See Everson v. Board of Educ., 330 U.S. 1 (1947) (upholding New Jersey law providing free public transportation for public and parochial schools). Although the Alaska Supreme Court has not overruled Matthews, it has questioned its continuing validity. See Sheldon Jackson College v. State, 599 P.2d 127, 130 n. 4 (Alaska 1979). Currently, there is litigation pending in the Fairbanks superior court over the constitutionality of providing free transportation of children to non-public schools. This litigation was prompted by a memorandum from the Alaska Commissioner of Education disapproving the funding of such transportation for the 1993-1994 school year. See Numbered Memorandum 94-02, dated August 20, 1993, attached hereto as Exhibit B.

permit a home/private school student to participate on public school teams. See Memorandum to ASAA Board of Control, dated September 21, 1993, attached hereto as Exhibit C. It is our understanding that a formal announcement will be made by the Commissioner at the October State Board of Education meeting. We have been told that the Commissioner will recommend that local school boards be permitted to formulate local policy on whether to permit home/private school students to participate on school teams. We do not know what ASAA's position will be on this matter. However, even if ASAA were to change its rule to permit home/private school students to play on public school teams, the Anchorage School District would not be required to allow such participation. We recommend that the District let the ASAA and the State Board of Education know its views on this matter.

2. Must Or May The District Allow Special Education Students Who Are Enrolled In Private Schools/CCS To Attend Regular Education Classes In The District Or Participate In Extracurricular Activities Sponsored By The District?

State and Federal statutes pertaining to the education of handicapped students require public school districts to make special education and related services available to children who attend private schools within the district.<sup>3</sup> 34 C.F.R. §300.451; 4 AAC 52.230. The special education services must be provided in conformity with each student's individualized education program ("IEP"). AS 14.30.278; 4 AAC 52.140. Whether a private school special education student is entitled to participate in a public school class or activity is determined by the student's current IEP. Gregory K. v. Longview School Dist., 811 F.2d 1307 (9th Cir. 1987) (public school is not required to provide special education student who has enrolled in a private school with continued tutoring by a particular tutor as such tutoring was not specified in the IEP). Thus, if a particular class or activity was provided in the public school under the student's IEP, the public school would be required to permit the special education student to participate in the class or activity even though the student is now enrolled in a private school.

A student's IEP, however, may be reconsidered and modified by a properly convened IEP team in accordance with procedures specified in state regulations. Although the courts will require school districts to follow the proper procedures for

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The Alaska Centralized Correspondence Studies Program does not provide special education services. Under Alaska law, the local school district must provide these services to special education students enrolled in CCS. AS 14.30.186 (a borough or city school district shall provide special education and related services for exceptional children residing in the district).

reevaluating a student's IEP, they have held, nevertheless, that a free appropriate education does not mean the absolutely best or "potential-maximizing" education for the individual child. Gregory K. at 1314. Public schools are only required to provide services that are necessary in order for the special education student to benefit educationally. Livingston v. DeSoto County School Dist., 782 F.Supp 1173 (N.D.Miss. 1992). Thus, public schools are not required to provide a special education student with each and every special service available to non-special education students or services simply preferred by the student. Rettig v. Kent City School Dist., 788 F.2d 328 (6th Cir. 1986) (holding that the EHA does not mandate that the IEP provide equal opportunities for participation in extracurricular activities by handicapped students). Moreover, the law views each handicapped student as having unique needs entitled to individual consideration. Bd. of Educ., Sacramento City School D. v. Holland, 786 F.Supp. 874 (E.D.Cal. 1992). Therefore, the needs of one child do not extend to a group or category of handicapped children. Id. at 878.

Because the law focuses on each child's individual needs, the District would not be able to place a "blanket" prohibition on developing IEPs which allow private school students to participate in public school regular classes and activities. At the same time, one student's IEP, which specifies that the student should be placed in a band class, does not give all other special education students the right to enroll in band. In the absence of a requirement in an IEP, the District would be under the same constitutional restraints as for regular students who attend private schools and wish to attend a class at the District or participate in extracurricular activities. See Cavallaro By Cavallaro v. Ambach, 575 F.Supp. 171 (W.D.N.Y. 1983) (handicapped student is subject to same eligibility rules for regular students where wrestling was not part of student's IEP).

### 3. The Alaska Public School Foundation Program

The Alaska PSFP is silent on whether the District may count in regular education ADM those students who attend only one or two classes in the District. The formula for calculating ADM does not provide for part-time weighting of students in grades 1-12.<sup>5</sup> Thus, if the District were to count these students, it would get full credit for them under the current ADM formula. Whether the District is entitled to count students who attend only one or two classes may depend, in part, on the District's definition of what it means to be "enrolled" in the District. This term is not

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<sup>5</sup> The statute does allow for half-time kindergarten students and part-time CCS students. AS 14.17.041; 4 AAC 09.040.

defined by the PSFP with regards to regular education.'

The PSFP does provide special education funding for private school/CCS special education students who reside in the district and receive special education services from the District. See AS 14.17.045.

Regarding CCS students, the regulations state that students who enroll in CCS and then voluntarily drop the program during a school year without permission for good cause, may not be included in a local school district's computation of ADM for that school year. 4 AAC 33.030. The local school district may, however, charge the student the same tuition rate which it charges students who attend its school who reside outside the school district. Id. A recent opinion by the Alaska Attorney General's Office suggests that a student may not be concurrently enrolled in CCS and a local school district for purposes of foundation funding. See Memorandum by Janice Greg Levy, Assistant Attorney General, dated March 18, 1993, attached hereto as Exhibit D.

Any decision to count private school/CCS students in the District's ADM should be carefully considered by the District. In addition to the constitutional issues implicated by the provision of state aid for private school students, the District may risk having to pay back funds to the Department of Education for improperly including "non-enrolled" students in its student count. Probably the only safe way to determine this issue is to ask the Department of Education.

4. May The District Contract With CCS For Materials And Services For Homeschool Students And Thereby Consider The Homeschool Students To Be Enrolled In the District?

Although we have not reviewed the most current CCS Handbook, the CCS Courses and Services Price List (1992-1993) states that CCS can support a local district program by teaching its students. Under this arrangement, the District would purchase CCS materials and teaching services for its students through the District. The District would collect funding for the students and would pay a fee to CCS for their services. See Exhibit E. The District may want to get more details from CCS regarding this arrangement which seems to suggest that the District would be able to count homeschool students in the District's ADM. This could be beneficial to both students and the District. The District would benefit if the fee paid to CCS was less than the state funding generated by the homeschool students. The students would benefit

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By contrast, the regulations define full-time enrollment for CCS as four or more carnegie units of work for the year, or two or more carnegie units for the semester. 4 AAC 09.040.

by being properly enrolled in the District and thereby eligible for participation in extracurricular activities such as band.

**CONCLUSION:**

The District is not required to permit non-ASD students to participate in District sponsored extracurricular activities. The District is probably prohibited by both the state and federal constitutions from permitting private school students to attend regular education classes. The District must provide special education students who have enrolled in private schools an appropriate education in conformity with the student's current IEP.

The Alaska PSFP is silent regarding funding for part-time students in regular education. The PSFP permits special education funding for private school/CCS students who reside in the District and receive special education services from the District. The PSFP probably does not permit a CCS student to be concurrently enrolled in a local public school for purposes of foundation funding.

The District should explore the possibility of contracting with CCS for services whereby the District enrolls the homeschool student in the District and receives funding for the student while CCS provides materials and services to the students under contract with the District.

EXHIBIT A

LEGALITY OF POLICY ALLOWING STUDENTS  
FROM LOCAL PRIVATE SCHOOLS TO ATTEND  
DISTRICT CLASSES

To: Fred Stofflet  
Executive Director, Curriculum & Assessment  
Anchorage School District

From: Peter Partnow  
Condon, Partnow & Sharrock

Date: January 24, 1992

Subject: Legality of Policy Allowing Students from Local  
Private Schools to Attend District Classes

I. Question Presented:

Is it legally permissible for the Anchorage School District to open its classes to students who are enrolled on a full-time basis in local private sectarian schools?

II. Answer:

Allowing students from private sectarian schools to attend District classes would more likely than not violate the Alaska Constitution's prohibitions against providing direct benefits to private schools and providing public funds for non-public purposes. Such a policy would also probably violate the constitutional prohibition against the establishment of religion found in both the federal and state constitutions.<sup>1</sup>

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<sup>1</sup>Even if the District could constitutionally open its programs to private school students not otherwise enrolled in District schools, there would appear no basis for concluding that the District would be required to permit participation of such students. Moreover, to the extent that any of the programs in which non-district students might wish to participate as regulated by the Alaska Schools Activities Association, it is likely eligibility requirements of the organization would also bar participation. Because your inquiry appears to be controlled by the basic constitutionality issues, we have not pursued extensive research or analysis relative to these other political issues.

Fred Stofflet  
January 24, 1992  
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III. Factual Background

It is our understanding that the District has been approached on behalf of one or more students who are enrolled on a full-time basis at private denominational schools. The student(s) desire to participate in District extra curricular program(s) because no comparable program(s) is offered at the private school(s). If admitted, each student would participate in the program(s) in the same manner as any other public school student. The student(s) in question are apparently residents of Anchorage who could attend Anchorage School District schools if not enrolled at private school. You have inquired whether permitting such student(s) to participate in District programs under these circumstances would be legally permissible.

IV. Discussion:

- A. Permitting students from private sectarian schools to participate in District programs probably violates the "direct benefits" and "public purposes" clauses of the Alaska Constitution.

The Alaska Constitution contains two provisions which prohibit the School District from establishing any policy which promotes sectarian influence in the schools. Under the "direct benefits clause," public funds cannot be used for the direct benefit of any religious or other private educational institution.<sup>2</sup>

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<sup>2</sup>Article VII, Section 1 of the Alaska Constitution states:

Public Education. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

(Emphasis added.) AS 14.03.090 also prohibits the advocacy of sectarian doctrines in the schools:

No partisan, sectarian, or denominational doctrines may be advocated in a public school during the hours the school is in session. No teacher or school board violating this section may receive public money.

Fred Stoffler  
January 24, 1992  
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A second provision of the state constitution prohibits the use of public money or property "except for a public purpose."<sup>1</sup>

These two constitutional prohibitions have been construed by the Alaska Supreme Court to invalidate laws or governmental policies which aid religion. In a case decided soon after statehood, the Alaska Supreme Court relied on these two clauses in a decision which invalidated a territorial statute providing for the free transportation of children to non-public schools. The court stated that free transportation did in fact "aid, encourage, sustain and support" the religious purpose of parochial education.<sup>2</sup>

More recently, the Alaska Supreme Court invalidated a tuition grant program for state residents attending private colleges in Alaska. The court determined that this program violated the Alaska Constitution because (1) it benefitted only private institutions, or those served by them, and was therefore not neutral; (2) the public funds expended under the program "constitute nothing less than a subsidy of the education received by the student at his or her private college"; (3) the magnitude of the benefits bestowed under the tuition grant program was quite substantial; and (4) although the tuition grants were nominally paid from the public treasury directly to the student, the student was merely a conduit for the transmission of state funds to private colleges. Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979).

Applying the four part test articulated in Sheldon Jackson, it is more likely than not that a policy permitting students from private religious schools to participate in District programs would be found to violate the direct benefit and public purposes clauses of the Alaska Constitution. First, the class benefitted by permitting private school students to participate in District programs would be narrow--consisting of private school students and private schools. Second, public funds would be subsidizing the private schools. Third, the magnitude of the benefits could be substantial, depending upon how many private schools students elected to participate in District activities.

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<sup>1</sup> Alaska Const. art. IX, § 6 states:

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

<sup>2</sup> Matthews v. Quinton, 362 P.2d 932, 941 (Alaska 1961) (quoting Everson v. Board of Education, 330 U.S. 1, 48 (1947) (Rutledge, J., dissenting)).

Fred Stofflet  
January 24, 1992  
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Finally, while funds would not be paid directly to the private schools, there would certainly be the effect of subsidizing the private program at public expense.

It thus is likely that participation by private school students in District extra curricular programs if challenged, would be found to violate the direct benefits and public purposes clauses of the Alaska Constitution.

B. Allowing religious school students to participate in District programs would probably also violate the establishment clauses of the state and federal constitutions.

The federal and state constitutions prohibit the School District from implementing any policy which establishes religion, or prohibits the free exercise of religion.<sup>3</sup> The prohibition against establishing religion, generally called the Establishment Clause, requires the School District to remain neutral with regard to religion, and to neither prefer one religion over another, nor advance all religion. Abington School District v. Schempp, 374 U.S. 203, 217-219 (1963). Whether governmental action violates the Establishment Clause is generally analyzed under the three part Lemon test, adapted from Lemon v. Kurtzman, 403 U.S. 602, 612-613 (1971). The Alaska Supreme Court has adopted the Lemon test for analyzing the issue under the Alaska Constitution. Bonjour v. Bonjour, 592 P.2d 1233 (Alaska 1979).

Under the Lemon test, the District's decision to allow a student from a private religious school to participate in District program would not violate the Establishment Clause of either the federal or state constitutions if (1) the policy has a secular purpose; (2) its principal or primary effect neither advances nor inhibits religion, and (3) the policy does not foster an excessive entanglement with religion. Id. The policy violates the

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<sup>3</sup>More specifically, the United States Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

U.S. Const. Amend. I. The First Amendment is made applicable to the School District as a political subdivision of the State of Alaska by the Fourteenth Amendment. The Alaska Constitution broadly states, "No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof." Alaska Const. art. I, 54.

Fred Stofflet  
January 24, 1992  
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Establishment Clause if it fails on any one of the three prongs of the Lemon test.

The United States Supreme Court considered a similar issue in Grand Rapids School District v. Ball, 105 S.Ct. 3216 (1985). In Grand Rapids, the school district adopted two programs that provided classes to non-public school students at public expense in classrooms located in and leased from the non-public schools. The first program, a "shared time" program, offered classes during the regular school day taught by full-time employees of the public schools. The second program, a "community education" program, offered classes at the end of the regular school day taught by part-time public school employees who for the most part were otherwise employed full time by the same non-public school in which their community education classes were held. Almost all of the private schools in the program, were religious schools. Students attending both programs were the same students who otherwise attended the particular school in which the classes were held.

Focusing largely on the second prong of the Lemon test, the Court held that both programs impermissibly "advanced religion" in three different ways: (1) the state-paid instructors, influenced by the pervasively sectarian nature of the religious schools in which they work, may intentionally or inadvertently indoctrinate the students in particular religious tenets or beliefs at public expense; (2) the programs threaten to convey a message of state support for religion to "impressionable youngsters" and to the general public; (3) the programs "in effect subsidize the religious functions of the parochial schools by taking over a substantial portion of their responsibility for teaching secular subjects." Id. at 3230.

The proponents of the shared time and community education programs argued that the subsidy effect of permitting public school teachers to teach courses to private religious school students was not significant enough to invalidate the program because the programs supplemented the curriculum with courses not previously offered in the religious schools and not required by state regulation. The Court rejected this argument, stating:

most important, petitioners' argument would permit the public schools gradually to take over the entire secular curriculum of the religious school, for the latter could surely discontinue existing courses so that they might be replaced a year or two later by a Community Education or Shared Time course with the same content. ... To let the genie out of the bottle in this case would be to permit

Fred Stofflet  
January 24, 1992  
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ever larger segments of the religious school curriculum to be turned over the [sic] public school system, thus violating the cardinal principle that the State may not in effect become the prime supporter of the religious school system.

Id.; see also PARENTS' ASSOC. of P.S. 16 v. Quinones, 803 F.2d 1235 (2nd Cir. 1986) (federally funded remedial education program for female Hasidic Jews in public schools unlikely to pass "primary effect" test under Establishment Clause); Stark v. St. Cloud State University, 802 F.2d 1046 (8th Cir. 1986) (university policy which permitted students to fulfill student teaching requirement at parochial schools violated establishment clause).

The facts in Rapid City are distinguishable in some respects from the instant situation because in that case, the public school courses were taught on the site of the sectarian schools and by teachers otherwise employed by those schools. In the instant case, the request is simply for a sectarian school student to attend programs located at a public school and conducted by public school employees. However, the District would be similarly providing a subsidy to a sectarian school by permitting the private school students to attend programs not offered by the private school. Additionally, the District would undoubtedly face difficulties administering a program involving students of religious schools without fostering an excessive entanglement problem under the third prong of the Lemon test.

It is difficult to predict with any certainty how the question would be resolved by the United States Supreme Court since its composition has changed significantly since Rapid City was decided. Several of the more conservative members now on the Court have been critical of past decisions which broadly construed the Lemon test to invalidate programs benefitting religion. On the other hand, the Alaska Supreme Court has continued to adhere to the long line of federal cases consistent with Lemon which invalidate programs which appear in any way to directly benefit religion. See Green, "Freedom of Religion in Alaska: Interpreting the Alaska Constitution," 5 Alaska L.Rev. 237, 249-254 (1988). Thus, even with a change in the application of the federal constitution by the U.S. Supreme Court, it remains likely that the Alaska Supreme Court would invalidate a policy allowing students from sectarian schools to participate in public school programs.

V. Conclusion:

For the above reasons, any policy permitting students enrolled in private religious schools to participate in District

Fred Stofflet  
January 24, 1992  
Page 7

programs would more likely than not be found unconstitutional under the direct benefits and public purposes clauses of the Alaska Constitution. It is also likely that such a policy would be found to advance religion in violation of the prohibition against the establishment of religion found in the state constitution. If previously established precedent were adhered to, this type of policy will also likely be found to violate the Establishment Clause of the federal constitution.

cc: Dr. Thomas O'Pourke, Superintendent of Schools

EXHIBIT B

TRANSPORTING PRIVATE SCHOOL STUDENTS

SEP 29 93 09:08

P.33

# STATE OF ALASKA

WALTER J. HICKEL GOVERNOR

## DEPARTMENT OF EDUCATION OFFICE OF THE COMMISSIONER

GOLDEN PLAZA  
801 WEST 10TH STREET, SUITE 802  
ANCHORAGE, ALASKA 99511-1854

NUMBERED MEMORANDUM 94-03

TO: All School Superintendents

FROM: *[Signature]* Larry Cooney, Commissioner of Education

DATE: August 20, 1993

SUBJECT: Transporting Private School Students

\*\*\*\*\*

This memorandum is to inform you that the Department has disapproved the transportation of nonpublic school children on all bus routes operated by school districts.

The Department of Law has advised this department that AS 14.09.020, authorizing transportation of nonpublic school students at public expense, is unconstitutional. They rely on Matthew v. Ombino, a 1961 Alaska Supreme Court decision holding that a nearly identical statute violated the Alaska Constitution because "the furnishing of such transportation at public expense constitutes a direct benefit to the (private) school." As a 1973 Attorney General Opinion explained, "until our Supreme Court issues a decision overruling Matthew or modifying it in a significant manner, the law in the state is that public funds may not be used to provide transportation to private school children."

We understand that students in the Fairbanks area may appeal this decision to the superior court. However, unless a court orders that the status quo be maintained during the pendency of judicial determination of this issue, all districts ~~must~~ cease providing transportation to private school students. This applies to private students transported on dedicated private school bus routes as well as private school students transported as passengers on public school bus routes. If this directive has an impact on your district please submit a revised schedule of pupil transportation route alignments and vehicle needs for determination of your district's EDM funding level.

This department will keep you informed of any significant developments. Please contact Diane Guiley, Director of School Finance, at 465-8679 if you have any questions.

44-1384

22

1125201 ON FAX FAX NO. 1075271

2072 EX. SCHOOL FINANCE

SEP 23 1993 7:44

EXHIBIT B PAGE 1 of 1

EXHIBIT C

BLOMFIELD CASE



# ALASKA SCHOOL ACTIVITIES ASSOCIATION, INC.

September 21, 1993

TO: Board of Control  
FROM: Gary Matthews  
RE: Blomfield Case

Harry Gamble notified me today that the Commissioner is going to make an announcement today that recommends changing ASAA Bylaws to permit a private/home school student to participate on a school team where he is not enrolled as long as the student lives in the member school's attendance area.

EXHIBIT D

SERVICES TO PRIVATE SCHOOLS AND PRIVATE  
SCHOOL STUDENTS

# MEMORANDUM.

State of Alaska  
Department of Law

Darby L. Anderson, Superintendent  
Centralized Correspondence School

DATE March 18, 1993

Thru: The Honorable Jerry Covey  
Commissioner  
Department of Education

FILE NO 66J-93-0179

TEL NO 465-3603

SUBJECT Services to private  
schools and private  
school students

FROM

*Janice Gregg Levy*  
Janice Gregg Levy  
Assistant Attorney General  
Human Services Section-Juneau

You have asked whether the Central Correspondence School (CCS) can provide services to private schools. As I understand your request, you would like to know whether you can contract with a private school to offer correspondence courses, and whether you can enroll private school students in the CCS. Although your questions arose in the context of an individual incident, you are asking for a legal opinion to serve as a basis for either continuing the existing guidelines, or developing new policy.

The short answer is that we believe it is beyond the department's scope of authority to contract with private schools to provide educational services. Even if the legislature broadened the department's authority, CCS would have to charge a fair price to avoid providing a direct benefit to a private school in violation of the state constitution, and might be subject to a charge of excessive government entanglement in religion if the private school was sectarian. On the other hand, private school students themselves should probably be permitted to enroll in CCS subject to the same admission requirements as any other student. While the enrollment could give rise to a "direct benefit" challenge, current case law suggests that the challenge would not succeed because the benefit to the school probably would not be of substantial magnitude.

## FACTUAL BACKGROUND

One of the duties of the Department of Education is to provide correspondence study programs through a centralized office, AS 14.07.020(a)(9), and it has done so by establishing the CCS. Most CCS students enroll because they do not live near a public school, because they are traveling, or because they choose the CCS over their local public school. The department is also authorized to contract with school districts to provide educational services where that is more efficient or economical than the district providing the service itself. AS 14.07.030(7). Thus, CCS functions in two ways: as a direct provider of education to

EXHIBIT D PAGE 1 of 9

Darby L. Anderson, Superintendent  
Centralized Correspondence School  
663-93-0179

March 18, 1993  
Page 2

students enrolled in its program, and as a contractor, providing services to a school district.

The principal of Abbott Loop Christian School, a private Anchorage school, called the CCS in August 1992 to contract for services to provide a biology course to a senior in their school. The CCS responded that it is their policy to sell services and materials only to public schools. The following day the counselor from the school called to enroll the student in the CCS, noting that the enrollment policy of CCS is to enroll students that have no other educational alternative. The CCS did not enroll the student. It was not clear from CCS's memo to our department if this decision was based on CCS's belief that the student did, in fact, have an educational alternative and therefore was not eligible, or was based on the fact that the student was enrolled in a private school, or both.<sup>1</sup>

The following analysis sets out the extent to which we believe the Alaska statutes and the state and federal constitutions permit CCS to provide services to private schools and private school students.

#### LEGAL ANALYSIS

##### I. CONTRACTING DIRECTLY WITH PRIVATE SCHOOLS

AS 14.07.030(7) provides that the department may contract with school districts to provide services. There is no express authority for the department to contract with private schools, and we believe that the current CCS policy of contracting only with school districts is both defensible and advisable. Departure from this policy could leave the department open to a challenge that it is acting outside the scope of its legislative authority, that it is providing a direct benefit to a private educational institution in violation of the Alaska Constitution, and, if the school is a religious school, that the contracting results in excessive government entanglement in religion in violation of the state and federal constitutions.

##### A. Scope of Legislative Authority

A 1983 attorney general memorandum advised the Department of Education that it could market certain instructional materials

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<sup>1</sup> Page seven of the CCS Handbook lists "no other educational alternative" as one of the criteria to be considered in determining whether a request for late enrollment should be approved. It is not a requirement for enrollment in CCS.

to the general public.<sup>2</sup> It noted that the statutes authorize "the sale or other disposition of abandoned or obsolete buildings and other state-owned school property," AS 14.07.030(4), and permit the department to "acquire and transfer personal property." AS 14.07.030(6). These statutory grants were considered broad enough to permit the sale of the materials. Thus, if the department is merely a vendor of goods, selling a curriculum, the sale is probably permissible. The price of the goods would have to be calculated so as not to create a direct benefit to the private school, however, as described in section B below.

The statutory grants cited are probably not broad enough, however, to encompass contracting with private schools to provide educational services. Providing services goes beyond the plain language of either selling state-owned school property or transferring personal property, and suggests more than a simple buy-sell transaction. This view is strengthened by the legislature's express authorization for the department to contract with school districts to provide services. AS 14.07.030(7). If the authority already existed, this section would be unnecessary. It is our opinion that contracting with private schools goes beyond the scope of authority granted by the legislature to the department, and that the CCS policy of contracting only with school districts should not be disturbed.

Scope of authority is sufficient reason by itself for the department to adhere to its existing policy. Because you expressed an interest in knowing what issues would be relevant if CCS contracted with private schools, I am also including a discussion of two constitutional arguments that could be raised.

B. Direct Benefit to Private Educational Institutions

"No money shall be paid from public funds for the direct benefit of any religious or other private educational institution." Alaska Const. art. VII, § 1. If CCS sells a product to a private school, or if the legislature does authorize the department to contract with private schools to provide services, the department must be sure that it does not provide the service at a state-subsidized price. If the department absorbs some of the costs of developing the product or providing the service, the value absorbed could be seen as a direct benefit to a private educational institution in violation of the state constitution. A "direct benefit" analysis, see infra section II.C., would then be employed to determine whether there was a violation. To avoid the

<sup>2</sup> 1983 Inf. Op. Att'y Gen. (June 17; 663-83-0651).

challenge, the department should fairly calculate all costs involved and charge the private school accordingly.

c. Government Entanglement with Religion

If the department's authority is seen to extend to contracting with private schools, or if the legislature authorizes such transactions, it is likely that some of the private schools seeking CCS services will be religious schools. Indeed, the inquiry giving rise to this memo was made by a Christian school desiring to contract with CCS. Government involvement with religious institutions raises additional concerns under both the state and federal constitutions.

The First Amendment to the U.S. Constitution states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . [.]". Although by its terms it applies to Congress, the amendment has been made applicable to the states by incorporation into the Due Process Clause of the Fourteenth Amendment. The Alaska Constitution, article I, section 4, contains a similar prohibition: "No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof." In Lemon v. Kurtzman, 403 U.S. 602, 91 S. Ct. 2105, 29 L. Ed. 2d 745 (1971), the United States Supreme Court articulated a three-part test to determine whether a statute offends the first amendment. A later case phrased the test as follows:

In order to pass muster, a statute must have a secular legislative purpose, must have a principal or primary effect that neither advances nor inhibits religion, and must not foster an excessive government entanglement with religion.

Wolman v. Walter, 433 U.S. 229, 236, 97 S. Ct. 2593, 2599, 53 L. Ed. 2d 714, 725 (1977). The Alaska Supreme Court applied the same test in considering whether a statute offended the federal or state constitution. Bonjour v. Bonjour, 592 P.2d 1233 (Alaska 1979).

Contracting to provide educational services to a religious school would probably pass the first two prongs of the test. The purpose would be a secular one--that of selling state educational services to interested schools. The primary effect would neither advance nor inhibit religion. The courses would be unrelated to any religious instruction provided by the school.

There is some danger, however, that the contracting would result in excessive government entanglement with religion, failing

the third prong of the test and rendering the practice unconstitutional. The question is one of degree. At one end of the spectrum, the mere sale of materials does not raise excessive entanglement concerns. At the other end, if in contracting with a school the department evaluates program needs, develops a program to meet those needs, and is involved in the implementation and evaluation of the program, there is significant state involvement in the delivery of education in a religious school. It is our opinion that contracting with a private school to provide educational services gives rise to a very real danger of excessive government entanglement in religion.

In light of this danger, the current scope of legislative authority, and the need to avoid a "direct benefit" to private schools, it is our view that CCS should adhere to its existing policy of contracting only with public school districts to provide services.

## II. ENROLLING PRIVATE SCHOOL STUDENTS

CCS declined to enroll the Abbott Christian School student in a CCS biology course apparently because he was enrolled in another school and because he did not meet other eligibility requirements. These reasons, as well as a constitutional argument that enrollment would result in a direct benefit to a private school, are addressed below.

### A. Concurrent Enrollment in CCS and a Private School

Existing CCS policy is to enroll students who apply in a timely fashion and who meet the requirements set out in the CCS Handbook. The handbook states that "[s]tudents may not be enrolled in the regular public school and CCS at the same time." CCS Handbook, pp. 6, 8. It also states "[s]tudents may not be enrolled in CCS and their local school at the same time." CCS Handbook, p. 7. CCS has apparently construed this rule to prohibit a private school student from enrolling in CCS. This is probably too strict an interpretation of the handbook rule.

There is no indication that this rule was meant to encompass anything other than public school enrollment. The materials suggest and you have confirmed that the sole purpose of the rule is to avoid students being counted twice for purposes of calculating foundation aid based on average daily membership. The same concern is evident in the state regulations, which provide that if a student drops out of CCS and then enrolls in the local school district the same year, the district cannot count that student in its average daily membership. 4 AAC 13.030(c). No

other purpose for the prohibition against concurrent enrollment has been suggested.

The issue of double counting is not raised when a private school student enrolls in CCS. Such a student would generate funds through the foundation formula for CCS, but would not be counted in any public school district. Thus, the rule prohibiting concurrent enrollment in a public school and CCS should not be extended to prohibit private school students from enrolling in CCS. This is not an unequal application of the rule. The private school student, like the public school student, may not be enrolled in a public school and CCS at the same time.

B. Other Eligibility Requirements for CCS Enrollment

There may, however, be other reasons not to enroll a private school student. You have stated that students must enroll on at least a half-time basis, and the student who prompted this inquiry sought to enroll in one course only--biology. CCS was justified in denying enrollment to this student if it was uniformly applying a policy of minimal half-time enrollment.

You have informed me that half-time enrollment for high school students consists of taking two courses. Some private school students may be willing to enroll in two courses to meet CCS requirements, enabling them to take courses from CCS not offered by their private school. Our opinion is that such students should not be denied enrollment if they otherwise qualify. Their work should be evaluated by the CCS teachers in the same manner as any other CCS student; the private school administration and teachers should not be involved at all. Despite a possible "direct benefit" challenge as discussed below, we believe that in most instances a private school student's part-time enrollment in CCS does not offend the constitution. Private school students must, of course, meet other requirements that apply to CCS students, including timely application.

C. CCS Enrollment of Private School Students as a Direct Benefit to a Private Educational Institution

An argument could be made that if private school students are permitted to enroll in CCS, the school is relieved of the responsibility and expense of teaching those courses CCS provides. This practice could be seen as constituting payments from public funds made "for the direct benefit of [a] religious or other private educational institution" in violation of Alaska Constitution, article VII, section 1. When a service or expenditure provides a benefit to a school, the inquiry must focus

on whether the benefit is a "direct" benefit, prohibited by the constitution, or an "indirect" benefit that may be permitted.<sup>3</sup>

In Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979), the supreme court set out a three-prong test for whether a benefit is a "direct benefit" in violation of the constitution: (1) Is the benefit applied with neutrality and without regard to status or affiliation? (2) What is the nature of the use of the funds? (3) What is the magnitude of the benefit conferred? Id. at 130.<sup>4</sup>

Applying the first question to enrollment in CCS by private school students, the benefit appears to be applied with neutrality. The CCS policy is applied without regard to the religious affiliation or lack of affiliation of a student's school, and the incidental benefit accrues to schools on a similarly neutral basis.

The nature of the use of the funds does not suggest a direct benefit. The funds are used to educate students not otherwise enrolled in public education. The fact that the funds are spent directly on students, however, does not preclude a finding that the school receives a direct benefit. A private school benefits by not having to provide the courses CCS offers, but only if it would in fact have provided them if CCS did not. A private school also benefits if a student would have withdrawn from the private school but for the availability of CCS part-time

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<sup>3</sup> The Alaska Constitutional Convention minutes reflect that the delegates expressly rejected language that would have prohibited both direct and indirect benefits. Thus, for example, although fire protection of a private school is clearly a benefit to the school paid from public funds, it is not prohibited by the constitution. For a discussion of the minutes relating to this issue, see Sheldon Jackson College v. State, 599 P.2d 127, 129 (Alaska 1979).

<sup>4</sup> In 1961, the Alaska Supreme Court held that transporting private school students on public school buses violated the constitution by directly benefiting private schools with public funds. Matthews v. Quinton, 162 P.2d 932 (Alaska 1961), cert. denied, 368 U.S. 517, 82 S. Ct. 530, 7 L. Ed. 2d 522 (1969). The court rejected the argument that the transportation was of direct benefit to the child only. Id. at 940-41. While not overruling Matthews, the Sheldon Jackson court suggested the case would be decided differently under the new test it adopted. Sheldon Jackson at 130 n.20. Consequently, we have not relied on the Matthews analysis of direct benefits.

enrollment. Notwithstanding these possible benefits, the nature of the use of the funds, taken alone, does not give rise to a constitutional violation. The funds are used to educate students through a state program not associated with a private school. Whether that use results in an impermissible benefit will probably turn on an examination of question three.

Prong three of the analysis asks what the magnitude of the benefit is. "A trivial, though direct, benefit may not rise to the level of a constitutional violation, whereas a substantial, though arguably indirect, benefit may." Id. If a few students throughout the state elect to enroll half-time in CCS while continuing enrollment in their private school, the benefit to the private school is probably both indirect and slight.

A different question is raised if a private school eliminated certain subjects from their curriculum, and directed their students to enroll half-time in CCS to take those courses. The appearance and substantive effect would be that CCS, with state dollars, was providing the curriculum and teaching for a private school. Such a result goes to the core of the prohibition against payment of public funds directly benefitting private educational institutions. The fact that procedurally the students would be enrolled individually through CCS, not through their school, would probably not save the arrangement. "[M]erely channeling the funds through an intermediary will not save an otherwise improper expenditure of public monies." Id.

It is unlikely that a private school would desire to abandon a large portion of its curriculum to the state. Indeed, private schools service families who seek an alternative to their local school district or the state correspondence program. But the example illustrates that what is constitutionally permissible on a case-by-case basis might result in a prohibited direct benefit if engaged in on a large scale. Thus, unless the benefit to a private school approaches a substantial magnitude, CCS should enroll private school students who are otherwise eligible for the program.

#### CONCLUSION

The existing CCS policy of contracting only with public school districts to provide educational services is based on a fair interpretation of the department's statutory authority and does not subject the department to statutory or constitutional challenges. Additionally, the department would probably be safe acting as a vendor by selling an educational product to private schools, so long as CCS did not subsidize the cost.

Darby L. Anderson, Superintendent  
Centralized Correspondence School  
663-93-0179

March 18, 1993  
Page 9

Enrollment in a private school should not preclude a student from enrollment in CCS, but the student must meet other admission requirements, including any minimum enrollment status. If CCS suspects that a private school is encouraging enrollment in CCS on a widespread basis to meet what would otherwise be the school's teaching responsibilities, the department should reassess its enrollment guidelines to avoid any constitutional violations. Absent such an occurrence, the enrollment of private school students in CCS raises no constitutional concerns.

I hope this provides you with sufficient background and analysis to evaluate existing CCS policy regarding private schools and private school students. If I can be of further assistance, please do not hesitate to contact me.

JGL:ae:bap

ITEM B

DEPARTMENT OF EDUCATION AGENDA AND  
REGULATIONS  
DATED OCTOBER 13, 1993

**TENTATIVE AGENDA  
ALASKA STATE BOARD OF EDUCATION**

**October 27-30, 1993**  
Fort Yukon - Arctic Village - Fairbanks

**RECEPTION**  
6:30 p.m., Fort Yukon Elementary School Cafeteria

**PUBLIC FORUM**  
8:30-9:30 p.m., Fort Yukon Gymnasium

**BOARD MEETING**  
Thursday, October 28  
Elementary School Board Room, Fort Yukon  
8 a.m.

1. Meeting with Yukon Flats School Board  
8 a.m.
2. Call to Order & Roll Call ..... Patricia Norheim  
9 a.m.
3. Commissioner's Report ..... Terry Covey
4. Participation in Public School Activities and Programs  
11 a.m.
5. Public Comments  
Comments are limited to 3 minutes  
per person and 9 minutes per group.

**LUNCH**  
11:30 a.m. to noon, cafeteria

**FLIGHT TO ARCTIC VILLAGE**  
noon to 1 p.m.

6. School and Village tour
7. Discussions ..... Arctic Village Council  
Venetie Tribal Council  
local advisory committee

**BOARD MEETING**

Friday, October 29  
School District Administrative Center  
Board Room, Main Floor  
520 Fifth Avenue, Fairbanks  
8:30 a.m.

- 8.  Call to Order ..... Patricia Norheim
- 9.  Attorney General's Report ..... Tom Slagle
- 10. Tech Prep Report ..... Ed Obie
- 11. Student Performance Standards ..... Bob Silverman  
Science, Math, English/Language Arts

**LUNCH**

noon to 1:30 p.m., School District Administrative Center

- 12. Private School Participation Regulations ..... Jerry Covey
- 13. Public Comment and Continuation of Oct. 29 Agenda  
7 p.m., Board Room, Administrative Center  
Comments are limited to 3 minutes  
per person and 5 minutes per group.  
Each topic is limited to 1 hour.

**BOARD MEETING**

Saturday, October 30  
Fairbanks  
9 a.m.

- 14. Kids Voting ..... Sandy McClintock
- 15. Regional Resource Center Proposal ..... Charles White
- 16. Approval of Consent Agenda

**Regulations for Adoption**

- 94-11 Adopting regulations governing Senate Bill 7 (school construction)

**BOARD MEETING**

Saturday, October 30

Continued

**Regulations for Public Comment**

- 94-12 Opening a period of public comment on student performance standards for English/language arts, mathematics, and science
- 94-13 Opening a period of public comment on regulations for the state archives division
- 94-14 Opening a period of public comment on regulations governing participation by private school students in public school classes
- 94-15 Opening a period of public comment on regulations governing participation by private school students in public school interscholastic activities

**General Items**

- 94-16 Approving the minutes of the August 6 & 7 meeting
- 94-17 Accepting the Tech Prep Report and approving the Tech. Prep recommendations for implementation
- 94-18 Approving a land transfer from Mt. Edgecumbe High School to the Division of Natural Resources
- 94-19 Accepting the recommendations of the standards committees in math, science, and English/language arts
- 94-20 Granting a special education waiver to the Kenai School District

**17. Other Business****18. Board Comments****19. Public Comment on Non-Agenda Items****20. Adjournment**

**MEMORANDUM**

To: State Board of Education

Date: October 5, 1993

From: Commissioner's Office

Action Item: 94-14

**■ ISSUE**

- The Board is being asked to open a period of public comment on a proposed regulation to allow private, home school, and correspondence students to enroll part time in public schools.

**■ BACKGROUND**

- State law does not prohibit non-public school students from enrolling in public schools. The issue is not addressed in statute.
- This proposed regulation would clarify the situation by prohibiting school districts from denying access to non-public school students.
- This would allow non-public school students to enroll part time in courses that may not be available in their school.
- The proposal would also provide reimbursement for these students through the Public School Foundation Program, as follows:
  - A secondary student enrolled in one to three courses in a semester equals 0.5 ADM (Average Daily Membership).
  - A secondary student enrolled in four or more courses in a semester equals one full ADM.
  - An elementary student who attends public school less than four hours per day equals 0.5 ADM.
  - An elementary student who attends a public school four hours or more per day equals one full ADM.

**■ OPTIONS**

- Open a period of public comment on the proposed regulation.
- Amend the proposal.
- Table the proposal.

**■ ADMINISTRATION'S RECOMMENDATION**

Motion: I move that the State Board of Education open a period of public comment on 4 AAC 06.035, 4 AAC 09.015, and 4 AAC 09.040, proposed regulations allowing private, home school, and correspondence students to enroll part time in public schools and setting up a method of reimbursement for school districts enrolling

Register , 1993

EDUCATION

4 AAC 05 is amended by adding a new section to read:

4 AAC 05.035. PART-TIME ENROLLMENT IN A PUBLIC SCHOOL. A private, correspondence or home school student who under AS 14.30.010(b) is exempt from compulsory education at a public school, may not be prohibited from enrolling on a part-time basis in a public school in the attendance area in which the student resides. (Eff. / / , Register )

Authority: AS 14.03.080(a)

AS 14.07.020

AS 14.07.060

4 AAC 09.015 is amended by adding a new subsection to read:

(k) Students enrolled in a public school less than full-time must be counted in accordance with 4 AAC 09.040(d). (Eff. 1/15/87, Register 101; am 12/13/87, Register 104; am 8/5/90, Register 115; am / / , Register )

Authority: AS 14.07.020

AS 14.17.051

AS 14.07.060

AS 14.17.170

AS 14.17.021

AS 14.17.200

AS 14.17.041

4 AAC 09.040 is amended to read:

4 AAC 09.040. COUNTING OF CORRESPONDENCE AND PART-TIME STUDENTS

(ATTENDANCE PROGRAMS). (a) District correspondence

Register , 1993

## EDUCATION

or other enrolled students who do not regularly attend school on a daily basis are counted in the appropriate grade level of the funding community with the highest ADM in the district for the purpose of calculating instructional units.

(b) Repealed 12/13/87.

(c) A student enrolled in an approved district correspondence study program must be counted on an FTE basis as follows:

(1) a full time elementary student equals one full ADM;

(2) a secondary student enrolled for four or more carnegie units of work for the year, or two or more carnegie units for the semester, equals one ADM;

(3) a secondary student enrolled for less than four carnegie units of work for the year, or less than two carnegie units for the semester, equals a fractional ADM based on the number of units taken divided by four or two, respectively;

(4) A part-time student must be counted on an FTE basis as follows:

(1) A secondary student enrolled in one to three courses in a semester equals .5 ADM.

(2) A secondary student enrolled in four or more courses in a semester equals one full ADM.

(3) An elementary student who attends public school less than four hours per day equals .5 ADM.

Register , 1993

EDUCATION

(4) An elementary student who attends a public school  
four hours or more per day equals one full ADM. (Eff. 1/15/87,

Register 102; am 12/13/87, Register 104; am / / ,

Register )

Authority: AS 14.07.020 AS 14.17.041

AS 14.07.060 AS 14.17.170

AS 14.17.010 AS 14.17.200

AS 14.17.031(a)



## MEMORANDUM

To: State Board of Education

Date: October 5, 1993

From: Commissioner's Office

Action Item: 94-15

## ■ ISSUE

- The Board is being asked to open a period of public comment on a proposed regulation to allow private school students to compete in the interscholastic activities of the public schools.

## ■ BACKGROUND

- Current rules of the Alaska School Activities Association allow both public and private secondary schools to be members of ASAA and to compete in ASAA sanctioned activities.
- However, many private, home school, and correspondence students do not attend schools that field teams. Therefore, they do not have the opportunity to participate in interscholastic activities.
- This proposal would allow private, home school, and correspondence students to participate in the interscholastic activity of a public school when the private, home or correspondence school does not offer the interscholastic activity.
- There would be several conditions for participation. The student must:
  - Meet other ASAA and school district eligibility requirements.
  - Meet and adhere to the same team responsibilities and standards of behavior and performance as other members of the team or squad.
  - Participate as a member of the public school that the student would attend according to the student's residence, even if the district has an open enrollment policy permitting attendance at a different public school.
  - Provide the school administration acceptable documentation of any scholastic eligibility standards required of all other participants.
  - Comply with ASAA and local school regulations during the time of participation.

↙ The State of Alaska would not reimburse school districts for non-public school students who participate in public school interscholastic activities.

## ■ OPTIONS

- Open a period of public comment on the proposed regulation.
- Amend the proposal.
- Table the proposal.

## ■ ADMINISTRATION'S RECOMMENDATION

Motion: I move that the State Board of Education open a period of public comment

on the proposed regulation to allow private school, home school, and

Register , 1993

EDUCATION

4 AAC 06.112 is amended to read:

4 AAC 06.111. ALASKA SCHOOL ACTIVITIES ASSOCIATION. (a) Except as provided in (b) of this section, the [THE] constitution and bylaws of the Alaska School Activities Association, as approved by the State Board of Education on January 29, 1977, and as amended as of September 26, 1986, are adopted by reference as the applicable rules for the administration, management, and control of interscholastic activities and for eligibility for participation in those activities.

(b) Private, correspondence, and home school students who under AS 14.30.010(b) are exempt from compulsory education at a public school, may not be prohibited from participating in interscholastic activities at a public school, unless the interscholastic activity is available to the student at a private school the student attends. To be eligible to participate a student must

(1) meet other ASAA and school district eligibility requirements;

(2) meet and adhere to the same team responsibilities and standards of behavior and performance as other members of the team or squad;

(3) participate as a member of the public school that the student would attend according to the student's residence, even

Register , 1993

EDUCATION

if the district has an open enrollment policy permitting attendance at a different public school;

(4) provide the school administration acceptable documentation of any interscholastic eligibility standards required of all other students; and

(5) comply with AAAA and local school regulations during the time of participation. (Eff. 10/28/76, Register 60; am 3/24/77, Register 61; am 3/1/78, Register 65; am 9/23/78, Register 67; am 11/23/80, Register 76; am 11/26/80, Register 76; am 7/31/81, Register 79; am 6/9/83, Register 86; am 8/30/84, Register 91, am 3/24/85, Register 93; am 8/30/86, Register 99; am 2/20/87, Register 101, am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

Authority: AS 14.07.020(1)

AS 14.07.058

AS 14.07.060

G. CONSENT AGENDA

Attachment C

Consent Agenda attached.

The following items were removed from the Consent Agenda: Item 1.e Special Meeting of October 5, 1993; Item 1.f Special Meeting of October 11, 1993; Item 1.i Special Meeting of November 2, 1993; ASD Memoranda #204, #197, #211, #194, #213, #218, #230, #221, #222, and #231.

In the interest of time, Mr. Christal announced that he would pull ASD Memorandum #213 and bring it back to the Board at the regular meeting of January 24.

ACTION

Moved by Mrs. Robinson-Wilson  
seconded by Mr. Marks

for approval of the Consent Agenda: Item 1.a Special Meeting of September 13, 1993; Item 1.b Special Meeting of September 27, 1993; Item 1.c Regular Meeting of September 27, 1993; Item 1.d Special Meeting of October 4, 1993; Item 1.g Regular Meeting of October 11, 1993; Item 1.h Special Meeting of October 13, 1993; Item 1.j Special meeting of November 8, 1993; Item 1.k Regular Meeting of November 8, 1993; Item 1.l Special Meeting of November 15, 1993; Item 1.m special Meeting of December 13, 1993; Item 1.n Regular Meeting of December 13, 1993; Item 1.o Special meeting of December 16, 1993; ASD Memoranda #228, #214, #220, #215, #216, #217, #227, #210, #223, and #244.

## VOTE:

Ayes: Richards, Ossiander, Ferrell,  
Robinson-Wilson, Higgins,  
Marks, Obermeyer

Nays: none

MOTION PASSED.

ACTION

Moved by Mrs. Higgins  
seconded by Mrs. Robinson-Wilson

to change the order of the  
day by taking Items #7, #13,  
#14, #15, #16 and #21 now.

## AMENDMENT

Moved by Mrs. Robinson-Wilson  
seconded by Dr. Obermeyer

to add Item #5 to the list of  
memoranda to be taken  
now.

## VOTE ON AMENDMENT:

Ayes: Ossiander, Robinson-Wilson,  
Ferrell, Higgins, Marks,  
Obermeyer

Nays: Richards

AMENDMENT PASSED.

## VOTE ON MAIN MOTION AS AMENDED:

Ayes: Richards, Ossiander, Ferrell,  
Robinson-Wilson, Higgins,  
Marks, Obermeyer

Nays: none

MAIN MOTION AS AMENDED PASSED.

ASD Memorandum #211 (93-94) School Calendar 1994-95

The Administration recommends that the School Board approve Calendar D (Attachment A) as the school calendar for the 1994-95 school year.

ACTION

Moved by Mrs. Robinson-Wilson  
seconded by Mrs. Higgins

for approval of ASD  
Memorandum #211

# INFOLINE

NEWS FOR ANCHORAGE SCHOOL DISTRICT EMPLOYEES

January 19, 1994 Vol. 7, No. 6

**The school board met Dec. 13 and took the following action:**

- to approve as amended the 1993-94 Capital Improvement Program Legislative Request for submission for consideration of funding.
- to approve the implementation of a pilot project of a Teacher Learning Component and Modified School Day for the Central School of Science for the period January-June, 1994.
- to authorize the continued unrestricted circulation of the book "The Elephant's Child" by Rudyard Kipling through the district's libraries.
- to authorize the continued unrestricted circulation of the book "Zoo" by Anthony Browne through the district's libraries.
- to accept a grant award from the ARCO Foundation's Employee Program in the amount of \$500.
- to accept a grant award from the Alaska Department of Environmental Conservation in the amount of \$100.
- to accept a FIRST grant award from the U.S. Department of Education in the amount of \$102,086.
- to accept a grant award from the Sega Foundation in the amount of \$2,000.
- to accept grant awards from the Alyeska Pipeline Service Co. in the amount of \$3,500.
- to endorse changes in the composition of the Health Curriculum Committee and approve the appointment of the parent/citizen representatives to that committee.
- to award a contract to C.R. Lewis Co. Inc. to furnish and install ventilation equipment at O'Malley Elementary School in the amount of \$61,346.
- to increase contract No. 598, with change order No. 1 to McGlothlin Balivet Co. Architects for design and construction administration services in the amount of \$162,109 and also to approve the schematic design for the addition and renovation at Taku Elementary School.
- to increase contract No. 616 with change order No. 3 for design and construction administrative services in the amount of \$166,974 and also to approve the schematic design for an addition at Campbell Elementary School, contingent upon the sale of the bonds by the Municipality of Anchorage.
- to issue an adjustment to the contract award for Susitna Elementary School in the amount of \$548,147, contingent upon the sale of bonds by the Municipality of Anchorage.
- to accept six "Direct Teacher Grants" in the total amount of \$32,305.
- to approve a pilot program called Classroom Connection from the Anchorage Daily News for one junior high school for the remainder of the 1993-94 school year at no cost to the district.
- to approve the use of the district's 70 percent state reimbursement eligibility for the retirement of principal and interest on \$133 million of bonded indebtedness for future bond propositions to be approved by the voters of the Municipality of Anchorage.

**The school board met Jan. 10 and took the following action:**

- to approve suggested policy changes to section 833 on first reading.
- to approve as amended the 1994-95 school year calendar.

- to approve the selection of GDM Architects as the designer of record for the new alternative school and to enter into one or more contracts with GDM for these services, not to exceed \$142,857.
- to approve change order No. 7 to contract No. 617 to UIC Construction Inc. for the Clark Junior High School new library in the amount of \$47,285.
- to approve contracts to Raj Bhargava Associates and Dames, Morgenthaler and Co. Inc. to provide an indefinite schedule for various maintenance projects not to exceed \$75,000 each with an option to increase the total award per contract to \$125,000.
- to approve the selection of Porath Architects as the designer of record for the new Sand Lake Elementary School and to enter into one or more contracts with Porath for these services, not to exceed \$800,000.
- to pursue acquisition of land adjacent to Wonder Park Elementary School.
- to pursue acquisition of land adjacent to Nunaka Valley Elementary School.
- to approve change order No. 4 to USKH in the amount of \$5,920 for additional professional design services for the North Star Elementary School addition.
- to approve change order No. 4 to contract No. 628 with Matrix Construction Inc. for the North Star Elementary School addition in the amount of \$507,142.15.
- to approve change order No. 3 to Raj Bhargava Associates in the amount of \$183,504 for phase III, mechanical engineering services for heating system upgrades at Dimond High School.
- to approve change order No. 5 to contract No. 622 to Collins Construction Inc. for the Birchwood Elementary School additions and alterations in the amount of \$41,916.
- to allow Alaska Native Heritage Park Inc. to cross and use a portion of school district land adjacent to Bartlett High School to facilitate the development of the Alaska Native culture center.
- to approve a language arts framework for grades 7 and 8, including the adoption and purchase of materials.
- to accept the HIV/AIDS grant in the amount of \$10,257 from the Alaska Department of Education.
- to oppose proposed regulation changes of the Department of Education regarding private school student participation in public education programs.

**The school board met Jan. 12 and took the following action:**

- to approve as amended and endorse the concept of an arts-based program as an alternative elementary program in Anchorage and proceed with the development of a locally defined program.
- to authorize the continued unrestricted circulation of the book "Asking About Sex and Growing Up" by Joanna Cole through the district's libraries.

**A Management Academy for administrators will be presented by Dr. Wendy Kasten, Associate Professor, Childhood Education, University of South Florida. "The Multi-age Classroom: A Family of Learners" is scheduled Friday, Feb. 4, 8:30 - 11:30 a.m., Administration Building Board Room.**

A former elementary teacher, Dr. Kasten is an active researcher, consultant and writer. Her articles have appeared in the "Anthropology and Education Quarterly," the "Journal of Reading" and "The Whole Language Catalog." The workshop will focus on multi-age grouping or grade-combination classrooms. She will share research, management, curriculum and instructional strategies based on action-research conducted in a classroom by teachers. Participants will explore issues related to family grouped classrooms and the effects upon at-risk learners, gifted learners, bilingual students, special education students and developmentally appropriate practices. Contact training and professional development (formerly staff development) to make your reservation, 269-2233; VAX or MS Mail JFerguson, or fax 269-2260.



## Participation in Public School Interscholastic Activity Programs by Home School and Private School Students

November 1996

The question is frequently asked, "Should Johnny, a home school (or private school) student, be allowed to play basketball at a school, if he's not attending that school?" In 1994 the Alaska Superior Court found in *Blomfield v Anchorage School District, Alaska School Activities Association and State Board of Education* that school districts shall not be required to accept such a request. This paper and its supplements will explain the rationale for that decision and the options allowed under ASAA guidelines for home school and private school students.

The Alaska School Activities Association (ASAA) believes that interscholastic activities are an integral part of the overall educational program of a school. To be integral, both activities and academics must coexist as necessary components of a complete school. Consequently, ASAA prohibits a student from participating unless enrolled in and attending that school. ASAA Bylaws speak to this in Article 12, Section 2, Enrollment Rules, as follows:

A. To be eligible during a school semester for participation in interscholastic activities, a student must be properly registered in a 9-12 or 10-12 high school program or any combination thereof, in the member school where the school will participate or where authorized by a member district, be enrolled in the member district's alternative school or program (including district correspondence), when such district is paying the student surcharge for that student and when the student is participating at the member school she/he would normally attend or at the member school nearest to the alternative school...

ASAA is an association of 191 member schools charged with regulation and promotion of interscholastic activities under authority of Alaska Regulation 4AAC 06.115, which states: "*The purpose of 4AAC 06.115 is to provide a procedure that enables school districts to promote and govern interscholastic activities effectively, economically, and fairly, while keeping those activities in their proper perspective educationally.*"

In Alaska, any public high school and any accredited or approved private or home school, is eligible for membership in ASAA. Each member school is then entitled to sponsor an interscholastic activities program that best meets the needs of that school/community. Among its 191 members are public, private and home schools. (See Supplement no. 1)

It could be argued that schools with fewer students are at a disadvantage when it comes to sponsoring certain team sports that require a large number of participants. Again, ASAA Bylaws address this potential problem by letting the smaller member schools develop Coed teams and by encouraging these schools to jointly sponsor teams under the Cooperative School Program. Bylaw Article 7, Section 8, Girls and Boys Joint Participation and Cooperative School Programs speaks to these issues. (See Supplement no. 2)

ASAA's position on this eligibility issue is for the following reasons:

1. Permitting a student to participate at a school in which he is not enrolled would frustrate the advantage of having one school with full administrative control over a student. There is often an interplay between disciplinary concerns, attendance, motivation, and performance of a student in academic and athletic activities. It is better to have one school administration overseeing all of the student's activities, with enforcement abilities in all areas.
2. It would be difficult to compare eligibility standards between private and public schools, or home schools. ASAA eligibility standards require that a student pass at least four semester units of credit in the immediately preceding semester. If academic standards are different at the private or home school, this could create the perception or even the fact of unfairness, if the private or home school student is not able to comply with the public school's academic standards.
3. Permitting a student to participate at a school in which he is not enrolled would operate to the detriment of "school spirit" which is one of the positive features of interscholastic activities. Interscholastic sports and other activities provide rewarding experiences not only to the participants, but also to student spectators who turn out to root for their school. The sense of school pride and community may suffer if a substantial contingent of the school's team consists of students from another school, who the public school students do not know.
4. Students may choose to attend private or home schools in order to play on the public school team of their choice, circumventing ASAA's Transfer/Residency rule. This rule prevents students from transferring between schools simply because they wish to play on a certain high school team. Unless students and their parents or guardians have a change of residency, or unless the transfer takes place during the summer months, transfer students must be enrolled at a new school for eighteen weeks in order to become eligible to participate. An exception to this is the Intra-district Transfer rule, which authorizes a district to establish its own intra-district transfer rules, so long as they are at least as stringent as ASAA's rules. It also authorizes a superintendent to approve an intra-district transfer that is of benefit to the student and district, so long as the transfer is not related to activities participation.
5. Private schools may be encouraged to drop all efforts to fund interscholastic activities and shift this burden completely to the public schools, which are already financially burdened and may be considering curtailing certain activities. A particular public school may be inundated with private or home school students wishing to participate, either because of where the students live, or because the school has a particularly good interscholastic program. Without additional funding from the state or a requirement that the private or home school compensate the public school for the full cost (including overhead) of the participation for those students, the public school will either have to divert more of its budget to its interscholastic activities program, or curtail it.
6. Disputes and litigation could result if public school students are displaced from public school teams as a result of private or home school student participation. Parents of public school students displaced from activities by private or home school students can be expected to challenge this as a violation of the Alaska Constitution provision which prohibits use of public school funds for the direct benefit of private (home) schools. Moreover, individual decisions regarding a student's qualification to play for a team or to play a certain position will become more controversial. For example, a parent of a private or home school student may be inclined to suspect that a public school coach's decision to not utilize the student-athlete is a result of politics, school loyalty or related motivations rather than based upon the actual abilities of the student. Given that parents are increasingly choosing to litigate such matters, coaches or band directors may find themselves in court defending individual decisions.

Fran Ulmer  
Lieutenant Governor

# The Constitution of the State of Alaska

ARTICLE VII, SECTION 1  
CONSTITUTION



**SECTION 8. REAPPORTIONMENT BOARD.** The governor shall appoint a reapportionment board to act in an advisory capacity to him. It shall consist of five members, none of whom may be public employees or officials. At least one member each shall be appointed from the Southeastern, Southcentral, Central, and Northwestern Senate Districts. Appointments shall be made without regard to political affiliation. Board members shall be compensated.

**SECTION 9. ORGANIZATION.** The board shall elect one of its members chairman and may employ temporary assistants. Concurrence of three members is required for a ruling or determination, but a lesser number may conduct hearings or otherwise act for the board.

**SECTION 10. REAPPORTIONMENT PLAN AND PROCLAMATION.** Within ninety days following the official reporting of each decennial census, the board shall submit to the governor a plan for reapportionment and redistricting as provided in this article. Within ninety days after receipt of the plan, the governor shall issue a proclamation of reapportionment and redistricting. An accompanying statement shall explain any change from the plan of the board. The reapportionment and redistricting shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

**SECTION 11. ENFORCEMENT.** Any qualified voter may apply to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment. Application to compel the governor to perform his reapportionment duties must be filed within thirty days of the expiration of either of the two ninety-day periods specified in this article. Application to compel correction of any error in redistricting or reapportionment must be filed within thirty days following the proclamation. Original jurisdiction in these matters is hereby vested in the superior court. On appeal, the cause

shall be reviewed by the supreme court upon the law and the facts.

## ARTICLE VII. HEALTH, EDUCATION AND WELFARE.

**SECTION 1. PUBLIC EDUCATION.** The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

**SECTION 2. STATE UNIVERSITY.** The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

**SECTION 3. BOARD OF REGENTS OF UNIVERSITY.** The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

**SECTION 4. PUBLIC HEALTH.** The legislature shall provide for the promotion and protection of public health.

**SECTION 5. PUBLIC WELFARE.** The legislature shall provide for public welfare.

4 AAC 05.035

**PART-TIME ENROLLMENT IN A PUBLIC SCHOOL.**

(a) A district may permit its schools to enroll part-time public school students. A district that permits enrollment of part-time public school students shall adopt a policy that sets out how a school in the district shall comply with (b) of this section and how the school shall process a request for enrollment of a part-time public school student. The district shall make the policy available to an interested person.

(b) Subject to the policy that a district has set out under (a) of this section, a public school in the district may enroll a part-time public school student, including a private, correspondence, or home school student, who is exempt from compulsory education at a public school under AS 14.30.010(b), if

(1) space is available in a course in which the student desires to enroll after full-time public school students have had an opportunity to enroll;

(2) the enrollment is at the request of the student or the student's parent; for purposes of this paragraph, "parent" has the meaning set out at 4 AAC 52.990;

(3) the student has met the prerequisites for the course that are required of a full-time public school student; and

(4) the enrollment does not result in an expenditure of public money for the direct benefit of a private educational institution.

(c) A district shall count a part-time public school student for foundation aid purposes according to 4 AAC 09.040(c).

(d) A district may permit dual enrollment of a part-time public school student at a public school and a private, correspondence, or home school, if the dual enrollment satisfies the requirements of compulsory education set out at AS 14.30.010.

(e) For the purposes of this section, "part-time public school student" means a pupil who attends a public school less than a day in session, as "day in session" is defined at AS 14.03.040.

**History -**

Eff. 6/2/95, Register 134

**Authority -**

AS 14.03.080

AS 14.07.020

AS 14.07.060

AS 14.30.010

4 AAC 09.040

COUNTING OF CORRESPONDENCE STUDENTS AND PART-TIME PUBLIC SCHOOL STUDENTS.

(a) Repealed 6/2/95.

(b) Repealed 12/13/87.

(c) A student enrolled in an approved district correspondence study program, in the centralized correspondence study program, or as a part-time public school student under 4 AAC 05.035, shall be counted on a full-time equivalent basis as follows:

(1) a student enrolled in one course in a semester equals 0.25 full-time equivalent;

(2) a student enrolled in two courses in a semester equals 0.5 full-time equivalent;

(3) a student enrolled in three courses in a semester equals 0.75 full-time equivalent;

(4) a student enrolled in four or more courses in a semester equals 1.00 full-time equivalent.

History -

Eff. 1/15/87, Register 101; am 12/13/87, Register 104; am 6/2/95, Register 134

Authority -

AS 14.07.020

AS 14.07.060

AS 14.17.010

AS 14.17.022

AS 14.17.031

AS 14.17.041

AS 14.17.080

AS 14.17.160

AS 14.17.170

AS 14.17.200

IDITAROD AREA SCHOOL DISTRICT  
Box 90  
McGrath, Alaska 99827

## F A X C O V E R S H E E T

DATE: February 24, 1997      TIME: 11:46 AM  
TO: Jan Newton - Room 323      FAX: 586-8315  
FROM: Isabelle Harrington *Isabelle*      PHONE: 907-524-3599 ext. 224  
Business Manager      FAX: 907-524-3217  
RE: PART TIME STUDENTS

Number of pages including cover sheet: 1

### *Message*

Regarding your question on how we treat part-time students:

We have followed guidelines as outlined in the old DOE "Pupil Accounting" manual for correspondence students (page 58). Those guidelines are as follows:

"A student who is enrolled for two or more Carnegie units for a semester or four or more units for the year is to be counted as full-time. A student enrolled for less than two units for the semester or less than four for the year, will be divided by two or four, respectively and counted as a fractional full-time equivalency (FTE). When calculating the individual student membership for a secondary correspondence student, the number of days in members must be multiplied by the fraction obtained above."

Even though this applies only to secondary students, we have used these guidelines for all students even elementary students who may be on a home-schooled christian school correspondence for part of their day.

What this does for funding purposes is a student would then be pro-rated for the foundation count. A child who only is enrolled for two courses would then be counted as a half-time student and the funds given would be less than a full-time student.

I hope this helps. Let me know if you need any additional information.

*Isabelle Harrington  
Correspondence*

INFORMATION FROM  
IDITAROD AREA SCHOOL  
DISTRICT



# JUNEAU SCHOOL DISTRICT

CITY AND BOROUGH OF JUNEAU

10014 CRAZY HORSE DRIVE • JUNEAU, ALASKA 99801-8529 • (907) 463-1700

x 214  
M. J. Anderson  
11/21/1997

### FACSIMILE TRANSMISSION

Date: 2/24/97 Telefax #: (907)463-1768

To: Lisa No. of pages transmitted: 1  
(including transmittal page)

F. c. #: 465-4597

From: Shelley Turner City and Borough of Juneau  
School District

Regarding we do not have a policy  
which addresses part-time students.  
It is addressed in DOE Adm. Reg  
4 AAC 05.035.

IF NOT RECEIVED CORRECTLY  
PLEASE CALL BECKIE WILSON  
AT THE JUNEAU SCHOOL DISTRICT  
CENTRAL OFFICE (907)463-1700 EXT 210

Gaye Willis  
9345 Turn St.  
Juneau, AK 99801  
(907-789-7634)  
gjwillis@aol.com

The Honorable Fred Dyson,

Dear Sir,

I would like to express my support for **HB 158** regarding the right to attend school on a part-time basis. Clearly the Alaska State Constitution provides that all students shall have access to education. The current policy of some districts to prohibit part-time attendance violates that mandate.

I have three children, two are currently enrolled in our local district and one is in Alyeska Central School. During the past 5 years, we have used a combination of both options in choosing the best educational program for our children. My personal experience and my contact with other homeschool parents convince me that this bill is necessary to provide fair access to educational opportunities to all children in the state.

For two years our daughter was able to participate in choir at the middle school while doing correspondence. This best option for her was possible because she had a gifted and talented IEP in music. State law required district to service such children. Other students, without a G/T label, who would have benefitted from a similar opportunity, were denied access. This inequitable situation would be remedied with this bill.

Parents who choose correspondence, private schools, or homeschool should not be penalized or denied access to programs that are freely provided for other children within our state. They pay local taxes and contribute to our state. Educational discrimination against their children is wrong.

All Alaskan have a stake in providing the best education for our children. Please support this bill and open educational opportunities to all of our children.

Thank you,  
Gaye Willis

# Fax

To: Rep Fred Dyson

From: Kathy Rutter

Fax: (907)4654587

Date: March 12, 1997

Phone: (907)4652199

Pages: 1

Re: HB 158

CC.

Urgent     For Review     Please Comment     Please Reply     Please Recycle

**Comments:** We strongly support HB 158. As a home schooling family, we believe that our children should not be denied access to the public schools, which we help to support. We believe that we also have a right to access to public school facilities such as libraries.

Sincerely,

Kathy J. Rutter  
James B. Rutter III

P.O. Box 893  
Valdez, Alaska 99686  
(907)8352501  
rutter@alaska.net

Mr. John  
HC02 Box 7741-B

Shrader

746-3972

Palmer

AK 99645

Distribution  
40

Affiliation

Reg Voter  
Y

Date POM Sent	Constituency	Bill Number	Response	Subject
03/12/97	N	HB 158	Supports	

STUDENTS THAT ARENT ATTENDING FULL TIME SHOULD NOT BE DISCRIMINATED AGAINST. ALLOWING THEM IN TO THE SCHOOL COULD ALLOW THESE STUDENTS TO MORE EDUCATIONAL OPPORTUNITIES.

Michael T. Shelton  
P.O. Box 876325  
Wasilla, Alaska 99687

Rep. Fred Dyson  
Alaska State Capital  
Juneau, Alaska 99801

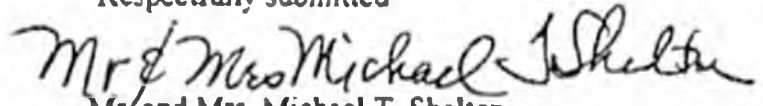
The Honorable Fred Dyson:

We are writing in support of HB 158.

Our son attends private school for his academics, while he attends public school for music. He has been singing for a local high school since his freshman year. He is now a junior. We are looking toward scholarships for our son's continuing college education. We have been advised that although he is pursuing the medical field he should qualify for scholarships through his voice.

This bill is crucial for our family as well as other families. Thank you for bringing this issue forward for support.

Respectfully submitted

  
Mr. and Mrs. Michael T. Shelton

8 pages

Grace VanDiest

907-373-5486

HC 32 Box 6661-A

Wasilla, AK 99654-977

MAR 13 1997

3/12/97

Dear Members of the NCESS committee  
and Aunt Dyan

I'm writing you to ask for  
your support for H.R. 158.  
Private schooled and home schooled  
children should be allowed to  
attend one or more classes of  
their choice at public schools.  
Since their parents pay taxes they  
have a right to be enrolled in any number  
of classes without being discriminated against.

Home schooling parents have shown  
that they can do a better job at  
teaching the basics to their children  
than their public school counterparts.  
However there are certain additional  
that homeschooled and private schooled  
children could excel in if allowed  
access to public schools. Some of  
these are music (band, choir),  
foreign languages, advanced science  
classes with mandatory labs, ~~and~~  
advanced math classes, ~~and~~ team sports,  
photography, and various art classes and  
computer technology.

#2

These classes either require a large group of children or a teacher with advanced training in the subject and thus make it difficult for private schooled and homeschooled children to study. Either the parent ends up paying mega bucks for a private tutor or else waits until the child is old enough to enroll them part time in a community college nearby. (We are currently paying \$335 plus uniforms and a 75 cent fee per semester for our daughter to be involved in the Alaska Children's Choir. We also have been paying \$35/month for 4 hours of Latin.) In the past we've paid for art instruction, ~~and~~ music classes, geography, ice skating, ballet, swimming and gymnastics classes. Not many homeschoolers are able to afford the extra costs that these activities ~~are~~ involve. On behalf of all homeschoolers who wish to provide a well rounded curriculum

Pg. 3

that turns the child on to learning,  
I ask you to pass HB 158  
without strings attached.

Students who are homeschooled  
or private schooled should be allowed  
to take the core classes and anything  
else at home and take any additional  
ones they so desire in a public school.  
Currently public schools individually  
decide what their policy is toward  
admitting part time students.  
They often require that a student  
take a certain amount of core credits  
within the school before taking additional  
credits in elective areas. This  
kind of policy discriminates against  
homeschoolers. How can a student  
be enrolled in a private school  
and have the same <sup>core</sup> classes required  
of a public school in order to be  
involved in the public school  
choir, band or art class? It doesn't  
make sense to be required to take  
anything from a public school  
unless you are seeking advanced

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placement classes for your child.  
~~at~~ In this case a homeschooled  
child should not be required any  
more ~~previous~~ prerequisites than  
a public school child and these  
prerequisites could be fulfilled  
by their private or home school.

Most parents homeschool because  
they have a different philosophy  
than ~~that~~ public schools. The core  
subjects such as English, history  
and science are the three main  
subjects open to individual  
interpretation. As a result, most private/  
homeschooling ~~parents~~ parents do not agree  
with <sup>public school teachers on</sup> everything taught in these  
core subjects. Yet these core subjects  
are the ones most often required to be taken  
~~at~~ <sup>at</sup> ~~the~~ <sup>public</sup> school before they allow a  
child to participate in additional  
electives.

Homeschooling is unique in that  
it provides the child with the  
opportunity to excel in certain  
areas. For example I have

Pg. 5

a ten year old girl who would normally be in 4<sup>th</sup> grade in the public schools. In our home school she is a fifth grader with fifth grade books in all subjects except math. She completed Saxon Math 76 about 2 weeks ago which is for the advanced 6<sup>th</sup> grades or the average 7<sup>th</sup> grades. Last summer after completing her fourth grade homeschool year she tested very high on the IOWA basic skills test. She earned a Composite grade equivalent of 7.7 (seventh grade seventh month). Her core total which included only reading, language and math tested out at 8.1 (eighth grade first month). A child like her would be bored to tears if we had her in the typical 4<sup>th</sup> grade classroom all other 10 year olds are in at public schools. Fortunately Alaska has recognized the rights of parents to control their own children's education.

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The other day I asked my oldest daughter out of all the extra classes and activities she has been involved in which one would she continue if we couldn't afford more than one activity. Her choice was the Alaska Children's Choir. (She's in 4-H and girlscouts with other homeschooled children too but those don't cost much.) If my husband did not have a good year in real estate we would not be able to pay the high tuition for the choir also since she is beginning 7<sup>th</sup> grade soon math at age 10 she will be ready for calculus in 10<sup>th</sup> grade. We will probably have to ~~hire~~ a tutor for trigonometry, calculus and advanced geometry. I know of three mothers who have been struggling this year with their children's higher level math courses. Access to a teacher who had the math background needed to teach these upper level

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math classes would help these  
momms out in the Mat-Su valley  
where I live. ~~and that is~~  
~~and that is~~ Helping  
the child in areas that his  
or her parents can't <sup>teach</sup> would be  
furthering the education of Alaska's  
youth.

My second child is also advanced  
for her age. She turned seven in  
November so would be in the first  
grade in public schools. However  
she has been doing all second grade  
level work and is in the third  
grade ABeka readers which are  
considered more advanced than the  
public school readers. She too will  
be needing advanced courses in  
high school as her studies reach  
levels beyond her parents' scope.

My two younger children are  
just beginning their treks at ages  
five and two. I ask that you  
support HB 158 without strings attached  
for the sake of the best of education in both  
worlds; that of the homeschooled/private schooled and public

Pg. 8

schooled. Public schools should  
 be just that. Public. ~~By~~ Restricting  
 access to those students who take  
 a certain number of credits off campus  
 and homeschool or attend private  
 schools makes the public schools  
 no longer public.

As a mother of four <sup>children</sup> who have  
 been homeschooled all their lives  
 I urge you to support H B 158 to  
 help those families who would  
 like to continue homeschooling their  
 own children but who may not  
 have the finances available to  
 afford private tutors in areas  
 requiring specific training or  
 to help those children who could  
 really excel if provided the experts  
 available in specific areas of study.

Thank you all for your time  
 and energy spent on this bill.

Feel free to call for further proof  
 of educating excellence in the  
 homeschooling movement, Dr. Brian Ray and

HSLDA based extensive research ~~on~~ on homeschooling.  
 Grace Knudsen HC 32 Box 6661-A Uvillak 99654-9770

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cc:Mail for: Lisa Hoff

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Subject: Support of HB 158

MAR 13 1997

From: dclover@ptialaska.net (David Clover) at CC2MHS1 3/13/97 12:19 PM

To: Lisa Hoff at LAA\_TRANS

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Sue Clover  
Four-leaf Clover School  
4413 Julep St  
Juneau, Alaska 99801

Representative Fred Dyson  
HESS Committee  
Alaska State Legislature

Dear Sirs:

I am writing in support of HB 158. I believe this bill would be a benefit to the parents and children of Alaska. It would allow parents more options in the education of their children and more ability to tailor the education to fit their child. The need for this option is especially true in the high school years where, in small schools or home schools, foreign language classes and science labs are not always possible.

As a resident of Juneau, I have found that my children can only be totally in the public school system or totally out of it. The very few people I have heard of that were able to take part in a public school class or program had to be so demanding that they got their way, or their children had to be gifted or special needs, or they had to "know someone." Education should not depend upon "knowing someone."

Thank you,

Sue Clover

MAR 13 1997

Representative Fred Dyson  
Attn: Lisa Hoff  
Alaska State Capitol  
Juneau, AK 99801-1182  
Fax (907) 465-4587

Re: House Bill #158

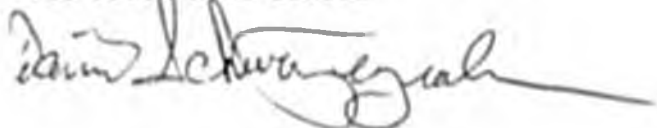
March 13, 1997

To Whom It May Concern:

This is to give a written testimony that my end family and I support the passing of HB #158. This would be a great asset to our family as home schoolers here in Juneau: we have been schooling our children at home for nine years and this would be a resource that would be appreciated for our older children in particular. We have found that one of the greatest needs for schooling our children is money and resources for the children as they have grown older and needed more specific help to meet their schooling needs. This Bill could make a big difference in providing those resources.

Thank you,

David and Beth Schwartzengraber  
Wee Faith Home School



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cc:Mail for: Representative Fred Dyson

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Subject: (no subject)

From: mvandiest@mainet.com (marty van diest) at CC2MHS1 3/12/97 12:28 AM

To: Representative Fred Dyson at LAA\_TRANS

MAR 13 1997

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I am writing in support of HB 158 allowing private school students the opportunity to attend a public school on a part-time basis. These students should be allowed to take even one class at their local public school if their parents deem in beneficial.

The parents of most private and home school students have been paying local property taxes for years. Most of the tax, as much as \$2000 per year, goes to the local public school. Yet, they have not used the schools at all but instead, in addition to paying for neighbor's childrens education through taxes, they are bearing the total cost of education for their own children. In effect, they have been subsidizing the public schools for years.

Very few of these families will take unfair advantage of this bill should it become law. They have chosen to make the financial sacrifice of taking them out of public school for a reason. However, there are certain situations in which a teacher well versed in his field with good facilities can often provide opportunities to a student that he may not receive at his small private school or at his home school. Chemistry is a good example of a subject that makes use of special equipment not often found in a very small school.

I believe that the Alaska Legislators will understand that this bill is good for Alaskan students and will see fit to pass it.

Marty Van Diest  
HC 32 Box 6661-A  
Wasilla AK 99654  
(907) 373-0999

## URGENT MEMO

March 18, 1997

To: Joe Green, Chair, Judicial Committee

From: Dana and Becky Hofseth (907)235-6230  
P.O. Box 3158, Homer, AK 99603

Re: Two current private/home school bills in legislation

As homeschooling parents for the last 11 years, we were especially thankful to hear of the two current bills being considered. Both are homeschool friendly, and both take thought for working with, not against, the homeschooling community. We feel privileged to live in a state that is looking toward the future and realizing that alternatives in education are not only inevitable but of benefit to our communities.

We are especially hopeful that HB158 will pass. It is our understanding that this bill will prevent public schools from discriminating against home school or private school students who would like to take classes at the public school. This has been a difficulty for us here in Homer. After our oldest daughter had homeschooled exclusively through eighth grade, in 1995 we decided to enter her at the public high school for her ninth grade year. She had a very positive year, being a 4.0 student, making new friendships, and excelling in team sports.

At the end of that year, we evaluated the experience. Together we thought the best educational plan was to have her continue at the high school on a part-time basis and take the remainder of her courses at home. This year she has been enrolled in Spanish, geometry, and music at the public high school. Having a love and aptitude for music, she auditioned and was chosen for Homer High School's specialty "Swing Choir." Unfortunately, the school principal has made it clear that our daughter will not be allowed to be in Swing Choir during her junior and senior year unless she is a full-time student. The irony is, that technically, she has been a full-time student, meeting the requirement of taking four classes. The school has been getting full funding for her!

We have had many conversations with the principal, but because he is fundamentally opposed to part-time students in general, he has chosen to interpret the school district's guidelines in a limiting, and what we consider, discriminatory way. As it stands now, the current school board's regulation states: "Acceptance and attendance (of part-time students) will begin following the principal's determination of space availability within (10) school days of the first day of each semester." He has determined that Swing Choir is always a "full" class and therefore never available to part-time students (even though they have earned the right to be there by audition).

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3/18/97 FAX

With the public school's ever burgeoning numbers, a school principal could conceivably always determine that a class is "full." Though we have sought to communicate the substantial benefits to the high school of welcoming part-time students (not only are less class seats being taken, but the schools are receiving extra funds for part-timers' presence), our argument evidently has not been compelling enough, and at this point we are still at the mercy of one principal's determinations.

It appears that HB158 would eliminate any arbitrary decision making on the behalf of school principals and thereby give tax paying parents' students equal access to their public school. This was affirmed by Alaska's own state legislature when they established the week of October 13-19, 1996 as Alaska Home Education Week. In that resolution it states, "Further resolve, that the Department of Education, school districts, and regional educational attendance areas are encouraged to cooperate with parents who are teaching their children at home." Passing these two bills will put feet to this resolve, truly making it possible for the public and private schools to compliment one another for the betterment of our society.

cc: HESS COMMITTEE MEMBERS

"Home Schoolers access to taking part time classes in Public School"

My name is Sharlyee Zachary. My husband, Dan, and I home school 3 daughters. We home school the girls for a variety of reasons.

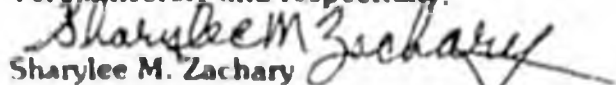
Some of these reasons are: 1) There are certain things that we want our girls schooled in that use to be taught but are no longer taught or allowed to be alluded to in the current public school curriculums. 2) The teachers already have their hands full and right now we are able to give our children personalized attention in their studies. 3) In a world where families are breaking apart, children are learning to be callous and on the 'attack' in order to protect themselves. They are bringing these attitudes to school. When children are constantly trying to defend themselves from the attacks of others, they cannot learn the positive character qualities that help them to reach out in compassion to those who are hurting. We want our children to be part of the 'healing' of our nation, not part of the problem.

We are a low-income family. We scrimp and sacrifice in many areas in order to home school. Our tax dollars go to help support the public school system. This means we pay twice. We have not complained. However, when we asked to be able to come in and use the elementary school library, we were told that it was against "policy" for home schoolers to check out books and that home schoolers were not allowed to even sit in the library and read the public school materials. I thought our taxes went to provide for these things. For several years, now I have been told from other home schooling families that we were not allowed to take any classes at the schools unless we took them all. Also, we are barred from extra-curricular activities. Even if we pay an extra fee for these things they are not available to us.

Two weeks ago I contacted the district offices to request a copy of the 'policies' of the school board regarding home schoolers. I wanted to know officially what was allowed and not allowed. I was told that there 'are no written down policies'. Yet, we are told that "policy says, 'no' to everything." It was interesting to me that last year, however, two home school boys who were very good at wrestling were allowed to join the team (I am happy for them). The boys were going to go to school the following year, but they were not in public school at that time. Interesting how 'policy' was put aside for the convenience of the coaches having a better team.

We are a small community with little or no access to certain things offered only in the public school system. Things like chemistry labs, foreign languages, band, etc. If our tax dollars go to provide these things for other children, why can't we not use them, also? We are already doing our part not to overload the public school system and we are doing our best not to make waves.

Very Sincerely and respectfully,



Sharlyee M. Zachary  
Box 1531 Petersburg, AK 99835 (907) 772-3681

March 12, 1997

Rep. Con Bundy  
Chair, HESS Committee

Please distribute the following testimony to all committee members:

I am writing on behalf of my spouse and myself on the issue of enacting legislation which would allow home-educated children the right to enroll in selected courses and extra-curricular activities offered by the Alaska public schools, specifically for us, within the Mat-Su Borough School District.

We are in full support of children being admitted to the public schools for 1 or more courses or activities, without any restrictions as to a minimum number of courses, or any requirements as to which type of courses they must take to be allowed to enroll part-time.

My husband is a public school teacher at Wasilla Middle School and endorses with enthusiasm the idea of having students partake in his classes who are genuinely

interested in being there. A student who chooses to enroll in a class, whether they are a regular member of the student body or not, would unquestionably be an asset to the class.

We both feel strongly as borough property tax payers that we, as home-educators, should be able to enroll our children in the schools our tax-monies are funding on our own terms. We are extremely interested in "education reform," and have taken it upon ourselves to do what we can for our own children, but still, our tax money, and therefore our concern, still goes out to the Mat-Su Borough School District, which at this point has nothing to offer us in return.

Thank you for your ear and your support in this matter, especially as you consider HB158.

Sincerely,

Sarah Mittelstadt Bean / River Bean  
H104 Box 9043  
Palmer, AK 99645 (907) 746-1087

March 12, 1997

To Representative Con Bandy  
Chair of the H.E.S. Committee

I am a home schooling parent, of two children, 8 & 10 years old. We are also part of a home schooling - cooperative - group with five other parents.

I feel it would constitute a tremendous opportunity for home school children to be able to join classes offered in public schools, on an interest level. That is at times difficult for us parents to present.

Therefore we would strongly be interested to see the bill "HB 158" passed.

Sincerely

Ellen

Willems

Please distribute this testimony to all the other committee members.