

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

625 SCOMM19: JOINT INTERIM COMM. ON EDUCATIONAL PROG. 1977

SCOMM 19: JOINT INTERIM COMMITTEE ON EDUCATIONAL PROGRAMS, 1977

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STATE OF ALASKA

Legislative Affairs Agency

LEGISLATIVE INTERIM ACTIVITIES

* * *

OTHER INTERIM OR SPECIAL ACTIVITIES
INVOLVING
LEGISLATOR PARTICIPATION

* * *

PERMANENT COMMITTEES, AGENCIES AND OTHER OFFICES

AUGUST

1977

EDUCATIONAL PROGRAM (Financing)

Term: July 1, 1977 - January 9, 1978

Purpose: The committee will study, review and try to determine the justification for continued financing of adult and vocational education programs; evaluate the standard and special educational programs and their accreditation, including bilingual programs.

Committee Address and Telephone Number:

528 West Fifth Street (907) 276-1715
Room 210
Anchorage, Alaska 99501

Committee Chairman: Representative Thelma Buchholdt

Committee Members: Representative Sam Cotten
Senator Chancy Croft

Committee Staff Employees and Telephone Numbers:

Kathryn Ostrosky 528 West Fifth Street
Room 210
Anchorage, Alaska 99501
(907) 276-1715

Legislative Affairs Agency Staff Support:

Richard A. Bradley, Staff Attorney
Alan Latham, Research Analyst



JUNEAU ALASKA

Alaska State Legislature House

March 25, 1977

Representative Mike Miller,
Chairman
Legislative Council

Dear Mike:

Enclosed is the outline of the project that I would like to work on during the interim. Although there isn't much vocal political discussion over these issues at present, these programs under the Department of Education take up 32% to 35% of the total state budget (the House is proposing the following DOE budget for fiscal year 1978: Operating: \$311,480,300; Capital: \$1,176,500), and because of that, I would like to conduct a quiet assessment and review of these programs to get a better view of their operations and program direction and goals.

I would like to ask you and the members of the Legislative Council to consider this project proposal and the companion budget request at the next meeting. I would appreciate a favorable decision.

Thank you.

Sincerely yours,

Thelma

Thelma Buchholdt
State Representative
Anchorage District 9 (Spenard)

Enclosure.

TO: Hugh Malone, Speaker
Mike Miller, Chairman, Legislative Council

FROM: Thelma Buchholdt

A PROPOSAL - PROGRAM OUTLINE

HOUSE EDUCATION BUDGET COMMITTEE

This committee shall review current programs under the Department of Education for the purpose of improving legislative justification for their continued fiscal support. The following programs will be given additional attention:

1. ADULT EDUCATION AND VOCATIONAL TRAINING

(ABE, Vocational Education, Community Schools, Skill Center)

A review of program plans and accomplishments, projections and funding needs.

2. PROGRAM EVALUATION

(K - 12 Education, Career and Vocational Education, Special Education, Supplemental Programs, Accreditation).

There seems to be some concern among the REAA's on how far local control could be exercised, and at the same time, how much central organization is required to meet federal funding compliance requirements. A definition of function might be in order.

3. FINANCIAL SUPPORT PROGRAMS

(Foundation Program, Regional Resource Centers, Bilingual Fund, etc.)

Review programs with special emphasis on bilingual education in the elementary and secondary schools, and the teaching of English as a Second Language (ESL) in the post secondary level. Also a review of the program of the Alaska Native Language Center of The University of Alaska. Research and development of plan and program to recommend to the legislature for action.

A committee report shall be submitted to the legislature by January 31, 1978.

HOUSE EDUCATION BUDGET COMMITTEE

Budget Request

FY'78

Personal Services

Staff Assistant, part time
\$1178/mo. X 6 mos.

7,068

Secretary, part time
\$652/mo. X 6 mos.

3,932
11,000

11,000

Travel and Per Diem

Meetings/hearings
Field work: rural area

4,000
8,000
12,000

12,000

Contractual

Program/research consultants

20,000

20,000

Miscellaneous

Postage, printing, telephone,
equipment rental, etc.

3,000

3,000

TOTAL:

\$46,000

To: Mrs. Thelma Buchholdt

from: Dermot R. F. Collis, Ph.D.

Legislative Office
Juneau, Ak.

Rural Educational Affairs
University of Alaska
Fairbanks, Ak. 99701

Project: TOWARDS A PAN-ESKIMO WRITTEN LANGUAGE

§ 1. Introduction

The Eskimo language consists of four main branches named after the Eskimo word for man in each branch: Sugpiaq, Alaskan Yupik, St. Lawrence Island Yupik and Inupiaq. Each of these branches is composed of several dialects, Sugpiaq has three but Inupiaq, which spreads as far as Greenland as many as thirty. As can be seen from the appended word list, despite the enormous distances and lack of communication between areas, a general pattern emerges from the speech of all Eskimos. This exists because the language is polysynthetic and makes up compound words from a limited vocabulary of bases and postbases and suffixes. When combined, bases and postbases take on a shortened form that can vary in pronunciation from place to place, because different dialects have different combination rules and drop, insert or change different sounds in composition. Yet the uncombined, deep or underlying form is virtually the same over dialect boundaries. Let us compare the two surface compound words that follow as each is pronounced in its dialect:

South Baffin Island	uqalutaqvik
West Greenland	uqalutarfik

Both have the common underlying structure:

/uqaq/aluk/taq/vik

/speak/long/usual/place/ "place where one usually talks for a long time". This compound is used where we would say "microphone" or "pulpit" in English; the Eskimo language being precise in a different way from European languages.

Up to the present the Eskimo dialects have been described according to their surface manifestation and compound words have been listed in dictionaries with no indication of their elements. No existing Eskimo grammar dwells much on word construction, because this is the part of the language least understood by non-Eskimos who confuse meaning and reference, two things quite distinct in Eskimo. Yet it is the underlying forms and their combinations that make up the common core of all the Eskimo dialects.

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Chronology of Events: Title VI Lau Review
Involving Unorganized Borough Schools

1. January 1975: OCR investigation on Lau issues begins in Alaska State-operated school system.
2. March 1976: OCR issues findings of Title VI Lau noncompliance to Alaska Unorganized Borough School District (transitional successor to ASOSS).
3. April 1976: OCR, DOE, and AUBSD officials meet to discuss how to resolve the March findings. Agreement reached that State DOE will take lead responsibility to provide guidance to REAA districts.
4. May 1976: State Board of Education directs DOE to establish minimum guidelines for bilingual education for Alaska school districts.
5. June 1976: OCR and DOE meet to discuss what elements should be addressed in State Lau guidelines plan.
6. June 1976: DOE meets with REAA superintendents to inform them that DOE will be undertaking the lead responsibility to develop State guidelines on Lau/bilingual matters.
7. September 1976: OCR sends letter to DOE explaining why OCR is looking to DOE as agency with lead responsibility for providing compliance plan to resolve the March findings. (Attached.)
8. November 1976: DOE sends in its first Lau compliance plan. OCR meets with DOE and explains OCR written analysis determining the plan unacceptable. (Written OCR analysis attached.)
9. December 1976: DOE sends in a draft revised Lau plan.
10. January 1977: OCR provides oral and written analysis of December draft plan, determining it unacceptable. (Written OCR analysis attached.)

11. February 1977: OCR initiates fund termination proceeding under Section 602 of 1964 Civil Rights Act. Named respondents include all REAA districts and State DOE. (Notice of Opportunity for Hearing attached.)
12. March 1977: DOE submits to OCR its third Lau compliance plan.
13. April 1977: OCR determines the March 1977 DOE plan unacceptable. (OCR analysis attached.) DOE, OCR, and Alaska Legal Services agree on new scenario for development of State minimum guidelines "handbook".
14. June 1977: Acceptable "handbook" negotiated, and submitted and explained to REAA staff.
15. July 1977: Process of public input initiated. Title VI enforcement hearing postponed to October 31, 1977. (Stipulation postponing hearing attached.)

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BACKGROUND INFORMATION

CHRONOLOGY OF EVENTS RELATING TO THE CURRENT NEGOTIATIONS BETWEEN THE ALASKAN SCHOOL DISTRICTS AND ALASKA DEPARTMENT OF EDUCATION, AND THE FEDERAL OFFICE FOR CIVIL RIGHTS

1964: Title VI, Civil Rights Act enacted on federal level

1965: Bilingual Education Act, enacted on federal level

1972: Alaska state legislature passed law calling for the establishment of bilingual education programs in those schools of the State-Operated-Schools-System with 15 or more students of limited English-speaking ability.

1974: The U.S. Supreme Court ruled in *Lau v. Nichols* that schools must provide equal educational opportunity for those students whose primary language is other than English.

January, 1975: The U.S. Department of Health, Education and Welfare Office for Civil Rights (OCR) sent forms to three school systems in Alaska: Alaska State-Operated-Schools System, Anchorage School District and North Star Borough School district (Fairbanks). The three districts were selected at random by OCR.

The forms were to determine whether there were any compliance problems with the Civil Rights Act of 1964 in any of the districts; more specifically, the forms required the districts to show how many students covered by the *Lau* decision were being served in each district and how those students were being served.

Spring, 1975: Alaska State-Operated-Schools submitted data to (OCR).

June, 1975: Alaska Senate Bill 35, decentralizing the Alaska-State-Operated-School System, was signed into law. The ASOSS was abolished and in its place was created a one-year interim school district known as the Alaska Unorganized Borough School District (AUBSD). The district was to function only until July 1, 1976, when the new districts were to take over.

The legislation also changed the state's bilingual education law, calling for bilingual-bicultural education programs in those schools with eight or more students of limited English-speaking ability.

August, 1975: OCR-Region X, in Seattle, requested additional information regarding data submitted

by ASOSS on the form. At this point, however, ASOSS was no longer existing and had been replaced by a new governing body, a new administration and the new organization known as AUBSD. That administration submitted information about the transition being caused by Alaska Senate Bill 35 and, in particular, about the interim function of AUBSD.

Summer, 1975: The OCR convened a national task force to specify remedies to eliminate educational practices ruled unlawful under the Lau decision. The result was a set of minimum guidelines labeled the "Lau remedies."

January, 1976: AUBSD was notified by OCR-Region X that it had been found in "presumptive noncompliance" with Title VI of the Civil Rights Act of 1964. More specifically, according to OCR, ASOSS/AUBSD had failed to serve its students who had language problems. The finding by OCR was based on an analysis of the data submitted by the now defunct organization ASOSS.

February, 1976: AUBSD submitted arguments to OCR-Region X that it did not have the authority, resources, personnel, funding or time left, given its six remaining months of existence, to answer the changes as outlined in the finding of presumptive noncompliance.

March, 1976: AUBSD was notified that it had been found in noncompliance with Title VI of the Civil Rights Act of 1964; that it must take action to remedy the earlier-stated problems -- more specifically, it must assess students, develop educational plans, obtain approval from OCR of plans and impose plans upon the new districts taking over on July 1. OCR stated that failure to comply would result in a withdrawal of federal funds from AUBSD and the new districts.

April, 1976: At the request of AUBSD, representatives from AUBSD, the Alaska Department of Education (DOE), University of Alaska and OCR met in Juneau. DOE agreed to assume a leadership role in resolving the issue, if that action met with the approval of the State Board of Education.

May, 1976: The State Board of Education approved a resolution stating that DOE would enter into negotiations with OCR in behalf of all school districts in the state, in the matters pertaining to compliance with Title VI of the Civil Rights Act of 1964. In particular, the board directed the department to:

- (1) identify and assess the primary or home language of the state's students;
- (2) develop minimal guidelines for use by all school districts;
- (3) prepare a time schedule of events for the assessment, development and implementation of a plan

July, 1976: AUBSD was ended and 21 new school districts formed in its place, each guided by a locally elected district school board.

September, 1976: OCR notified DOE that it would have to submit a comprehensive educational plan detailing (1) assessment of students; (2) programs to remedy needs of children with linguistic problems; (3) staffing; (4) funding resources. In effect, the plan on which DOE was working shifted from being a set of guidelines for bilingual education programs to being a compliance document.

November, 1976: DOE submitted its first plan to OCR. It was rejected by OCR. With its rejection of the first plan, OCR also put into action the mechanism for deferring federal funds and notified the 21 districts of that action.

December, 1976: DOE's second plan was submitted to OCR.

January, 1977: OCR found the second plan unacceptable.

February, 1977: OCR notified the districts that a deferral on application for federal funds was being placed on them.

March, 1977: DOE submitted another plan to OCR.

The General Counsel of the U.S. Department of Health, Education and Welfare notified the districts of the official deferral of federal funds, under Title VI of the Civil Rights Act.

The deferral of federal funds led to the initiation of a federal administrative hearing process. The process began with a prehearing conference on March 22. It was attended by attorneys for the districts still involved in litigation, the DOE attorney and legal representatives for OCR.

April, 1977: DOE was notified that its third plan was unacceptable.

DOE requested the assistance of the Center for Equal Opportunity in Education to develop the next version of the plan. Negotiations between DOE, the Center and OCR resulted in the

development of the handbook entitled "A Handbook for Bilingual-Bicultural Education Programs in Alaska."

The administrative hearing was rescheduled for July 20, 1977.

June, 1977: OCR and DOE reached agreement on a plan for compliance. The plan contains three parts: 1) the handbook, to be adopted by the State Board of Education as regulation and used by the state's 51 school districts in resolving noncompliance issues; 2) the DOE management plan spelling out how the handbook will be implemented; 3) a memorandum of agreement between DOE and OCR on the handbook and the management portion of the process. All three parts of the plan have to be ratified by the State Board of Education.

June 27, 1977: The State Board of Education directed the Department to ask for public input on the plan by promulgating a regulation calling for the adoption of the handbook as state regulation. The Board also directed the Department to go ahead with language assessment activities and a cost analysis of full implementation of the plan.

The Board also requested from OCR a postponement of the administrative hearing then scheduled for July 20, asking that the hearing be postponed until no earlier than October 31.

OCR also made public that the Anchorage school district has been found in noncompliance with the Lau remedies. At stake are approximately \$3.5 million in federal funds.

Also, in June, 1977, the OCR found the North Star Borough School District (Fairbanks) in noncompliance with the Lau remedies. At stake are some \$400,000 in federal funds.

The administrative hearing is now set for October 31, 1977. Public hearings on the handbook began August 24 and continue through October 5. Content of the memorandum of agreement and the management plan is being negotiated, with presentation of both documents scheduled for an October meeting of the state board of education. At the same meeting the results of the public testimony on the compliance handbook will also be presented.

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MEMORANDUM

September 23, 1977

SUBJECT: Status of Agreement between Department of Education and Office of Civil Rights, DHEW
Lau v. Nichols. WWork Order No. 4302)

TO: Repre~~Thelma~~Thelma Buchholdt
Chairman, Educational Programs Committee

FROM: Richard A. Bradley
Legislative Counsel

The status of the agreement between the Department of Education (DOE) and the Office of Civil Rights, DHEW (OCR) could be briefly described: It is still in negotiation. However, because of the complexity of the situation, that brief statement of the status is perhaps more confusing than it is enlightening. Accordingly, this memorandum will provide an analysis of (1) the legal environment, (2) the negotiations that resulted, and (3) the present status of the agreement.

I. The Legal Environment.

In 1964, Congress adopted the Civil Rights Act of 1964. One provision of that Act bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance." Sec. 601 of the Civil Rights Act of 1964, 42 USC §2000(d).

Implementing that law, the USSDeDepartment of Health, Education and Welfare in 1968 established a guideline that

school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system."33 CFR §4955.

These guidelines were made more specific by DHEW in 1970 when it required school districts receiving federal funds "to rectify the language deficiency in order to open" the instruction to students who had "linguistic deficiencies."

Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by the school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students. 35 Fed. Reg. 11595.

See also the DHEW regulations issued to implement §601 of the 1964 Act at 45 CFR Part 80.

The first case to reach the U. S. Supreme Court which interpreted these regulations and guidelines is the now famous Lau v. Nichols, 414 US 563 (1974). This case arose out of San Francisco. A report by the San Francisco Human Rights Commission indicated the presence in the San Francisco School System of some 3,457 Chinese students who spoke little or no English. While a substantial portion of these students were enrolled in special instruction classes, some 1,300 of the students were receiving instruction exclusively in English and the school district had taken no significant steps to deal with this language deficiency.

The case reached the Court with the plaintiffs urging two separate grounds for a decision in their favor:

(1) The Equal Protection Clause of the Fourteenth Amendment.

(2) Section 601 of the Civil Rights Act of 1964.

The District Court had denied relief. The Court of Appeals affirmed, holding that there were violations neither of equal protection nor of §601.

The Supreme Court did not "reach" the equal protection argument, using its classic approach of deciding cases on non-constitutional grounds where possible. The Court said, in an opinion by Justice Douglas:

[S]ection [601] bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance." The school district involved in this litigation receives large amounts of federal financial assistance.

HEW, which has authority to promulgate regulations prohibiting discrimination in federally assisted school systems, 42 USC §2000(d), in 1968 issued one guideline that "school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system. 33 CFR §4655. In 1970 HEW made the guidelines more specific requiring school districts that were federally funded "to rectify the language deficiency in order to open the instruction to students who had linguistic deficiencies."

The Court continued:

Respondent school district contractually agreed to "comply with Title VI of the Civil Rights Act of 1964.... and all requirements imposed by or pursuant to the Regulations" of HEW (45 CFR Pt. 80) which are "issued pursuant to that title...." and also immediately to "take any measures necessary to effectuate this agreement." The Federal Government has power to fix the terms on which its money allotments to the States shall be disbursed. Oklahoma v. Civil Service Commission, 330 U.S. 127, 142-143. Whatever may be the limits of that power,....they have not been reached here.

The concurring opinion of Justice Stewart notes that the language of §601 appears to require an affirmative or intentional act causing the inadequacy in services; if that were so, then he agrees that the San Francisco situation would not be covered. But, he notes, the OCR guidelines "clearly indicate that affirmative efforts to give special training for non-English speaking pupils are required by Title VI [Sec. 601] as a condition to receipt of federal aid to public schools..." 35 Fed. Reg. 11595.

While three separate opinions were filed in Lau, all supported reversal of the lower court opinions; the court was, therefore, at least as to the result, unanimous.

Although it is not directly apropos to the question you asked my comments on, note that AS 14.30.400 - 410 also mandates bilingual-bicultural education in each school district or REAA attended by at least eight pupils of "limited English speaking ability...whose primary language is other than English." AS 14.30.400.

As noted, Lau does not rely on the equal protection arguments. The Court did not reach them. The Court has simply ruled that if Federal money is accepted, then Federal terms, perhaps unilaterally imposed, are similarly "accepted".

The Supreme Court's failure to "reach" the equal protection arguments should not be taken, in my judgment, as an indication that the questions the arguments present would, if reached, not be resolved favorably to the plaintiffs. As the Supreme Court of Alaska said in Hootch v. ASSOS, 536 P.2d 793, 808-809 (1975):

Our disposition of this appeal, in this manner [without reaching the equal protection arguments] is by no means intended to disparage the weighty nature of the claims presented. * * * We shall not,...hesitate to intervene if a violation of the constitutional rights to equal treatment under either the Alaska or the United States Constitutions is established. [Bracketed material added.]

Accordingly, while the States and their districts in their response to OCR have the technical option of rejecting all federal funds for education and thus escaping Lau remedies, it is not clear that the problem can thus be avoided. It is much more likely that the implementation of Lau remedies under §601 is a legislative and regulatory formulation of a presently existing constitutional mandate.

I note that in prepared testimony before the Department of Education on the Handbook for Bilingual-Bicultural Programs, the executive director of the State Human Rights Commission stated that "We were prepared to proceed with enforcement under State law (AS 13.80.255) if OCR failed to follow through." A copy of that testimony is enclosed.

II. The Resulting Negotiations.

Lau v. Nichols could not have been decided at a more awkward time for the Department of Education. By the time DHEW/OCR initiated its implementation of Lau, the Alaska State Operated School System [ASOSS] was on its way out of existence, to be replaced with the Alaska Unorganized Borough School District [AUBSD]; the latter lasted only one year and was itself replaced by the 21 Regional Education Attendance Areas [REAA].

The dates of those organizational changes should be noted: ASOSS went out of business on June 30, 1975. ASOSS, in its new status as AUBSD, was in existence for one year from July 1, 1975 through June 30, 1976. Sec. 38, Ch. 124, SLA 1975. About June 30, 1976, the responsibility for rural education passed to the REAAs.

Just a few months before ASOSS went out of business, on January 17, 1975, OCR asked it, as well as the Anchorage and Fairbanks School districts for "Lau compliance information". A letter was also sent, at that time, to Commissioner Lind.

The letter to Lind noted that guidelines issued by OCR had been approved by the U.S. Supreme Court in Lau. The letter also noted that all school districts receiving federal funds had agreed to comply with Title VI of the Civil Rights Act of 1964 and with the requirements of the regulations HEW had adopted under Title VI.

The letter continued that on May 25, 1970 OCR had asked all districts receiving federal funds to examine their procedures regarding students whose home or primary languages are not English and to advise OCR of its plans to remedy the situation. The form letter noted that few districts responded.

The letter also noted that a response to a survey conducted by OCR indicated that

"a number of school districts in your state have substantial numbers of pupils whose primary or home language is other than English. The same [survey] reveals that no more than 10 percent of these students receive any form of instruction in a language other than English.

The letter continued that because the lack of response from Alaska to earlier requests, OCR was seeking the assistance of the Department of Education to obtain the required information. A response within 45 days was requested.

Specific forms were required for the response; if the state department had the information in a different format, OCR agreed to consider its appropriateness as a response.

By early May, 1975, OCR acknowledged receipt of ASOSS's report and requested supplementary information.

In a letter to ASOSS (then in reality AUBSD) on August 12, 1975, OCR acknowledged that the ASOSS report lacked certain information. The letter detailed unsuccessful efforts to reach ASOSS personnel to obtain the information. Deadlines for compliance during May and June were established and passed without a response. As of the date of the letter on August 12, 1975, OCR had "yet to receive the compliance report."

A response within 10 days was requested; ASOSS was advised that failure to provide it would constitute a violation of the 1964 Civil Rights Act and may lead to an enforcement action by OCR.

ASSOS provided responses to the specific questions on the report. While one-third of the students ASOSS identified as having a home or primary language other than English were individually interviewed and appraised by ASOSS personnel, the remaining two-thirds were not so assessed and their linguistic abilities were "estimated" by ASOSS. The response was accordingly not individualized.

On January 23, 1976 OCR responded to AUBSD. OCR determined, based on the AUBSD response to Lau compliance requirements, that the

"District is in presumptive noncompliance with Title VI of the Civil Rights Act of 1964; the accompanying regulation, 45 Code of Federal Regulations Part 80, specifically Sections 80.3(b)(2) and 80.6(b); and the United States Supreme Court decision in Lau v. Nichols.

The letter then discusses the details of the requirements for the information sought under the Lau Compliance Reports. One of the requirements of the report, according to OCR, is individual student language assessments by bilingual personnel; the OCR determination apparently being that unless personnel making the assessment are themselves bilingual, the assessment will not truly reflect the student's skills on a required five point spectrum [A - Monolingual in the home/primary language; B - Speak mostly the home language and some English; C - Speak the home language and English equally; D - Speak mostly English and some of the home language; and E - Speak only English. "Village English" was eventually added as F.]

"Without a proper diagnosis of linguistic skills/deficits there can be no effective prescriptive educational program designed to assist students who have English language deficiencies. * * * Without a proper pre-program assessment of the students' language skills (in both languages) a student may easily be placed in an inappropriate program or may receive no program. For example, the fact that a student exhibits some facility in English does not mean he/she is capable of succeeding with subject matter instruction in English.

Based on the finding of presumptive noncompliance with Title VI of presumptive noncompliance with Title VI and Lau, OCR directed AUBSD to submit within 30 days whatever facts or arguments it believed useful to dispel or rebut the finding

of presumptive noncompliance. OCR promised a review and then a determination on AUBSD's compliance status.

The District responded February 17, 1976. It noted that the dissolution of ASOSS presented problems for it because different personnel prepared the ASOSS report and the present AUBSD personnel cannot justify its figures. It offered a new estimate of children affected, based on a study done for "OE" (apparently the U.S. Office of Education.)

OCR also had stated that AUBSD/ASSOS failed accurately and adequately to identify primary or home language or to assess the degree of linguistic function or ability.

AUBSD agreed. It reported several attempts to obtain the information but "neither the resources nor the expertise necessary have been available to do the job." It related "remoteness, climate, transportation and communication problems." It related the existence of "seven major languages and over fifty dialects," some of which "have not been reduced to writing." It noted that eighty of the district's [AUBSD] schools had one or two teachers; that teacher turnover had exceeded 30 percent annually; that only 47 natives had graduated from teacher training programs since 1970 and that only 13 of these had "some" command of a native language, and only 11 are in classrooms where the languages are useful.

AUBSD invited an early determination by OCR on final noncompliance so that plans can be made to respond. AUBSD noted that 21 new districts would be established in the next 60 days, with the districts assuming full responsibilities in their areas in four months.

On March 26, 1976 OCR found AUBSD in noncompliance:

- (1) AUBSD failed to identify and assess the primary or home language of the District's students.
- (2) District records demonstrate the failure of current bilingual-bicultural programs provided by the District adequately and effectively to address the linguistic needs of students whose primary or home language is other than English.

The letter then directed AUBSD to submit an educational plan which will indicate that all language groups "where 20 or more students" with a primary or home language other than English will be treated in a manner consistent with Lau remedies.

OCR stated it was not requiring completion of the items in the plan within the 30-day period but rather only that the plan address the identified problems.

At about these times, from September, 1976 on, OCR refused to deal with the individual REAA's as principals, which by then had come into existence and assumed their responsibilities. Rather, it determined to hold DOE responsible for the development and submission to OCR of a comprehensive education plan for compliance with Lau remedies. See the letter from the Regional Director of OCR to Commissioner Lind of September 14, 1976. Copy enclosed for OCR's reasons for this determination.

In January, 1977 OCR indicated it would initiate an administrative procedure within the Department of Health, Education, and Welfare. In February of 1977, OCR offered to allow REAA school districts to prove that they did not have Lau children, that is, that they did not have twenty children in an individual school who required education in a native Alaskan language. Under this option, three REAA's in Southeastern Alaska as well as the Adak and Whittier-Tatitlek District (Chugach) were dropped from the administrative proceeding.

The hearing in the administrative proceeding was initially set for June, 1977; presently it is scheduled for October 31, 1977.

In May, 1977, the State Board of Education proposed to adopt as a regulation the minimum guidelines proposed in "A Handbook for Bilingual Bicultural Education Programs in Alaska." The "Handbook" is described as a result of negotiations between DOE and OCR, with assistance from the Alaska Native Foundation. (I have not included a copy of the Handbook since I assume you have access to one in Anchorage.)

The question of adoption of the Handbook as a regulation will be before the State Board of Education when it meets in mid-October. Eleven REAA superintendents are said to have asked SBOE not to adopt it as a regulation.

One difficulty between DOE and OCR exists as to the implications of the Handbook. The Handbook addresses the "components of a bilingual education program (Ch. 6); community involvement (Ch. 7); language assessment (Ch. 8); instructional programs (Ch. 9); materials development (Ch. 10); instructional personnel, recruitment and training (Ch. 11); program management (Ch. 12); and evaluation design (Ch. 13). At the present time, DOE is proposing that the Handbook be viewed

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as a minimum guideline but it also is willing to consider substitutions in programs so long as the essentials are achieved. See "Use of This Handbook", page 23 - 24. DOE is maintaining this proposal because of opposition from REAAs; as noted earlier, eleven superintendents of REAAs had asked SBOE not to adopt the regulation which adopts the Handbook by reference.

OCR maintains, on the other hand, that if the Handbook is to be acceptable under the Lau remedies, no substantial variations in the Handbook are possible except under Ch. 9 [Instructional Programs] and OCR has asked DOE to change its regulation to make this explicit. OCR does not suggest that any change would create problems, only that it is acceptable and effective as presently constituted.

III. Present Status of the Agreement.

At the present time, the State Board of Education has a meeting set for mid-October on the Handbook. The administrative hearing is set over until October 31st and may be set over further or possibly cancelled if OCR and the state parties reach agreement on the handbook and its implementation.

OCR has agreed to seek avoidance of any forfeiture of funds otherwise due from DHEW because of the delays arising out of compliance with Lau guidelines.

Resolution of the OCR-DOE difficulties is premised on adoption by SBOE of the Handbook and its implementing regulation of the October meeting in a format acceptable to OCR. Failing that event, OCR apparently intends to return to the administrative proceeding.

Assuming that the Handbook in its final form is acceptable to OCR, DOE has also largely agreed to make proposals regarding foundation funding of bilingual education in each school district in Alaska to the next session of the legislature.

Other more detailed aspects of the agreement are suggested in the document entitled "Further Stipulations". (Copy enclosed) The ~~copy~~ enclosed represents the latest thinking of OCR and Doe on the subject.

Similarly, DOE submitted a Management Plan to OCR on July 5, 1977. DOE considered the document submitted a construct of what OCR wished. Before OCR commented on it, DOE submitted

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a revision of the plan. As of the date of this memorandum, OCR has not commented on either Management Plan. (Copies of both are enclosed))

Jim Miles advised me that he has asked personnel within OCR to come to Alaska soon to complete appraisal of the submission and its approval by OCR.

One other document is of significance in these matters: the memorandum of agreement. The document represents the final settlement of the case. Because certain issues may remain technically open, it seems that there is no document which can be described as the Memorandum of Agreement, and no such document is enclosed.

Accordingly, it appears that settlement of the case may be close depending on the action of the State Board of Education during October. However, regardless of its action, it appears that the number of REAAs affected is diminishing:

Five REAAs are presently in compliance and excluded from further participation in the hearing:

Annette, Chatham, Chugach, Adak, Southeast Islands.

Three more are expected to sign a consent decree dropping out of the case:

Delta/Greely, Iditarod, and Yukon Flats.

I understand that the Bering Straits Board has recently endorsed the Handbook and may logically therefore be in a position to withdraw from the proceedings.

For the remaining regional school districts, the focus of the action appears to be with the State Board of Education at its October meeting.

RAB:jpd/hjd

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QUESTIONS AND ANSWERS ON "A HANDBOOK FOR BILINGUAL/BICULTURAL
EDUCATION PROGRAMS IN ALASKA"

Alaska Legal Services has been acting as the lawyer for people in different villages who want to have bilingual/bicultural programs in their schools. In representing people in the villages, we helped to bring about the handbook, and we believe the handbook should be adopted by the Department of Education. In order to answer some of the questions that people have been asking about the handbook, we have prepared this information sheet.

WHO WROTE THE HANDBOOK?

The first draft of the handbook was written by a group of people working under a grant through the Alaska Native Foundation. Much of the writing for the first draft was done by Gary Holthaus, who has been involved in bilingual education issues in Alaska for many years and who helped write the state's first bilingual education law. He worked with a group of educators, including officials of some of the REAAs. After the first draft was written, there were many meetings to make changes in it, attended by people from the Department of Education, the Office for Civil Rights, the Alaska Native Foundation, and Alaska Legal Services. The handbook that has now been published by the Department of Education was agreed to by people from all of these groups as the best plan for bilingual/bicultural education in the state.

WHAT DOES THE HANDBOOK SAY ABOUT LOCAL CONTROL?

Local control is a very important part of the handbook. The handbook makes sure that people in each community are given a chance to take part in developing the bilingual/bicultural program in that community. For example, the local bilingual committee (which can be either the Community School Committee or another elected body) has a role in recruiting and recommending staff for the bilingual program, reviewing all materials, and helping to plan the program. The handbook requires that each district give the entire community, and especially the local bilingual committee, time and information to review and discuss the bilingual/bicultural program. The handbook also provides for local control in another sense. Each school district has a lot to say about the bilingual/bicultural programs that will be offered. For example, Chapter IX of the Handbook describes three "instructional models" that a district may want to use in providing programs. But the handbook goes on to say that any district may, with the approval of the Department of Education and working with the local community, use other instructional programs different from those described in the handbook. (See page 60.) Thus, in the end it is up to each district to decide what kind of programs to use, so long as these programs guarantee equal educational opportunities.

WHAT IS IN THE HANDBOOK?

The handbook is 217 pages long and contains a lot of ideas and information. It describes the needs of Native children for bilingual/bicultural programs, what the law says about language programs, and ideas for starting these programs. If the handbook is adopted by the State Board of Education as a regulation, some of the things in it would be required of each district. These requirements are summarized on pages 39 and 40, and are spelled out in "Compliance Checklists" that begin on pages 46, 55, 75, 90, and 109.

WHAT WOULD THE HANDBOOK REQUIRE?

The handbook requires each school district in the state to have a language program for children who aren't getting an equal education because they speak a language other than English or because a language barrier gets in the way of their learning in school. The handbook says each program must have:

1. Community involvement. People in each community must be given a chance to take part in planning the program, putting together materials, hiring staff, and seeing whether the program works.
2. Language assessment. This means the district must find out which children need a language program and what is the best way to teach each child. The handbook provides a series of tests and checklists to make sure that every child who has a right to a language program is given one.
3. Instruction. The handbook sets out three "models" which a district may use, but also says that a district may try any other kind of program, if approved by the Department, which promises to give children equal educational opportunity. Since people in the community must be involved in planning the program, no community will be forced to have a program it doesn't want.
4. Materials development. The handbook makes sure that each program has enough materials, and also requires that local people, teachers, and linguists be given the chance to work together to develop materials that are good for children.
5. Staff. The handbook requires hiring of bilingual staff recommended by people in the community. It also requires that when bilingual teachers from the community are teaching more than one regular class period per day, they must be paid wages that are on a scale with other teachers. The district must have training programs, and must help bilingual staff from the community to continue their professional education and get a regular teaching certificate.
6. Effective management. The handbook has some ideas for seeing that programs are run well.
7. Evaluation. The handbook suggests several ways of finding out how the program is working, so that changes can be made if necessary.

WHO WILL PAY FOR ALL OF THIS?

The state. One part of an agreement that the Department of Education has been working on with the Office of Civil Rights is that the Department will go to the legislature to ask that the state pay the entire cost of programs under the handbook through the Public School Foundation Program. This means that the entire cost of the bilingual/ bicultural programs in the handbook would be paid each year by the state and no money for these programs would have to come out of other things that the district is doing. The Federal government is insisting that the state promise to do this so that children who need language programs have a guarantee that there will be enough money. Many people in Alaska who have been working for years to get bilingual programs have been saying that this way of funding would be best.

WAS THIS HANDBOOK FORCED ON THE STATE BY THE FEDERAL GOVERNMENT?

No. It was written by Alaskans, and follows what many Alaskans have been saying for years is needed if the state really wants to have good bilingual/bicultural programs in the schools. The handbook probably would not have come about, or at least come about so fast, without prodding by one Federal agency, the Office for Civil Rights (OCR). OCR has been trying to enforce a Federal law which says that the state and local districts, including the REAAs, cannot discriminate, and that if they do, Federal funds to them must be cut off. OCR's enforcement made the writing of the handbook a very urgent matter. If the handbook is now adopted by the state, Federal funds will not be cut off, because OCR agrees that the handbook will make sure that there is no discrimination.

WHY DOES ALASKA LEGAL SERVICES SUPPORT THE HANDBOOK?

We support the handbook because we represent people in the villages who have asked us to help them get bilingual/bicultural programs. The handbook will do that for them. It will also make sure that people in the villages have a say about the kinds of programs their children get, and put an end to lower salaries for bilingual teachers in the villages. Finally, the handbook, together with promises the Department has made on funding, will make sure that there is enough money to provide good programs with good materials, under true local control. We think our clients in the villages are entitled to that.

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#3
REGULATIONS FOR BILINGUAL/BICULTURAL
EDUCATION IN ALASKA

4 AAC 34.010 is amended to read as follows:

4 AAC 34.010 PURPOSE. The purpose of this chapter is to encourage and assist school districts, in cooperation with local communities, to meet the special needs of children of limited English speaking ability. The department believes that providing equal educational opportunity to these children through the establishment of bilingual/bicultural programs of education will provide more effective use of both English and the student's language, foster more successful secondary and higher education careers, facilitate the obtaining of employment, tend to bring about an end to the depreciation of local culture elements and values by the schools, stimulate better communication between the community and the schools in solving educational problems, effect a positive student self image, allow genuine options for all students in choosing a way of life, and facilitate more harmonious relationships between the student's culture and the mainstream of society. (Eff. 12/29/76, Register 60; am / / , Register)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.030 is amended to read:

4 AAC 34.030 GRANT APPLICATION. The commissioner may award grants to school districts upon applications submitted by their governing bodies. A district's application must contain the following:

(1) an assessment of the bilingual/bicultural education needs of students in the district conducted in accordance with the provisions of sec. 50 of this chapter;

(2) an education program which meets the requirements of secs. 55 through 80 of this chapter and which assures that:

(A) the governing body has a statement of philosophy consistent with the bilingual/bicultural education philosophy expressed in sec. 10 of this chapter;

(B) there are comprehensive program objectives in measurable terms for each component of a program;

(C) to the extent possible, all programs offered by the district and all sources of funds available for bilingual/bicultural education will be coordinated;

(D) there is a budget consistent with program specifications and requirements. (Eff. 12/29/76, Register 60; am / / , Register)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34 is amended by adding new sections to read:

4 AAC 34.050 IDENTIFICATION AND ASSESSMENT OF LANGUAGE DOMINANCE.

(a) Before December 1, 1977, each school district shall carry out an identification and assessment of language dominance for the purpose of categorizing each student in the district in one of the following:

Category	Definition
A	students who speak a language other than English exclusively;
B	students who speak mostly a language other than English, but also speak some English;
C	students who speak a language other than English and English with equal ease;
D	students who speak mostly English but also speak a language other than English;
E	students who speak English exclusively but whose manner of speaking reflects the grammatical structure of another language;
F	students who speak English exclusively but do not fit category E.

(b) Following the initial assessment made under (a) of this section, districts shall identify and assess all students new to the district within thirty days of their enrollment in school.

(c) The identification and assessment process under (a) and (b) of this section shall consist of the following:

(1) informing parents through workshops, public meetings or public announcements of the purpose and importance of both the assessment procedure and the development of bilingual/bicultural programs and of the necessity for complete and accurate data on the parent questionnaire, and how to complete the questionnaire which they will be asked to complete.

(2) selecting, orienting and training qualified persons to administer the assessment instruments and evaluate the results;

(3) providing a parent questionnaire, reviewed and accepted by the department, to the parents or guardians of each student and assuring that the questionnaire is completed and returned. If the results of the parent questionnaire clearly indicate a category F student, and if the student's teacher or teachers agree that the child is not in categories A through E, the district may identify that student as being in category F and need not carry out the remaining steps of the assessment process as to that student;

(4) using a language observation questionnaire, reviewed and accepted by the department, and conducted by a person who is bilingual in the student's home or primary language which is other than English, for all students not initially identified as being category F. Based on the results of this instrument and the parent questionnaire, a student shall be tentatively identified as being in one of the six categories set out in (a) of this section;

(5) administering a language assessment instrument, which has been reviewed and accepted by the department, to all students tentatively identified under (4) of this subsection as being in categories A through D. Following administration of this instrument, the student shall be identified as being in that category which reflects the least degree of English facility as established by the three assessment instruments;

(6) reviewing the results of the parent questionnaire and language observation questionnaire for those students tentatively identified under (4) of this subsection as being in categories E and F and modifying those results as necessary with systematic or prior observation by the staff of the students' school and identifying those students as being in either category E or F.

(d) Each district shall submit to the department, no later than December 1, 1977 for the initial assessment required under (a) of this section and by November 1 of each subsequent year, a compilation and analysis of its assessment data.

4 AAC 34.055 ANNUAL PLAN OF SERVICE. (a) Each district with a school attended by eight or more category A through D students who speak the same language other than English or 8 or more category E students, and for whom an educational program is required under (e) of this section shall file with the department, by March 15 of each school year, a plan of educational service which complies with the provisions of secs. 60 through 80 of this chapter.

(b) The plan of service required under (a) of this section must contain the following:

- (1) a parent community involvement component;
- (2) a curriculum/instructional component;
- (3) a materials development component;
- (4) a staff development component;
- (5) a description of the district's process for implementing and coordinating the plan of service;
- (6) an evaluation component.

(c) A district may request variances from the bilingual/bicultural education program requirements set out in secs. 60 through 80 of this chapter. The commissioner may grant a requested variance upon a showing by the district of program feasibility and that the proposal promises to provide equal educational opportunity.

(d) Upon filing of a plan of service, the department will review it and either approve it or return it for necessary modifications within 60 days of its receipt. Upon approval by the department the district shall implement its plan.

(e) Appropriate programs must be provided to the following students:

(1) all students in categories A and B;

(2) those students in categories C, D and E whose overall achievement is at or below:

(A) minus one standard deviation on a normed test; or

(B) one year below grade level as measured by the district's ongoing student achievement testing program.

(f) A district may, at its option, provide programs to students who are not included in (e) or this section.

(g) A district may meet the educational needs of category E students described in (e) (2) of this section through non-bilingual programs of instruction which it provides generally to its underachieving students. However, the plan of service required by this section must identify and describe those programs.

(h) Districts may comply with the requirements of secs. 60 through 80 of this chapter by a phased-in process designed to accomplish full implementation of those requirements by the end of the 1978-1979 school year. The phase-in must at least meet the following time frames:

(1) initiation of appropriate community involvement activities under sec. 60 of this chapter by the end of the first semester of the 1977-1978 school year:

(2) significant progress toward establishing appropriate curricula under sec. 65 of this chapter, with particular emphasis on providing programs to students in categories A and B, identifying instructional materials necessary under sec. 70 of this chapter, and recruitment and training of instructional staff under sec. 75 of this chapter by the close of the 1977-78 school year; and

(3) submission of the district's initial plan of service under this section by March 15, 1978.

4 AAC 34.060 PARENT AND COMMUNITY INVOLVEMENT. (a) Districts shall provide for the direct involvement of the parents of bilingual/bicultural students and other members of the community in the initial development and subsequent evaluation and improvement of the program, including providing sufficient information and allowing adequate time for the parents to review and discuss all aspects of the program with responsible district personnel.

(b) Districts shall conduct an informational program for parents of students and other members of the community in each language group for which a program is or will be conducted. This program includes notices in appropriate media and languages as well as community meetings.

4 AAC 34.065 CURRICULUM/INSTRUCTIONAL PROGRAM. (a) Unless a variance has been approved by the commissioner under sec. 55(b) of this chapter, the curriculum of the district must include, for each category of student for whom a program must be provided under (e) of sec. 55 of this chapter, one or more of the following options:

(1) Category A and B students at the primary and intermediate level:

- (A) a bilingual/bicultural curriculum;
- (B) a transitional bilingual/bicultural curriculum;

(2) Category A and B students at the secondary level:

- (A) a bilingual/bicultural curriculum;
- (B) a transitional bilingual/bicultural curriculum;
- (C) a high intensity language training curriculum;

(3) category C and D students at all levels:

- (A) a bilingual/bicultural curriculum;
- (B) an English as a second language curriculum;
- (C) a supplemental English skill and concept development curriculum;
- (D) a language-other-than-English as a second language curriculum;

(4) category E students at all levels:

- (A) an English as a second language curriculum;
- (B) a supplemental English skill and concept development curriculum;
- (C) a language-other-than-English as a second language curriculum.

(b) The district plan must also provide a process for re-evaluating the needs of each student in the program on an on-going basis with reassignment to another curriculum or individualizing of instruction occurring as necessary to assure appropriate educational services.

(c) At the request of a student's parent or guardian and if the requested alternative program is reasonably available, the district shall place the student in its regular program for non-bilingual students or in a level of the bilingual program with less non-English emphasis than that called for by the student's assessment category.

(d) For bilingual/bicultural students, in schools with fewer than eight students in one or more of the categories A through E, for whom a program must be provided under (e) of sec. 55 of this chapter, districts shall either provide those students with a curriculum as set out in (a) of this section or it shall individually meet the needs of each of those students by means of one-to-one tutoring and assistance.

(e) As used in this section:

(1) A "bilingual/bicultural curriculum" means a program of instruction which makes use of a student's language other than English and cultural factors and maintains and develops the student's skills in that language and culture. Additionally, it introduces, develops and maintains all the necessary English skills for the student to function successfully in English. The language other than English instruction may vary from being in the language arts of the language other than English to being in all discipline areas, with the appropriate combination of language other than English and English instruction determined by the district in conjunction with the parents of its bilingual students.

(2) A "transitional bilingual/bicultural curriculum" means a program of instruction which makes use of a student's language other than English and cultural factors in instruction

only until the student is ready to participate effectively in the English language curriculum of the regular school program. Once this occurs, further instruction in the language other than English is discontinued. Until the student is ready to participate effectively in the English language curriculum of the regular school program, instruction in the language arts of the language other than English is provided, and English is taught as a second language.

(3) An "English as a second language curriculum" means a program of instruction which teaches English as a second language, has culturally relevant material in its curriculum, and provides instruction in other subject matter in English.

(4) A "high intensity language training curriculum" means a program of instruction which gives a student intensive instruction in English until that student is ready to participate effectively in the English language curriculum of the regular school program, with the student working exclusively on acquisition of English language skills. Following acquisition of those skills, the student is phased into the same curriculum as that provided to the district's non-bilingual students.

(5) A "supplemental English skill and concept development curriculum" means a program of instruction in which the instructional content and methods address the language interference needs of students by appropriately supplementing the curriculum provided to the district's non-bilingual students.

(6) A language-other-than-English as a second language curriculum means a program of instruction which teaches the student's language other than English as a second language. At the primary level emphasis is on oral language skill development. At the intermediate and secondary levels, language literacy instruction would begin after oral skills are learned. Instruction in other subject matter is conducted in English. At all levels, a special effort is made to maximally incorporate the student's non-English culture into the curriculum. (Eff.

/ / , Register)

4 AAC 34.070 MATERIALS. (a) A district shall provide adequate instructional materials to support and achieve the goals of the instructional programs selected under sec. 65 of this chapter.

(b) If adequate materials are not available, the district shall establish an action plan for developing or otherwise securing needed materials. The district plan should involve classroom teachers, individuals who are native to the language other than English and culture for which the materials are to be developed and linguists in the development and review of materials so as to assure that the materials are educationally and linguistically sound and that they are an accurate reflection of the appropriate language and culture.

4 AAC 34.075 INSTRUCTIONAL STAFF. (a) Districts shall insure that the skills of their instructional staff are commensurate with the type of programs selected.

(b) If regularly certificated (Type A) teachers who are appropriately bilingual cannot be obtained, bilingual instructors may be used to implement the program. However, if bilingual instructors are used:

(1) the district shall implement an action plan to train or otherwise secure certificated (Type A) teachers who are bilingual in the other-than-English languages for which the district offers its program; and

(2) the district shall assure that the salaries of its bilingual instructors are commensurate with the level of responsibilities and duties performed by them, and with their training and experience.

(c) Nothing in (b) of this section limits a district's authority to require, as a condition of continued employment, that a bilingual instructor enter into a formal program of training which leads to a Type A certificate.

(d) Each district shall develop a staff training plan for all bilingual program instructional personnel, both permanent and temporary, which includes, but is not necessarily limited to, the following:

- (1) objectives which are directly related to the needs of the students;
- (2) methods by which those objectives can be reached;

- (3) methods for selecting teachers, paraprofessionals, and potential teachers for training;
- (4) the names of individuals who will conduct training;
- (5) the location of the training;
- (6) content of the training, including as one element linguistic/cultural familiarity with the students background;
- (7) a design for evaluating the training; and
- (8) a proposed time frame for carrying out the training plan.

(e) As part of the plan of service required under sec. 55 of this chapter, each district shall set out specific recruitment and selection processes for its bilingual program staff and shall establish, through cooperative agreements with institutions of higher education, and make available a career ladder for its bilingual paraprofessionals which lead to regular (Type A) certification.

(f) The student to staff ratio for the district's bilingual program may not be higher than the overall student to staff ratio for the district. (Eff. / / , Register)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.080 EVALUATION. Each district shall establish a procedure for evaluating annually the components of its program as set out in its annual plan of service. This procedure shall include, but not necessarily be limited to, collecting information concerning the progress of students enrolled in the program. (Eff. / / , Register)

Authority: AS 14.07.060
AS 14.30.410

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4

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

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

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

4 AAC 34.030 GRANT APPLICATION.

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

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

4 AAC 34.050 IDENTIFICATION AND ASSESSMENT OF LANGUAGE DOMINANCE.

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

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

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

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

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

LEVEL OF SERVICES.

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

(1) A & B Students.*

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

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

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

4 AAC 34.055(h).

(2) C, D, and E Students.

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

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

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

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

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

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

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

(3) The Absence of Provision for Bilingual Education.

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

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

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

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

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

PARENT AND COMMUNITY INVOLVEMENT.

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

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

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

4 AAC 34.075 INSTRUCTIONAL STAFF.

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

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

CONCLUSION.

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

Questions concerning this analysis should be addressed to:

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SCOMM

#19.8

85

PUBLIC COMMENT CONCERNING PROPOSED REGULATION

4 AAC 34.010-.080 UNDER CHAPTER 34,
BILINGUAL BICULTURAL EDUCATION

INTRODUCTION

- I. Hearing-by-hearing recommendations
- II. Summary of revisions needed
- III. Appendices: Hearing schedule,
list of participants

Revised draft of regulations attached

October 6, 1977
Alaska Department of Education

INTRODUCTION

The purpose of this report is to synthesize public comment concerning proposed regulation 4 AAC 34.010-.080 under Chapter 34, entitled Bilingual-Bicultural Education, in such manner as to assist the Alaska State Board of Education in making a decision on whether to adopt, modify, or reject the proposed regulation.

The regulation in question, more specifically, the "Minimum Guidelines" has been highly controversial for two reasons: 1) the regulation is a result of negotiations between the U.S. Office for Civil Rights-Region X and the Alaska Department of Education; and 2) the "guidelines" do not address non-indigenous language groups. In order to present as clear and objective a picture as possible, under these circumstances, the report has been organized into three sections.

The first section deals with major recommendations and concerns brought forth in each of the eleven public hearings. Section two includes a summary of areas needing revisions, cross-referenced to public testimony. Section three, the appendices, includes the schedule of public hearings, opening statements, and lists of participants. Also enclosed with this report is a new draft of revised regulations designed to meet both public concerns and federal and state guidelines.

It is important to note here that the proposed regulation was announced throughout the State. Several informational meetings were held in addition to the public hearings to discuss the regulation prior to the public hearings. It is clear from the response that there are varying views on what the general public expects the proposed regulation to do.

The eleven public hearings were attended by a cross section of concerned parents, bilingual education advocates, bilingual educators, school board members, administrators, elementary and secondary teachers, Alaska Native leaders, interested groups, organizations, and other observers.

It is clear from the testimony received that some people considered the process used in developing the proposed regulation, i.e., negotiations between the U.S. Office for Civil Rights and the Alaska Department of Education more important than the regulation itself while others felt it necessary to draw attention to definitional type issues, such as "Bilingual-Bicultural Education" or "Preservation of Language and Culture."

What follows is a composite narrative which collects the issues in broad subject areas and presents them as if they had been made in one continuous discussion.

BILINGUAL-BICULTURAL EDUCATION

The term "Bilingual-Bicultural Education" has not been adequately defined for general use by the public. Some view the term as an educational goal, others see it as a focus to the total educational offering; while others treat the term as an emotion-raising slogan. Some questioned the effectiveness of the bilingual-bicultural education approach to educating youngsters and have pointed out the lack of evidence that this approach to education is a positive one. The term "bilingual-bicultural education" as used by practitioners simply means the use of two languages and two cultures in instruction.

BILINGUAL EDUCATION

A number of participants in the public hearings pointed out that the "Handbook" emphasizes bilingual education more than it does bicultural education; and that the two could not be distinctly separated. The term "bilingual education" generally used by educators in the field means the use of two languages as a method of instruction.

BICULTURAL EDUCATION

Many participants pointed out the lack of emphasis on "bicultural" education in the "Handbook." Others raised the issue of all students needing multicultural education, not simply those enrolled in bilingual programs.

PRESERVATION OF LANGUAGE AND CULTURE

An overwhelming majority of the testimony offered from rural Alaska underscored the need to 'preserve the language and culture.' A number of persons testifying stated that their school districts are doing just that without regulations by the State Department of Education.

LOCAL CONTROL OF EDUCATION

This issue was raised not only by Regional Educational Attendance Area (REAA) school board members and administrators but by independent school board members and administrators as well along with some representatives of interested organizations. Although testimony varied, with some feeling that the regulations strengthened local control through local advisory committees, the majority stated that the regulation, as proposed, would usurp local control of educational programs.

FUNDING

Stable and reliable funding for bilingual-bicultural programs is a major concern throughout the state. The consensus is that such funding needs to come under the state foundation formula.

STATEWIDE APPLICABILITY

Witnesses repeatedly raised the issue of regulations needing to possess statewide applicability and appropriateness.

EQUAL EDUCATIONAL OPPORTUNITY/NON COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Testimony raised the issue that adoption of the regulations would possibly contribute to student segregation. In particular, the employment of teachers with little training to teach students appeared to witnesses to be a way of increasing inequitable educational opportunity. Districts also stated that the Office for Civil Rights had yet to demonstrate that they were in non-compliance with Title VI of the Civil Rights Act of 1964.

OTHER ISSUES

Other issues were raised, including the role and training of paraprofessionals, parental options about student participation, community and parental involvement in educational decision-making, federal encroachment in education, and regulatory format and flexibility. Comment on these issues was extensive and is covered in the hearing-by-hearing recommendations.

SCOMM

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46
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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

NORTHWEST ARCTIC SCHOOL DISTRICT,)
ALASKA GATEWAY SCHOOL DISTRICT, KUSPUK)
SCHOOL DISTRICT, LAKE AND PENINSULA)
SCHOOL DISTRICT, SOUTHWEST SCHOOL)
DISTRICT, ALEUTIAN REGION SCHOOL)
DISTRICT, COPPER RIVER SCHOOL DISTRICT,)
and DR. MARSHALL L. LIND, Commissioner)
of Education for the State of Alaska,)

Plaintiffs,)

v.)

JOSEPH A. CALIFANO, individually and)
as Secretary of Health, Education and)
Welfare; DAVID L. TATEL, individually)
and as Director of the Office for)
Civil Rights; MARLINA KINER, individ-)
ually and as Regional Commissioner,)
Region X, Office for Civil Rights;)
LLOYD HENDERSON, individually and as)
Director of Elementary and Secondary)
Education Division, Office for Civil)
Rights; and JAMES L. MAST, individu-)
ally and as Administrative Law Judge,)
Bureau of Hearings and Appeals, Social)
Security Administration,)

Defendants.)

Civil No. A-77-216

MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER OR IN THE
ALTERNATIVE FOR
PRELIMINARY INJUNCTION

LAW OFFICES
JOSEPHSON & TRICKEY, INC.
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SCOMM

#19:10

#7
PRESS RELEASE

Attached is a telegram of July 26, 1976 detailing some of our concerns about the very important issue of bilingual-bicultural education presently of issue throughout the State. The telegram was transmitted to Senators Stevens and Gravel, and to the Directors of the Office of Civil Rights in Washington, D.C. and Seattle.

AVCP statement
page 2

The following was telegraphed July 26, 1977 by the Association of Village Council Presidents to Senators Gravel and Stevens, and to the Directors of The Office for Civil Rights in Washington, D.C. and Seattle:

I am contacting you on behalf of the Association of Village Council Presidents, the tribal unit representing the 56 villages of the Lower Kuskokwim and Yukon River. The Yukon Kuskokwim delta is an area in which there is a crying need for extensive and aggressive bilingual-bicultured educational programs. Presently, and in the past, there have been no serious efforts in this region, indeed statewide, to deliver viable bilingual education, yet the primary educational problems of our children all are directly related to the failure of the schools to adequately address their linguistic and cultural backgrounds. We therefore fully support the negotiated compliance plan known as "A Handbook for Alaska Native Language Programs" as the first step in a serious educational effort to address student's Linguistic needs. The present HEW Office of Civil Rights enforcement proceeding should therefore be encouraged to continue to enforce rights to equal educational opportunities for Native children. This enforcement process must not be embroiled in Washington politics. While some administrators are opposing the Handbook, people in our villages and those knowledgeable in the field of bilingual education are supporting the negotiated plan. A copy of an article appearing in the "The Tundra Drums" July 16, 1977, which does an excellent job of stating the importance of this issue will be forwarded for your information. As the Handbook was written and negotiated by Alaskan educators intimately familiar with the linguistic needs of our children, and was not imposed by "Outside" agencies, we trust that you will give it your full support.


Carl Jack
Association of Village Council
President

The following was telegraphed July 26, 1977 by the Association of Village Council Presidents to Senators Gravel and Stevens, and to the Directors of The Office for Civil Rights in Washington, D.C. and Seattle:

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Carl Jack
Association of Village Council
President

COMM

19:11

McGrath, Alaska
October 13, 1977

#8
Katherine T. Hurley
Chairman
State Board of Education

Dear Mrs. Hurley

The State Advisory Council on Bilingual/Bicultural Ed. met in Anchorage on October 4-6 and passed the inclosed resolution in support of the Handbook for Bilingual/Bicultural Education.

I understand that the State Department of Education has now come up with alternate regulations which they are negotiating with OCR. I am concerned that this will lead us into the courts and result in further delay and an additional outlay of time and money which could be better spent in serving students.

From what is happening around the state I get the impression that OCR is being portrayed as the "bad guy" attempting to force the handbook on the state, when the handbook was prepared by State directive to meet the Lau guidelines. I think we must admit that students have not been and are not being provided an equal education around the State because of unmet language needs. OCR is doing us a service by forcing us to pay attention to these needs.

As one who worked on the handbook I will admit it does not contain all the answers but it is a start and does provide some sample program models which meet the guidelines. It does provide that each District will draw up its own plan of service which could deviate from the handbook. Perhaps this option should be strengthened.

The Iditarod area School District (of which I am chairman) and several other rural Districts have signed an agreement with OCR which brings us in to compliance and lifts the deferrals but it is contingent upon action by the State on the Handbook and the adoption of additional funding by the Legislature or we are once more in non compliance.

If the Advisory Council can assist in resolving this issue please notify us as we were established to assist the State Board of Education and the DOE by acting in an advisory capacity on Bilingual/Bicultural policy.

cc Judy Franklet

Sincerely,

Raymond L. Collins
Raymond L. Collins
Chairman
State Advisory Council on
Bilingual/Bicultural ED.

Motion passed at OCT 4-6 meeting of B/B Advisory Council

The Alaska State Advisory Council for Bilingual/Bicultural Education recommends to the State Board of Education that the "Handbook for Bilingual/Bicultural Education Programs in Alaska" be adopted as minimal guidelines for Bilingual/Bicultural Education in Alaska with the following amendments:

1. Local native elders and/or other ethnic resource people will be used as consultants in the development of appropriate materials for classroom use. Such consultants shall be compensated at an appropriate consultant rate. (this recommendation to be inserted at the appropriate place on page 82).
2. Note that the term Bilingual Education Committee can sometimes be misleading when talking about category E students and Districts may consider another term more appropriate for their situation such as:
Language Arts Committee
Bilingual/Bicultural Committee
Cultural Arts Committee
Multicultural Committee
3. Recommend that the sentence "The local bilingual committee shall also be trained to understand the opportunities, the issues, and the options available to them as they determine what kind of educational programs will best meet their students' needs." found on page 43 be inserted after the sentence "--- Your District must provide training about the powers and duties of the local committee, this handbook, and the plan of services to be developed by the district." found on page 42.

and further that the DOE make clear to districts that the handbook is only a minimum and the districts are encouraged to develop plans of service which go beyond the guidelines in response to the diverse community needs and desires.

Submitted by

Raymond L. Collins

Raymond L. Collins

Chairman

State Advisory Council for

Bilingual Bicultural Education

SCOMM

#19:12

9
Passed May 6, 1977

R E S O L U T I O N

WHEREAS, the State Board of Education is committed to provide quality education to all Alaskan children, including all minorities, and

WHEREAS, the State Board of Education has supported all efforts to guarantee local control, including the recent establishment of the REAA's that is ushering in a new era of education in rural Alaska, and

WHEREAS, Alaska is one of the few states that has state regulations to promote bilingual and bicultural education, and

WHEREAS, in spite of the above, has been involved in administrative proceedings by the Regional Office of Civil Rights charging the 21 Districts with non-compliance with Title VI of the Federal Civil Rights Act, for which they are threatening to withhold Federal funds, and

WHEREAS, in accordance with the Consent Decree relating to the settlement of the Molly Hootch case, additional regulations are being required that would place increased paperwork on local school systems,

BE IT HEREBY RESOLVED, that the State Board of Education instructs the Commissioner and the Department of Education, to hold the line against those from the Federal Government who would take over Alaska's educational system through undue harassment, even if it means risking the loss of federal funds in certain cases, and

BE IT FURTHER RESOLVED, that the Department resist all efforts to increase paperwork in the local districts and thereby strengthen the trust the state places in local leadership and decision-making.

SCOMM

#19:13

10
CROSS-CULTURAL EDUCATION DEVELOPMENT PROGRAM

X-CED is -- A program operated jointly by the Alaska Dept. of Education and the University of Alaska, School of Education, Fairbanks, under Contract.

- Governed by a Consortium Board established under the State Board of Education, composed of representatives of rural regions, students, postsecondary institutions, the State Education Agency, Teachers' Association, Administrators' Association, Native organizations.
- Funded by USOE Teacher Corps and State General Funds, and direct grants to U of A/X-CED from the Office of Bilingual Education and Office of Environmental Education.
- A staff and teaching faculty in education, based in Anchorage, Fairbanks, Shishmaref, Bethel, Dillingham, Tanana, and Ft. Yukon.

X-CED Provides -- Academic programs leading to the B.Ed. and Master of Arts in Teaching, cross-cultural in its focus, interdisciplinary in their nature. They lead to elementary and secondary certification.

- Specialties in Cross-Cultural Elementary, Rural School Secondary, Bilingual Education, Human Resource Development (non-certificating).
- Delivery of these programs to students and inservice teachers on site, in the field in 25 villages served by the five Field Centers.

X-CED Students -- Are primarily Native, but not exclusively. It is intended for persons who wish to teach in, and administer, schools with high concentration of children culturally different from the larger society, and from low-income families.

- Number nominally 80 full-time undergraduates, 15 teachers taking one or more courses, 4 full-time graduate students, and 6 full-time graduate students/assistants.
- Who have graduated or are seniors in 1977-78 number 54 Natives and 19 Caucasians. (32 N, 17C to date).
- Are persons who, for reasons of economics, family situation, community ties, and culture cannot, or would not, leave their homes to attend campus programs for four years or more.

X-CED Costs -- Were high on a per student basis because federal grants provided for direct financial assistance (stipends) at \$6,500/year plus dependent allowance at \$60/month/dependent to 60 students.

- Have diminished as stipends have ended (except for four graduates) and program efficiency has increased.
- Are roughly equal to cost per student on campus at Fairbanks (FY 76: \$4,660; FY 77: \$5,226). There are no buildings, bonds, or debt retirement involved.
- Predominantly covered by Federal Categorical grants (95.7 % in FY 77 and 88.3% projects in FY 78).
- Increasing overall only as a result of uncontrolled increases in salaries set by the legislature and university, air fares, and cost of communication, i.e., inflation.

Schools Need -- Teachers who speak the same language as the students.

- Teachers who are knowledgeable of, and sensitive to, the cultural and physical environment of the places in which they teach.
- Teachers whose teaching styles match the learning styles of the children.
- Educators who can eliminate, rather than exacerbate, the existing cultural discontinuity between schools and communities where such exists (Native villages, ghettos, low income neighborhoods).
- Educators who can create small rural high schools which meet the needs of the youth and communities and which assure that the State is in compliance with laws relating to equal educational opportunity.
- A means for orienting newcomers to rural schools, communities, and cultures.

X-CED Needs -- Closer association with research and other teaching units of the University.

- A continuing source of general funding in addition to the categorical federal grants which are intended to serve purposes of development and demonstration, but which have been used by the State for operation.

- Support for the education of persons who will become teacher trainers in the university faculties of education.
- Serious adoption by the University of Alaska of the Academic Development Plan of 1975, specifically pps. 107-112 pursuant to Teacher Education.

* * * * *

A. SOCIAL DEFINITIONS

CULTURE is defined as the totality of socially transmitted behavior patterns characteristic of a people; a style of social and artistic expression, mode of learning, perspectives, and view of the world held in common by a society or class.

CROSS-CULTURAL is used here as denoting the interrelationships and interactions between individuals and groups of different cultures.

CROSS-CULTURAL EDUCATION denotes the teaching and learning process, both formal and informal, between and among individuals and groups whose cultures differ in one or more respects from one another; this is transcendent of geographical locale, i.e., the principles pertain to urban and rural alike

B. DISCUSSION OF ISSUES

1. In spite of recent shifts in the structure of power, and in spite of the fact that public education accrues to it more money and more scrutiny than any other national enterprise short of war, education for Native children in rural Alaska and minority children in most schools has not improved substantially during the past decade. There is no new wave of Native young people filling jobs or entering our universities who are demonstrating skills or knowledge or other results of formal schooling different from those of a decade or two ago. While new laws are passed, new systems created, new funds appropriated, new regulations adopted, and new schools constructed, the State and many rural districts are forced by threat of litigation and cessation of federal funding to agree to make good, belatedly, the fundamental principle that children have a right to be taught in the language they speak. Since this principle is now a law of the land, it is not a great extension of the spirit of the law to adopt policies which say that children also have a right to be educated in a manner and in a direction consistent with the goals, aspirations, and within the value systems of their own cultures, regardless of how different they may be from those of the mainstream of society. It is, in fact, this spirit which has caused enactment of state laws and adoption of state regulations which speak to education for a pluralistic society. Yet the results have been systemic and political in nature, not educational. Further, the majority of the improvements in the educational processes for Native and other minority children have come about as a result of two things: (1) federal categorical grant programs and (2) the chance that some school administrators and some teachers have been sufficiently sensitive to the problems that they are willing to assume responsibility for real improvement.

It has repeatedly been made clear that, beyond the laws and regulations, the key factors in improvement of education are the quality and qualifications of the school staffs, and the materials and environment with which they and the children have to work. Yet there remains a general lack of action outside of some communities themselves and among a few individuals, for who teaches, where teachers come from, how were they selected, how they have been

BRU Cross-Cultural Education Development Program (X-CED) BRU CODE 05-12-2-25-00-00 REVISED

2 ANALYTIC STATEMENT

prepared to deal with culturally different children and settings, where they have been trained, what their university curriculum was like, what the motives were for coming to teach in Alaska, how long they may stay, what their basic humanistic attitudes are, their adaptiveness and awareness, how many positions could be filled with Native and other State residents were they available, and the cost in educational and financial terms of the constant rotation and flow through the rural school systems of 'temporary' teachers.

Attempts to remedy the situation through in-state undergraduate teacher education programs and providing newcomers and inservice teachers with needed orientation and special training have been spasmodic and poorly funded, subject to neglect and low prioritization by the administrations of the State's universities, the State administrations, and the legislatures, while both common sense and law call for equal educational opportunities for all children and youth. The achievement of this lies almost singularly with the competence, quality, and nature of public school educators as a whole. And while teachers from out of state continue to come, access of rural people to careers as teachers and administrators has been limited by the absence of in-state, field-based programs of sufficient scope and magnitude.

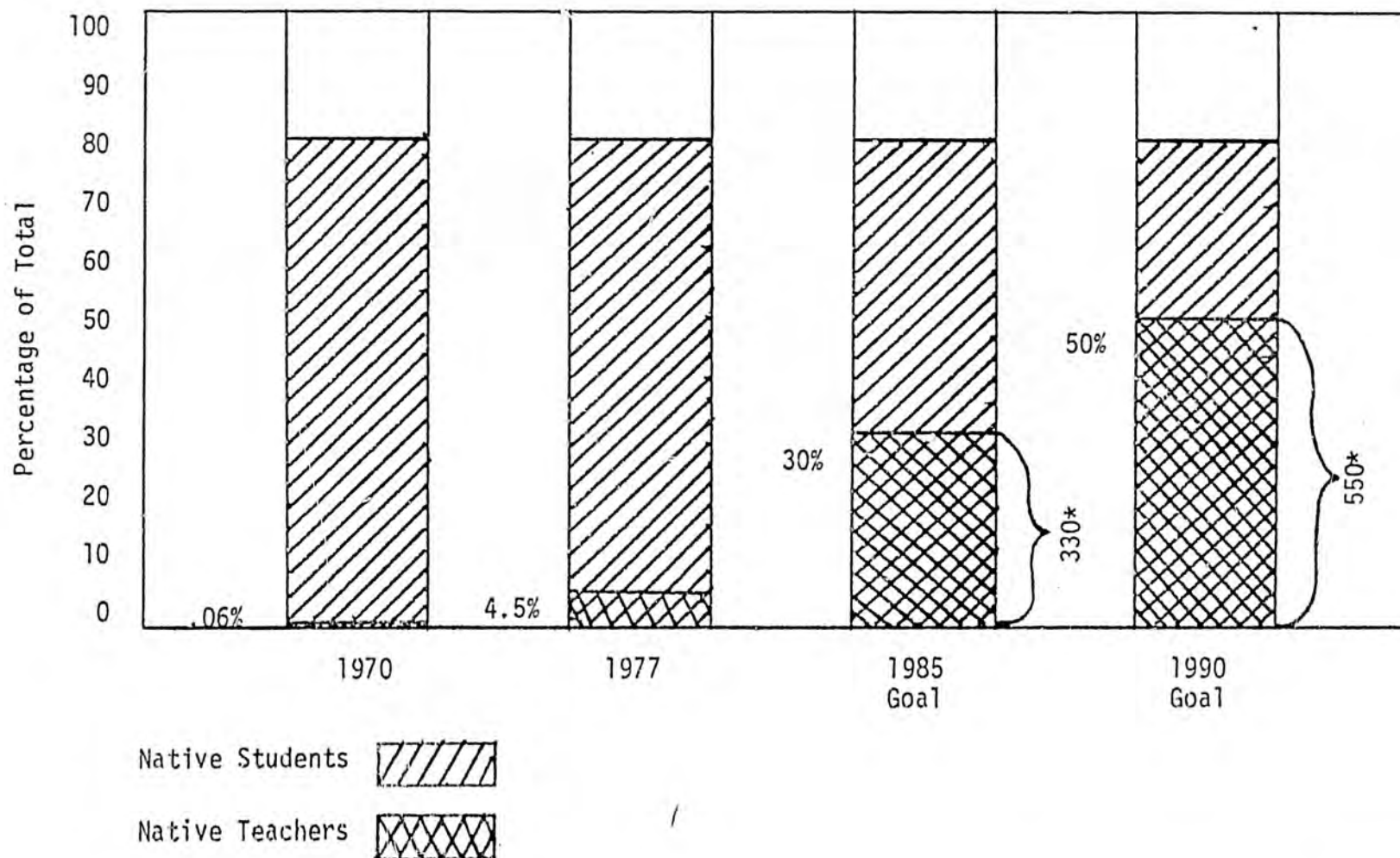
2. Among federal legislation related to Civil Rights (Civil Rights Act of 1964, Amended) and Equal Employment Opportunities, is the requirement that school districts file Affirmative Action Plans. Within such plans, the current percentage of minority students enrolled in the schools of the district and the concurrent percentage of minority teachers and administration in the schools are to be shown. If the ethnic and racial composition of the enrolled student body is not reflected in similar percentages in the professional staff, the plan for remedy is to be presented. In Alaska, approximately 80% of the students in REAA and other rural districts is Native while about 4% of the teachers are Native. The problem is the acute lack of Native certificated teachers and school administrators which would make compliance with EEO laws possible in the immediate future.

Statistically, there are approximately elementary and secondary teachers and administrators in the rural schools. Applying the 80% figure for Native enrollment, a need for Native teachers is projected. This manpower need projection has never been dealt with seriously by the State. Yet not only does this projection call for action to come into compliance, the ability to fill this number of career positions with State residents, and particularly with many Native persons who are currently unemployed, should be dealt with directly when formulating State education and manpower policy.

Second, an issue raised by the U. S. Office for Civil Rights in its findings of non-compliance of the REAA's with the Supreme Court Decision in Lau v. Nichols is the absence of regularly certificated teachers whose language and culture is in common with the student, "---failure to provide adequate instructional assistance to students whose primary or home language is other than English." The listing of numbers of Native aides did not meet the terms of the OCR noncompliance finding. The State Plan (Minimum Guidelines as Proposed in 4A AC 34.060) currently undergoing the hearing process speaks to "Teachers holding regular Type A certificates who are fluent in the Native language of the local community" (Ch. XI, Par. 1). The Plan contains an entire chapter, pps. 94-110, and

Appendix G (pps. 199-217) related to staff development, training, education, and curriculum. Yet at the current rate that X-CED and the Schools of Education are graduating Native and Cross-Culturally prepared teachers, it would take 15-30 years to fill the 300-400 teaching positions required to meet EEO criteria.

NATIVE EDUCATOR/NATIVE TEACHER
Percentages in Alaska
Rural School Districts



* Number of Teachers

BRU Cross-Cultural Education Development Program (X-CED) BRU CODE 05-12-2-25-00-00 REVISED

SOURCE OF FUNDING

X-CED/ARTTC 1970-1978

Teacher Corps (Title V-B HEA)

Career Opportunities Program,
U.S. Office of Education

Johnson O'Malley Act

Public Law 874

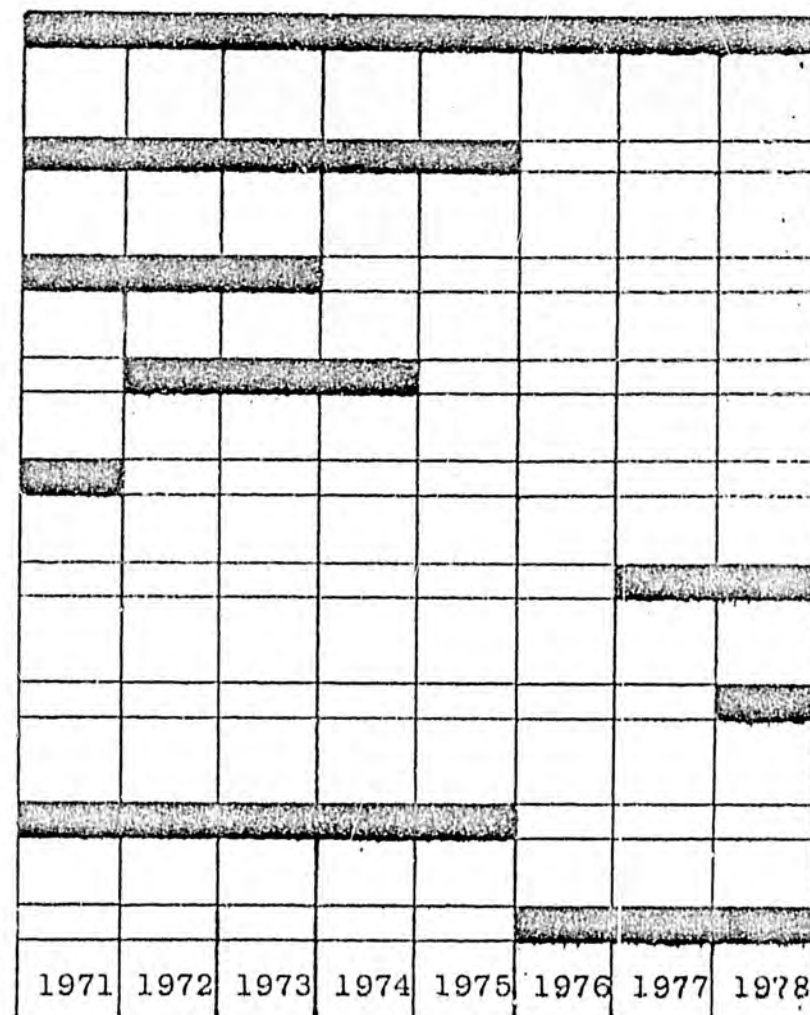
ESEA Title I

ESEA Title VII (Bilingual)

Public Law 91-516
(Environmental Education)

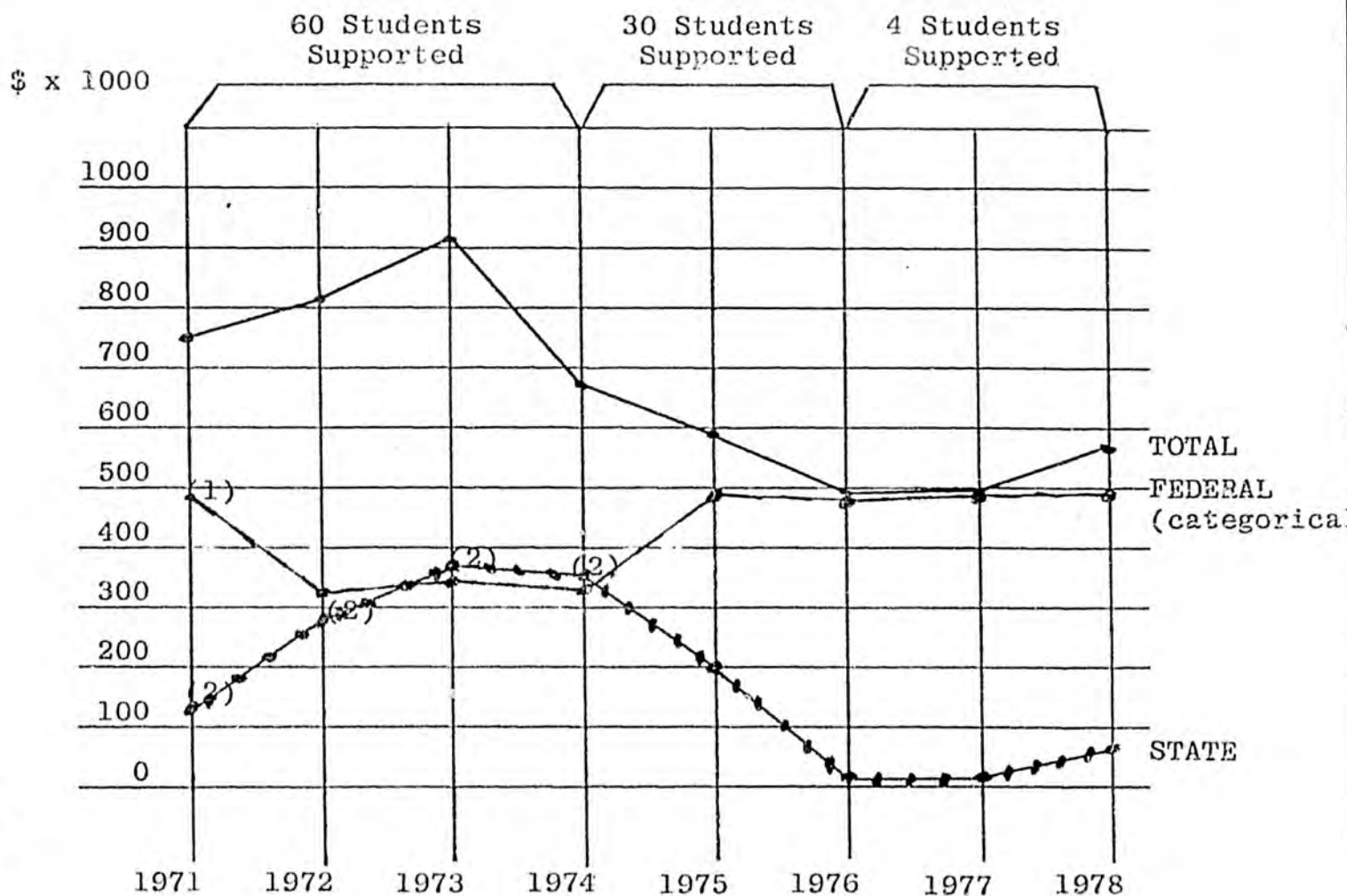
State Unrestricted Funds

State Restricted Funds



Program Year Ending

BRU Cross-Cultural Education Development Program (X-CED) BRU CODE 05-12-2-25-00-00 REVISED



(1) Includes ESEA Title I in FY 71.

(2) Includes PL 874 funds in FY 71, 72, 73, 74.

From 1971 through 1974 the total budget included direct financial support (stipends) for an average of 50 students and their dependents, an annual total of approximately \$310,000.

In 1975 and 1976 student support was reduced to approximately \$150,000 covering 25-30 students plus dependent allowance.

In 1977 and 1978 student support was provided for four graduate interns only, plus dependent allowance, approximately \$35,000. Financial assistance for undergraduate students is provided under federal Basic Education Opportunity Grants and BIA scholarships. Number of students (undergraduate) increased in 1975 from approximately 60 to 80; number of teachers & others taking graduate courses from 0 to 15 full time equivalents; 4 full time graduate interns.

OVERALL COST
PER STUDENT IN X-CED

1975-76: \$324,000 (TC) + 147,523 (COP) + 19,000 (GF) = \$490,523

\$490,523

-87,429 Direct Stipends to 18 students and dependents.

\$403,103 Total Budget for Operations and Delivery.

$\frac{\$403,103}{85.5 \text{ FTE}} = \$4,660 \text{ Cost Per Student}$

1976-77: \$380,000 TC) + 63,750 (9 mos. bilingual grant to UA) +
20,600 (GF) = \$464,350

\$464,350

-35,780 Direct Stipends to 18 students and dependents.

\$428,570 Total Budget for Operations and Delivery.

$\frac{\$428,570}{82 \text{ FTE}} = \$5,226^* \text{ Cost Per Student}$

*Reflects salary increases in ADOE and U of A, air fares and cost of phone and postage.

X-CED ENROLLMENT STATISTICS

<u>PERIOD</u>	<u>NO. OF STUDENTS</u>	<u>CREDIT HOURS</u>	<u>F.T.E. Hrs./12</u>	<u>NOTES</u>
Fall, 1974	39	627	52	Accepting full-time students only. Open to part-time and graduate. Elective - 6 hr. maximum.
Spring, 1975	144	1044	87	
Summer, 1975	12	<u>72</u>	<u>6</u>	
Total 1974-75		1743	145	
Fall, 1975	112	1012	84	Elective - 6 hr. maximum.
Spring, 1976	118	1036	86	
Summer, 1976	6	<u>36</u>	<u>3</u>	
Total 1975-76		2084	173	
Fall, 1976	105	860	72	Added Lower Kuskokwim Bilingual; figures are enrollment as of 2/1/77.
Spring, 1977	118	1085	90	
Summer, 1977	4	<u>24</u>	<u>2</u>	
Total 1976-77		1969	164	

BRU Cross-Cultural Education Development Program (X-CED) BRU CODE 05-12-2-25-00-00 REVISED

ARTTC/X-CED GRADUATES

1972-1977 & 1978 (Projected)

1972 ARTTC GRADUATES

1. Linda Garrett (C)
2. Jim Graham (C)
3. Dan Haslett (C)
4. Larry Hayden (C)
5. Flossie Hopson (N)
6. Kathryn (Krogstad) Kortie (C)
7. Steve Kortie (C)
8. Kathy Kurtz (C)
9. John Laughlin (C)
10. Bob Mandell (C)
11. Cecilia (Ulroan) Martz (N)
12. Perry Mendenhall (N)
13. Mike Miller (C)
14. Olinka Nicolai (N)
15. Darrell Offt (C)
16. Stan Senungetuk (N)
17. Bridget Smith (C)
18. Loddy (Sundown) Jones (N)
19. Ferdinand Sharp (N)
20. Shelley Trainer (N)
21. Tom Wagner (C)

1974 ARTTC GRADUATES

22. Nels Alexie (N)
23. Pat (Norton) Beals (N)
24. Patty Bowen (C)
25. Louise (Kelly) Britton (N)
26. Virginia Demmert (N)
27. Lary Hill (N)
28. Pauline Hobson (N)
29. Lois (Edwin) Huntington (N)
30. Merriline Kangas (N)
31. Leo Kinneeveauk (N)
32. Ella Kowunna (N)
33. Genevieve Kratzer (N)
34. Lillian (Brendible) McGilton (N)
35. Lulu Nazaruk (N)
36. Edith (Hildebrand) Nicholas (N)
37. Mary "Dee" Stickman (N)
38. Linda Swenson (N)
39. Alice Weber (N)
40. John Weise (C)

1975 X-CED GRADUATES

41. Emma (Hedlund) Hill (N)
42. Eileen MacLean (N)
43. Shirley Wheeler (N)

1976 X-CED GRADUATES

44. Laura Aaberg (N)
45. Tom Browner (C)
46. Sophie (Manutoli) Shield (N)

1977 X-CED GRADUATES

47. Loretta Pollock (C)
48. Joann Duchume (N)
49. Eileen Weise (N)

1978 X-CED GRADUATES (Projected)

50. Gail Fouts, MAT (C)
51. Joyce Shales, MAT (N)
52. Russ Griffin, MAT (C)
53. Dorothy Jordan, MAT (N)
54. Jeanne (Brighte) Jones (N)
55. Vicky Becwar-Lewis (N)
56. Joshua Lewis (N)
57. Velma Simon (N)
58. Paul Asicksik (N)
59. Marilyn Asicksik (N)
60. Eleanor David (N)
61. William Gumbickpuk (N)
62. Earla Hutchinson (N)
63. Ragine Pilot (N)
64. Gertie Brown (N)
65. Elma Gillett (N)
66. Virginia Ned (N)
67. Jeff Smith (C)
68. Eileen Kozevinkoff (N)
69. Marge Mogg (N)
70. Edna Apatiki (N)
71. Hazel Gogert (N)
72. Wilbur Bavilla (N)
73. Miriam Bavilla (N)

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF EDUCATION

Alaska Rural Teacher Training Corps
Cross-Cultural Education Development Program
(907) 279-0503

2221 E. Northern Lights Blvd.
Suite 220
Anchorage, AK 99504

January 28, 1977

Office of the Governor
attn: Sue Greene, Special Assistant
Pouch A
Juneau, AK 99811

Dear Sue:

The risk of bending protocol in addressing you directly is transcended by the concern a small group of educators and I have relative to what we perceive to be an issue perhaps not being given adequate consideration. Among all the activities being engaged in pursuant to the new State Regulations relating to small rural high schools, the settlement of the Tobeluk et al. vs. Lind, et al. case and passage of the school construction bond proposition, the questions of where the rural secondary school teachers will come from, how have they been prepared to competently meet rural high school students' needs, where they will have been prepared, how many (if any) will be Natives and what should the teacher preparation and inservice programs be like, remain, in our view, as yet unanswered and of concern to too few at this time.

While the University of Alaska and the X-CED/ARTTC BRU of the State Dept. of Education may be faulted for not having the foresight to have begun dealing with the then potential problem a year or more ago, perhaps the uncertainty of small high schools becoming a reality is sufficient reason why the budget of the U. of A. didn't reflect this staff development program need. The fact remains, however, that the FY 78 request of the X-CED/ARTTC BRU did address it in a modest way in a new component. It proposes to work in the undefined area between the rural secondary schools, postsecondary education and the communities. Actually, X-CED is a program "in between" which, sometimes, is awkward. The Dept. of Education cannot pursue the funding of a program at the risk of diminishing funds from any direct

January 28, 1977

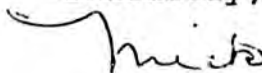
K-12 programs, since its statutory responsibility lies there. Thus, the matter of staff preparation and development seems to be in sort of a limbo. However, we are concerned that there be teachers trained in-State, both at preservice and inservice levels. We feel it essential that their preparation for the small secondary schools aims at how the schools will be and that it enables them to work effectively with whatever the curricula become and, in fact, to aid in curriculum development and refinement.

Actually, a new public need has been created by adoption of the new regulations and settlement of the Tobeluk case and should probably be initially considered separate from the DOE and U. of A. budget submittals.

If the State budget and priority situation is such that the approximately \$100,000 requested cannot be reflected in the Governor's budget, this is most certainly understood and respected. My conscience, but not my concern, is alleviated by calling this issue to your attention, especially since you were unable to be present during its discussion at the BRC hearing.

I am attempting to secure federal financial assistance via proposals to the Fund for Improvement of Postsecondary Education and the U. S. Office of Environmental Education, but will know nothing of these until April. Should any General Funds be appropriated to help develop the program, they could be diminished if federal funds are granted.

Sincerely,



D. M. Murphy, Exec. Director
Cross-Cultural Education
Development Program (X-CED)

DMM:slw

Enclosures: Memo to Lind dated Dec. 14 from Kleinfeld
Letter to Lind dated Dec. 15 from Ray & Darnell
Letter to Lind dated Dec. 20 from Kleinfeld
Alaska Rural Secondary Schools Forum, a Position
Paper, pps. 1, 4, 9, 10, 11.