

323 ARK: MEMOS

Education

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Education has amended or adopted the regulations discussed below. The salient points of the amendments and newly adopted sections will be discussed, and possible deviations from Legislative intent commented upon in the light of statutes being interpreted or implemented.

Summary

4 AAC 06.090 was amended to incorporate by reference the latest version of "A Manual for Alaska School Boards." Notice of adoption of this regulation appeared in the 'Anchorage Daily Times', 'Anchorage Daily News', 'Fairbanks Daily News-Miner', 'Kenai Peninsula', 'Cheechako News', 'Kodiak Mirror', 'Sitka Sentinel', and 'Southeast Alaska Empire'.

Summary

4 AAC 06.130 was adopted to carry out the provisions of ch. 188 SLA 1976, which requires the Board of Education to establish by regulation guidelines for a health education program. Accordingly, a document entitled "Framework for Health Education in Alaskan Schools" has been produced, and is incorporated by reference under this regulation. Notice of adoption of this regulation appeared in the 'Ketchikan Daily News', 'Nome Nugget', 'Sitka Sentinel', and 'Southeast Alaska Empire'.

Summary

4 AAC 34.010 - 4 AAC 34.090 is a new chapter in title 34, relating to bilingual-bicultural education. It implements section 45, ch. 124, SLA 1975. These sections fairly carry out the directive of AS 14.30.410(b), which requires the department to adopt regulations for the determination of entitlement and the distribution of bilingual-bicultural funds to city and borough school districts. 4 AAC 34.030 enumerates, in accordance with AS 14.30.400, those elements

which must appear in the plan submitted by the school district; also, 4 AAC 34.040 sets out priorities for determination of how funds shall be awarded. The notice of adoption of this regulation appeared in the 'Fairbanks Daily News-Miner', 'Ketchikan Daily News', and 'Tundra Times', and public hearings were held in Bethel on May 24, 1976, Fairbanks on May 25, 1976, Ketchikan on May 27, 1976, and Barrow on May 31, 1976.

Comment

The provision of 4 AAC 34.020(b) that grant awards may not be made for a period longer than one year would appear to be with in the grant of authority contained in AS 14.30.410(b).

Register 60, ^{January} 1977

EDUCATION

4 AAC 06.090

4 AAC 06.090 is amended to read:

4 AAC 06.090. A MANUAL FOR ALASKA SCHOOL BOARDS. "A Manual for Alaska School Boards", dated July, 1976 is adopted by reference as the official guide for the boards of all school districts in the state. (Eff. 5/63, Reg. 10; am 5/30/71, Reg. 38; am 10/4/73, Reg. 47; am 12/30/76, Register 60)

Authority: AS 14.07.020(1)

EDITOR'S NOTE: This manual may be obtained by writing the Commissioner, Department of Education, Pouch F, Juneau, Alaska 99811.

Register ^{Jan. 7} 1976

EDUCATION

4 AAC 06.130

4 AAC 06.130. FRAMEWORK FOR HEALTH EDUCATION. The "Framework for Health Education in Alaskan Schools", dated May, 1976 is adopted by reference as the official guide for health education in grades K through 12 of the schools of Alaska. (Eff. ¹² ~~12~~ ^{3/16} Register ~~60~~)

Authority: 14.07.020(1) ^{and} (4)
14.30.360(b)

EDITOR'S NOTE: This manual may be obtained by writing the Commissioner Department of Education, Pouch F, Juneau, Alaska 99811

Register 60, Jan 1976⁷

EDUCATION

4 AAC 34.010

4 AAC 34.030

CHAPTER 34. BILINGUAL-BICULTURAL EDUCATION.

Section

- 10. Purpose
- 20. Scope of state assisted programs
- 30. Grant application
- 40. Entitlement
- 50. Definitions

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 establishment of bilingual programs of education will 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, provide more effective use of both English and the student's language, foster more successful secondary and higher education careers, ease the obtaining of employment, 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)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.020. SCOPE OF STATE ASSISTED PROGRAMS. (a) Grants of state funds will be made to school districts to assist in the establishment, expansion, improvement, or maintenance of bilingual-bicultural education programs.

(b) Grant awards will be made for a period of not more than one fiscal year. Grantees seeking to receive assistance for additional one-year periods must submit new applications for each year. (Eff. 12/29/76, Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.030. GRANT APPLICATION. The commissioner may award grants to school districts upon applications submitted to him 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 and a description of the methods utilized for determining the students' proficiency in English and native languages; and

(2) a bilingual-bicultural education program plan 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) to the extent possible, all sources of funds available for bilingual-bicultural education will be coordinated;

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

(D) there are plans for the procurement or development of bilingual-bicultural education materials;

(E) qualified bilingual-bicultural education instructors, coordinators, and administrators will be utilized;

(F) there is a program staff training design based upon training priorities for bilingual-bicultural education program staff, including, but not limited to, pre-service and in-service training;

(G) there is a mechanism for parent and community involvement in the development, establishment, and evaluation of the program and for the dissemination of program information to parents and community;

(H) there is an evaluation design for determining student progress and program progress; and

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

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.040. GRANT ENTITLEMENT. The commissioner shall consider the following in making grants to school districts:

(1) his evaluation of the program plan submitted under sec. 30 of this chapter, ranked in the following program priority order:

(A) programs directed to monolingual speakers of a language other than English;

(B) programs directed to bilingual speakers whose proficiency in the language in which instruction is given is not sufficient for instructional purposes;

(2) numbers of students in each program priority;

(3) relevant cost factors in serving variable numbers of students in the same language program priority; and

(4) program costs related to the amount of special instruction required based on the needs of identified students. (Eff. 12/29/76, Register 60)

Authority: AS 14.07.060
AS 14.30.410

4 AAC 34.090. DEFINITIONS. As used in this chapter and AS 14.30.400 and AS 14.30.410, unless the context otherwise requires;

(1) "commissioner" means the commissioner of education;

(2) "children of limited English speaking ability" means both children born in the United States and children not born in the United States who have difficulty performing ordinary classwork in English due to an interference with their English comprehension by a language other than English;

(3) "bilingual-bicultural education program" means an organized program of instruction in elementary or secondary education which is designed for children of limited English-speaking ability, uses English, the child's primary language, or both as a means of instruction, allows children to progress effectively through the educational system, and which may include elements of the culture inherent in the language;

(4) "department" means the department of education;

(5) "school district" means both city and borough school districts and regional educational attendance areas;

(6) "school which is attended by at least eight pupils" means either an elementary school or a secondary school with eight or more pupils in regular daily attendance. (Eff. 12/27/76 Register 60).

Authority: AS 14.07.060
AS 14.30.410

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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Summary

4 AAC 34.010 - 4 AAC 34.090 is a new chapter in title 34, relating to bilingual-bicultural education. It implements section 45, ch. 124, SLA 1975. These sections fairly carry out the directive of AS 14.30.410(b), which requires the department to adopt regulations for the determination of entitlement and the distribution of bilingual-bicultural funds to city and borough school districts. 4 AAC 34.030 enumerates, in accordance with AS 14.30.400, those elements

consideration not only the price offered by the bidder, but also (1) the past performance of the bidder in performing similar projects for ASHA or others during the preceding five years, (2) the reputation for responsibility of the bidder, and (3) the academic or professional credentials of the bidder.

In other words, competitive bidding is required with regard to the award of construction contracts, but not required with regard to the selection of realtors and appraisers. There might be a question as to whether maintenance of this distinction properly implements legislative intent. The statutes include no requirements in relation to ASHA pertaining to competitive bidding. However, the regulations themselves do not provide any insight as to the rationale for maintaining this distinction, e.g., even though no competitive bidding is required in the selection of real estate agents and appraisers, the regulations state that criteria similar to that taken into consideration along with the bid price (see 3 AAC 95.080, supra) in the competitive bidding context shall be considered in selecting real estate agents and appraisers, i.e., factors relating to dependability and experience.

Summary

3 AAC 96.080 - 3 AAC 96.210 relates to and governs the acquisition of real property and improvements acquired by ASHA not under a U.S. Department of Housing and Urban Development assisted program. Notice of these regulations appeared in the 'Anchorage Daily Times', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire', and hearings were held in Anchorage on March 17, 1976, Fairbanks on February 26, 1976, and Juneau on March 2, 1976. Salient points of these sections of the AAC are the following:

- * Requires that real property to be acquired by ASHA shall be appraised by at least 2 appraisers, and more if the appraisals differ by more than 20 percent or if more appraisals are deemed necessary by the executive director of ASHA (3 AAC 96.120).
- * Where acquisition of property would leave an owner with a parcel with little or no value when separated from the main parcel, ASHA shall acquire the whole property (3 AAC 96.140).
- * Reasonably just compensation defined as being not less than the appraised value of the property, uninfluenced by certain factors (3 AAC 96.150).
- * An owner must receive compensation before being required to vacate property being acquired by eminent domain (3 AAC 96.170).

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 96. ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS

ARTICLE 1. HUD ASSISTED.

Section

- 10. HUD-Assisted Acquisition of Real Property and Improvements
- 20. HUD Procedures and Regulations
- 30. Conflict of Interest
- 40. Selection of Appraisers
- 50. Selection of Real Estate Brokers
- 60. Appraisals of Real Property
- 70. Record of Transaction

3 AAC 96.010. HUD-ASSISTED ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS. All real property and improvements that are acquired by ASHA through the assistance of the United States Department of Housing and Urban Development shall be acquired under Secs. 10 - 70 of this chapter. (Eff. 1/1/76, Reg. 1)

- Authority:
- AS 18.55.100(a)(4)
 - AS 18.55.240
 - AS 18.55.420
 - AS 18.55.440
 - AS 18.55.560
 - AS 34.60.010
 - AS 34.60.120
 - AS 34.60.130
 - AS 34.60.140

3 AAC 96.020. HUD PROCEDURES AND REGULATIONS. ^(a) The broad parameters of the acquisition and purchase of real property and improvements shall be governed by Title III of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", Public Law 91-646, approved January 2, 1971, 84 Stat. 1894; 42 U.S.C.A. §§4651-4655 (1973 ed.)

Register 1976

1976

COMMERCE

3 AAC 96.020
3 AAC 96.040

(b)
(ii) Secs. 10 - 70 and Secs. 220 - 250 of this chapter and the most recent and applicable HUD Handbook in conjunction with the most recent Code of Federal Register that sets forth and implements the provisions of Title III shall govern the specific procedures of the acquisition and purchase of real property. These provisions of federal law and regulations are incorporated by reference.
(Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.100(a)(4)
AS 18.55.240
AS 18.55.420
AS 18.55.440
AS 18.55.560
AS 34.60.010
AS 34.60.120
AS 34.60.130
AS 34.60.140

3 AAC 96.030. CONFLICT OF INTEREST. A seller of real property under Secs. 10 - 70 of this chapter shall declare in an affidavit the extent of any involvement which a board member or employee of ASHA has or may have with the seller or the real property to be sold. (Eff. 1/1/76, Reg. 1/1/76)

Authority: AS 18.55.080
AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.500

3 AAC 96.040. SELECTION OF APPRAISERS. (a) The selection of appraisers utilized in acquiring real property need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of appraisal services, including other public agencies, and will examine its own experience, to identify the best qualified appraiser for a particular assignment. The factors that will be considered in evaluating and selecting appraisers will be their dependability and experience. All appraisers shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each appraisal contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the appraiser setting out qualifications, general appraisal experience, specific experience in appraising properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the appraiser indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the appraisal contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the appraiser or its business. (Eff. . / . / .. , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.140
AS 18.55.240
AS 18.55.520
AS 34.60.120

3 AAC 96.050. SELECTION OF REAL ESTATE BROKERS. (a) If ASHA utilizes real estate brokers to acquire real property, the selection of the brokers need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of real estate brokers, including other public agencies, and will examine its own experience, to identify the best qualified real estate broker for a particular assignment. The factors that will be considered in evaluating and selecting brokers will be their dependability and experience. A real estate broker selected by ASHA shall be licensed by the State of Alaska, and shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each real estate broker's contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the real estate broker setting out qualifications, general real estate broker experience, specific experience in marketing properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the broker indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the broker contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the broker or its business. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.140
AS 18.55.240
AS 18.55.520

3 AAC 96.060. APPRAISALS OF REAL PROPERTY. (a) A parcel of real property to be acquired shall be appraised by at least two professional appraisers.

(b) The appraisal shall be performed pursuant to guidelines, if any, as suggested by HUD in the most recent and applicable HUD Handbook. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.240
AS 18.55.520
AS 34.60.120
AS 34.60.140

3 AAC 96.070. RECORD OF TRANSACTION. (a) Transactions of all real estate acquisition will be made a part of a file or record.

(b) These files or records will be open to public inspection at all reasonable times and will be retained by ASHA for at least three years. (Eff. 7/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.520

TITLE 3. COMMERCE

PART 9. ALASKA STATE HOUSING AUTHORITY

CHAPTER 96. ACQUISITION OF REAL
PROPERTY AND IMPROVEMENTS

ARTICLE 2. NON-HUD ASSISTED.

Section

- 80. Non-HUD Assisted Acquisition of Real Property and Improvements
- 90. Conflict of Interest
- 100. Selection of Appraisers
- 110. Selection of Real Estate Brokers
- 120. Appraisals of Real Property
- 130. Acquisition of Improvements
- 140. Uneconomic Remnant
- 150. Acquisition by Negotiation
- 160. Acquisition by Eminent Domain
- 170. Surrender of Possession
- 180. Conveyance of Real Property
- 190. Cost of Conveyance
- 200. Relocation Assistance
- 210. Record of Transaction

3 AAC 96.080. NON-HUD ASSISTED ACQUISITION OF REAL PROPERTY AND IMPROVEMENTS. Real property and improvements acquired by ASHA not under a United States Department of Housing and Urban Development assisted program shall be acquired under Secs. 80 - 210 of this chapter. (Eff. 1/1/76, Reg. 57)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.090. CONFLICT OF INTEREST. A seller of real property under Secs. 80 - 210 of this chapter shall declare in an affidavit the extent of any involvement which a board member or employee of ASHA has or may have with the seller or the real property to be sold. (Eff. 1/1/76, Reg. 59)

Authority: AS 18.55.080
AS 18.55.100(a)(4)
AS 18.55.420
AS 18.55.500

3 AAC 96.100. SELECTION OF APPRAISERS. (a) The selection of appraisers utilized in acquiring real property need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of appraisal services, including other public agencies, and will examine its own experience, to identify the best qualified appraiser for a particular assignment. The factors that will be considered in evaluating and selecting appraisers will be their dependability and experience. All appraisers shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each appraisal contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the appraiser setting out qualifications, general appraisal experience, specific experience in appraising properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the appraiser indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the appraisal contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the appraiser or its business. (Eff. 1/1/76, Reg. 1.)

Authority: AS 18.55.100(a)(4)

AS 18.55.140(4)

AS 18.55.240

3 AAC 96.110. SELECTION OF REAL ESTATE BROKERS. (a) If ASHA utilizes real estate brokers to acquire real property, the selection of the brokers need not be by competitive bidding.

(b) ASHA will make appropriate inquiries among users of real estate brokers, including other public agencies, and will examine its own experience, to identify the best qualified real estate broker for a particular assignment. The factors that will be considered in evaluating and selecting brokers will be their dependability and experience. A real estate broker selected by ASHA shall be licensed by the State of Alaska and shall have a State of Alaska business license.

(c) ASHA's files will contain a full record of all actions respecting each real estate broker's contract, including:

(1) a resolution by the ASHA board authorizing the award of the contract;

(2) a signed statement by the real estate broker setting out qualifications, general real estate broker experience, specific experience in marketing properties of the type involved, the courts in which he has testified as an expert witness and other information pertinent to his professional qualifications; and

(3) an affidavit by the broker indicating whether or not a board member or employee of ASHA has or will have any financial, business or familial interest, direct or indirect, in the broker contract, the property involved or the proceeds of the contract, or has a financial, business or familial interest in or with the broker or its business. (Eff. 1/1/76, Reg. 1.1.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.140(4)
AS 18.55.240

3 AAC 96.120. APPRAISALS OF REAL PROPERTY. (a) A parcel of real property, including improvements to be acquired by ASHA, will be appraised by at least two appraisers. A parcel of real property acquired by ASHA will have been appraised within at least 180 days before acquisition. The purpose of the appraisals is to establish a fair market value for the real property or improvements.

(b) The appraisals will be reviewed by the Executive Director of ASHA and his staff. The purpose of this review is to determine whether, in their opinion, the appraisals reflect fair market value. If, in their opinion, the appraisals do not reflect fair market value, or if there is more than a 20 percent difference in value between the appraisals, additional appraisals will be obtained.

(1) If ASHA determines that an appraisal does not reflect the fair market value, written notice to that effect shall be sent to the appraisers. (Eff. 1/1/76, Reg. 1.1.1)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.130. ACQUISITION OF IMPROVEMENTS. When ASHA acquires an interest in real property, it will also acquire at least an equal interest in those buildings, structures or other improvements located upon the real property which must be removed from the real property or those which will be adversely affected by the use to which the real property will be put. The improvements acquired must be a part of the real property. Acquisition of improvements will not result in duplication of payment. (Eff. . / . / . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.140. UNECONOMIC REMNANT. (a) If the acquisition of the property would leave the owner with an uneconomic remnant, ASHA will acquire the entire property. The determination of an uneconomic remnant shall be made by professional appraisers. The determination of an uneconomic remnant shall be supported by a written analysis by the appraisers.

(b) For purposes of this section, an uneconomic remnant means a remaining parcel of real property that has little or no value apart from the parcel that has been or will be acquired by ASHA. (Eff. . / . / . , Reg. . .)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.150. ACQUISITION BY NEGOTIATION. (a) Reasonable effort will first be made to expeditiously acquire real property by negotiation. ASHA will, by certified mail, return receipt requested, inform the owner of ASHA's interest in purchasing the real property, and the purpose for which the property is being purchased.

(b) Appraisals will be conducted on the property to be purchased by professional appraisers. The owner or his designated representative shall be given an opportunity to accompany the appraisers during their inspection of the property.

(c) Subsequent to the appraisals, an amount will be established that is reasonably just compensation for the real property. The amount may not be less than the approved appraisals of the fair market value of the property. A decrease or increase in the fair market value of the real

Register: 1976

COMMERCE

3 AAC 96.150

3 AAC 96.170

property before the date of evaluation caused by the projected public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for the improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in determining compensation for the property. The owner of the real property that is to be acquired will be provided with a copy of the appraisals.

(d) ASHA will not use the threat of a condemnation proceeding as a means to compel an agreement on the price to be paid for the property. (Eff. 1/1/76, Reg. 18.55.427)

Authority: AS 18.55.100(a)(4)
AS 18.55.427

3 AAC 96.160. ACQUISITION BY EMINENT DOMAIN. If ASHA is not successful in negotiating the purchase of the real property at a fair and equitable price, the property will be obtained by eminent domain. Before the exercise by ASHA of its power of eminent domain, the Executive Director of ASHA must make an affidavit indicating that the public interest in acquiring the property outweighs the injury or loss incurred by the owner. (Eff. 1/1/76, Reg. 18.55.427)

Authority: AS 18.55.100(a)(4)
AS 18.55.100(a)(6)
AS 18.55.420
AS 18.55.440
AS 18.55.550

3 AAC 96.170. SURRENDER OF POSSESSION. (a) An owner may not be required to surrender possession of real property before ASHA pays the agreed purchase price or deposits with the court in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of the property, or the amount of the award of compensation in the condemnation proceeding for the property.

(b) The construction or development of an improvement will be scheduled so that, to the greatest extent practicable, a person lawfully occupying real property may not be required to move from a dwelling or to move his business or farm operation, without at least 90 days written notice of the date by which the move is required.

(c) If an owner or a tenant is permitted to occupy the real property on a rental basis for a short term or for a period subject to termination by ASHA on a short notice, the amount of rent charged by ASHA will not exceed the fair market rental value of the property to a short-term occupier. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.180. CONVEYANCE OF REAL PROPERTY. ASHA will, in its discretion, accept the conveyance of real property by Warranty or Quitclaim Deed. If a conveyance of real property is made by Quitclaim Deed, ASHA will institute a quiet title action prior to payment of the purchase price to insure that a full interest is acquired, or ASHA will secure title insurance, unless the Executive Director of ASHA makes a determination that the interest conveyed by Quitclaim is sufficient for the purpose of acquiring the real property. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.190. COST OF CONVEYANCE. The cost incurred in the acquisition of property will be apportioned between ASHA and the seller on a case-by-case basis through negotiations between ASHA and the seller, or by order of the court. (Eff. 1/1/76, Reg. 18.55.100)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.200. RELOCATION ASSISTANCE. (a) If an acquisition of real property results in the direct displacement of a person, family, individual, business or other organization, relocation assistance and relocation payments will be made.

(b) The schedule of moving expense allowance for relocation assistance will be determined by reference to the current moving expense schedules developed and published by the Department of Highways, State of Alaska, and approved by the Federal Highway Administration.

(c) ASHA shall process a claim for relocation assistance and make payments directly to the claimant. Displaced persons shall make a claim for relocation assistance and relocation payments, including moving expense allowance, as follows:

Register 57

1976

COMMERCE

3 AAC 96.200

3 AAC 96.210

(1) each displaced person shall make a written claim on a form prescribed by ASHA; and

(2) each claim shall be supported by all information requested. (Eff. 7/1/76, Reg. 18.55.420)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

3 AAC 96.210. RECORD OF TRANSACTION. (a) Transactions of all real estate acquisition will be made a part of a file or record.

(b) These files or records will be open to public inspection at all reasonable times and will be retained by ASHA for at least three years. (Eff. 7/1/76, Reg. 18.55.420)

Authority: AS 18.55.100(a)(4)
AS 18.55.420

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
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January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended the safety requirements relating to pulp, paperboard, and paper mills contained in article 3, subchapter 7, adopted by reference by AS 18.60.-020. The subject matter of this amendment appears to be within the authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(6). The amendment would appear to require pulp, paperboard, and paper mills employing more than 50 persons to add an adequate supply of oxygen, with a complete demand valve resuscitator/respirator and an aspirator to those items otherwise required to be kept in a first aid room on the premises. The items heretofore required by regulation to be kept in the first aid room would appear to be relatively inexpensive.

The Department of Labor has also further delineated those occupational illnesses and injuries which must be reported under 8 AAC 61.230, by identifying those injuries and illnesses which result in loss of workdays or loss of employment as "recordable" occupational injuries and illnesses. The subject matter of this amendment appears to be within the authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(7), (8), and (9).

A.R.R.C.

Attachment "K"

ORDER AMENDING
REGULATIONS OF
THE ALASKA DEPARTMENT OF LABOR

The attached page of regulations amending 8 AAC 61.010 and the attached page of safety standards amending Article 3, Subchapter 7, Pulp, Paper and Paperboard Mills which is adopted by reference in 8 AAC 61.010 are hereby certified to be correct copies of the regulations and standards which the Alaska Department of Labor amends under authority vested by AS 18.60.020, and after proceedings had in accordance with the Administrative Procedure Act (AS 44.62).

This order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

DATE June 3, 1976

Edmund N. Orbeck
Edmund N. Orbeck
Commissioner of Labor

I, Lowell Thomas, Jr., lieutenant governor for the State of Alaska, certify that on July 12, 1976, at 4:00 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Lowell Thomas, Jr.
Lieutenant Governor

CHAPTER 61
ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73, as amended as of 5/7/76), 5 (effective 9/26/74), Article 3 of Subchapter 7 (effective 3/27/76, as amended as of 5/11/76), and Subchapters 11 (effective 5/11/76), 12 (effective 8/11/76), and 13 (effective 8/11/76) of the Alaska Occupational Safety and Health Standards (AOSAHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; am 5/11/76, Reg. 57)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

ARTICLE 3
SUBCHAPTER 7
PULP, PAPER AND PAPERBOARD MILLS

07.310(d)

(d) Medical services and first aid. Medical and first aid services must be provided as specified in section 01.0501, subchapter 1, General Safety Code, Alaska Occupational Safety and Health Standards. In addition to the requirements of section .0501, first aid rooms shall also contain an adequate supply of oxygen as determined by a physician, with a complete demand valve resuscitator/respirator and an aspirator.

07.365(e)(3)

(3) All power mechanisms must be guarded in conformity with ANSI B15.1-1953 (reaffirmed 1958).

Register 59, October 1976

Attachment "L"

8 AAC 61.010

LABOR

CHAPTER 61

ARTICLE 1

ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 5/30/73, as amended as of 9/30/76), 2 (effective 9/26/74), 3 (effective 6/30/73, as amended as of 9/30/76), 4 (effective 6/30/73, as amended as of 9/30/76), 5 (effective 9/26/74, as amended as of 9/30/76), 7 (effective 3/27/76, as amended as of 9/30/76), and Subchapters 11 (effective 8/11/76), 12 (effective 8/11/76), 13 (effective 8/11/76), and 14 (effective 9/30/76) of the Alaska Occupational Safety and Health Standards (AOSAHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

OUTLINE OF STANDARDS

SUBCHAPTER 03

ELECTRICAL CODE

Article

1. Electrical - General
2. Telecommunications

SUBCHAPTER 04

OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROL CODE

Article

1. Occupational Health and Environmental Code
2. Toxic and Hazardous Substances (29 CFR 1910.1002--1910.1017 and 29 CFR 1910.1499 and 1910.1500 are adopted by reference as comprising Article 2)

SUBCHAPTER 07

WOOD PRODUCTS CODE

Article

1. Logging
2. Sawmills
3. Pulp, Paper and Paperboard Mills

SUBCHAPTER 14
AGRICULTURAL CODE

Article

1. Occupational Safety and Health Standards for Agriculture. (29 CFR 1928.1, 1928.21 [excluding paragraphs (a)(1) and (3) of that section, the subject matter of which is covered in standards prescribed in Article 1 of Subchapter 2, Industrial Housing Code, and sec. 180 of Article 1, Subchapter 7, Wood Products Code, Alaska Occupational Safety and Health Standards, and which applies to agricultural operations in the State], 1928.51, 1928.52, 1928.53, and 1928.57 are adopted by reference as comprising Article 1).

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; am 5/7/76, Reg. 58; am 8/11/76, Reg. 59, am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

Register 59, ~~October~~ 1976 LABOR
Chapter 61
Occupational Safety and Health

8 AAC 61.225
8 AAC 61.230

(22)

provisions of

8 AAC 61.225. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES. The ~~regulations in secs.~~ 230-295 of this chapter implement AS 18.60.030(7), (8), and (9). These sections provide for recordkeeping and reporting by employers covered under AS 18.60.010-18.60.105 as necessary or appropriate for enforcement of AS 18.60.010-18.60.105, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. (Eff. 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

8 AAC 61.230

(d) Recordable occupational injuries or illnesses are any occupational injuries or illnesses which result in:

(1) fatalities, regardless of the time between the injury and death, or the length of the illness which led to the death;

(2) cases, other than fatalities, that result in lost workdays; and

(3) nonfatal cases without lost workdays which result in transfer of an employee to another job or termination of employment, or which require medical treatment (other than first aid), or which involve a loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(e) The employer shall maintain the log on department form DOSH 100 "Log of Occupational Injuries or Illnesses" or on a form that contains the information required to be kept on DOSH 100. If an equivalent to form DOSH 100 is used, such as a printout from data processing equipment, the information must be as readable and comprehensible to a person not familiar with the data processing equipment as the form DOSH 100 itself.

(h) For the purposes of this section:

(1) "medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician, however it does not include first aid treatment even though provided by a physician or registered professional personnel;

Publishers note:
new section,
how title in
sectional listing
is part of
article 4.

Publishers note:
sec. 230(a),(b),
c),(d) and (g)
are unchanged.

Pub
delete

(2) "first aid" means any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care, even though the one-time treatment or followup visit for the purpose of observation may be provided by a physician or registered professional personnel.

(3) "lost workdays" means the number of days (whether or not consecutive) after, but not including, the day of injury or first day of illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness. (Eff. 1/10/75, Reg 53; am 11/22/75, Reg. 56; am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

8 AAC 61.240

(d) The person responsible for the preparation of the summary shall certify that it is true and complete by signing the statement on the form or by attaching a separate statement to the summary certifying that it is true and complete. (Eff. 1/10/75, Reg. 53; am 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030

Publishers note:

new section, show title in sectional listing as part of Article 4.

8 AAC 61.275. FAILURE TO KEEP RECORDS OR REPORTS. Failure to maintain records or file reports required by this chapter, or in the details required by forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in AS 18.60.095 and secs. 110 and 140 of this chapter. (Eff. 9/30/76, Reg. 59)

Authority: AS 18.60.020
AS 18.60.030
AS 18.60.095

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended 8 AAC 61.010 so as to adopt by reference safety standards constituting subchapter 11, subchapter 12, subchapter 7, subchapter 14, and subchapter 13, relating to laundry machines and their operation, bakery equipment, wood products (logging, sawmills, pulp, paper, and paperboard mills), occupational and health standards for agriculture, and textiles, respectively. Apparently the regulations did not include safety standards relating to these industries before the incorporation of these standards by reference. The subject matter of these regulations appears to be within authority granted the department to adopt regulations by AS 18.60.020(a) and AS 18.60.030(6). Due to lack of expertise on my part, I could not say whether any of these standards go beyond what is necessary to insure safe and healthful working conditions; therefore I did not read them.

Due to their length, copies of these regulations are not attached; however, I can supply them to a member of the committee who needs them.

Register 57, April 1976

LABOR

8 AAC 61.010

CHAPTER 61.

ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73), 5 (effective 9/26/74), and Article 3 of Subchapter 7 (effective 3/27/76), of the Occupational Safety and Health standards as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical. (Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57; ~~am / / , Reg. /~~)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

Registered 57, April 1976
LABOR

8 AAC 61.010

CHAPTER 61.
ARTICLE 1
ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 3/27/76), 2 (effective 9/26/74), 3 (effective 6/30/73), 4 (effective 6/30/73), 5 (effective 9/26/74), and Article 3 of Subchapter 7 (effective 3/27/76), of the Occupational Safety and Health standards as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

OUTLINE OF STANDARDS

SUBCHAPTER 07.
WOOD PRODUCTS CODE

Article

3. Pulp, Paper, and Paperboard Mills

(Eff. 6/30/73, Reg. 46; am 9/26/74, Reg. 51; am 5/7/75, Reg. 54; am 11/22/75, Reg. 56; am 3/27/76, Reg. 57)

Authority: AS 18.60.020
AS 18.60.075
AS 44.62.130

NOTE TO PUBLISHER:

OUTLINE OF STANDARDS FOR SUBCHAPTERS 01, 02, 03, 04, and 05
REMAINS UNCHANGED.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has adopted a regulation relating to the computation of death benefits payable under Workmen's Compensation. The salient points of this regulation will be summarized, and possible deviations from legislative intent discussed.

Summary

8 AAC 45.035 as adopted provides that death benefits payable under Workmen's Compensation shall be adjusted as the rates are changed by statute unless such adjustment would result in a decrease in the actual benefits receivable, resulting in death benefits being calculated in the same manner in which temporary total disability payments are calculated.

Comment

This regulation interprets certain statute to mean that "death benefits" should be included under the coverage of AS 23.30.172, which reads as follows:

BENEFIT ADJUSTMENTS. Benefits for temporary total disability cases which have existed for more than two years and permanent total disability shall be calculated under this chapter according to currently existing benefit rates regardless of the benefits rates in existence at the time of the injury, unless this calculation would cause a decrease in the actual benefits receivable.

In other words, death benefits shall be computed at the rate then prevailing, not at the rate payable at the time of death.

The department apparently reached this conclusion through an interpretation of the following language from AS 23.30.215(b), which reads as follows:

In computing death benefits the average weekly wage of the deceased shall be computed under sec. 220 of this chapter and shall be paid in the same manner and subject to the same weekly maximum limitation in the aggregate as temporary total disability compensation, but the total weekly compensation may not be less than \$45 for a widow or widower not less than \$15 weekly to a child or \$30 for children. .

Apparently the Department felt that the language "in the same manner" meant that the calculation of death benefits should be adjusted to reflect the going rate, as is done with regard to temporary total disability compensation. It would seem that this interpretation would assuredly cost the state money. Is this what the Legislature intended?

8 AAC 45.035. BENEFIT ADJUSTMENTS. (a) For the purposes of AS 23.30.172, a temporary total disability case will be considered to "have existed for more than two years" when temporary total disability benefits have been paid or are due and payable for an aggregate period of at least 24 months or 104 weeks. Pursuant to AS 23.30.215(b), death benefits arising from injuries occurring on or after May 22, 1975 are to be adjusted in the same manner as temporary total disability benefits under AS 23.30.172 and this subsection.

(b) Prior to the expiration of the period specified in (a) of this section benefits for temporary total disability or death will be computed based on the rate of compensation in effect at the time of injury, unless this computation would cause a decrease in the benefits receivable on September 21, 1976.

(c) Nothing in (a) or (b) of this section or AS 23.30.172 prohibits, at any time, a recomputation of disability or death benefits for injuries occurring on or after September 22, 1976 based on the place the recipient resides pursuant to AS 23.30.175(c)-(f). Recomputations of disability or death benefits for injuries occurring prior to September 22, 1976 based on the place the recipient resides pursuant to AS 23.30.175(c)-(f) may also be made where the computation does not cause a decrease in the benefits receivable on September 21, 1976.

(d) For the purposes of AS 23.30.175(c)-(f), "resides" means abides, dwells, inhabits, lives; in applying the term to the facts of a specific case, the inquiry will be directed largely toward determining with what jurisdiction's economy the claimant must contend.

(e) Although a rebuttable presumption of non-residential status arises under AS 23.30.175(d) after 90 days of continuous absence from Alaska, this does not mean that a change in residential status cannot, in fact, take place in a shorter period of time.

(f) The rebuttable presumption of non-residential status under AS 23.30.175(d) does not arise if the absence from Alaska is for necessary medical or rehabilitation services not available in Alaska. (Eff. 9/22/76, Reg. 60)

Authority: AS 23.30.005
AS 23.30.172
AS 23.30.175(c)-(f)
AS 23.30.215(b)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 19, 1977

Dear Member of the Regulation Review Committee:

The Department of Labor has amended the regulations promulgated under AS 38.40 - Local Hire under State Leases. The salient points of the amendments will be discussed, and possible deviations from legislative intent commented upon in the light of the statutes being interpreted or implemented.

Summary

8 AAC 35.011 has been amended by adding new subsections which delineate how a work force may be scaled down in such a manner as to not discriminate against Alaska residents vis a vis non-residents. Specifically, subsection (b) states that an employer is not obliged to transfer a resident employee to another employer if a work project has more than one employer, or transfer that resident employee to another geographical location if work is available there. Subsection (c) states that an employer is not prohibited from laying off an entire crew, unless the composition of that crew was made in a manner discriminatory to the residents before the layoff. Notice of this amendment to the regulation appeared in the 'Anchorage News', 'Fairbanks Daily News-Miner' and 'Southeast Alaska Empire'.

Comment

AS 38.40.040(d) states:

In implementing this chapter the commissioner of labor shall adopt regulations prohibiting discrimination against Alaska residents in hiring practices."

Whether the above amendments to 8 AAC 35.011 implement or frustrate this statutory mandate is a policy decision to be made in light of knowledge of the actual practices and abuses which can occur in reducing a work force.

Summary

8 AAC 35.044(e) is amended by changing the period of time allowed for filing from the time of the alleged discrimination from 30 days to 15 days. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire'.

Summary

8 AAC 35.050 is amended to provide that the hearing officer, after hearing the evidence, prepare a written decision which is final; whereas before amendment, the regulation provided that the hearing officer prepare a written recommendation to the commissioner in a form containing findings of fact and determinations of the issues presented. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and 'Southeast Alaska Empire'.

Summary

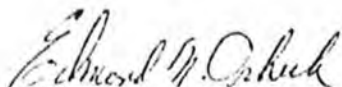
Sec. 04.0102(i)(1) of Subchapter 1, Occupational Health and Safety Code, which is adopted by reference by 8 AAC 61.010, has been amended. This section deals with the responsibility of employers in regard to retention of records of personal or environmental monitoring of asbestos exposure. The amendment increases the period of time which the records must be retained from 3 to 20 years. Notice of this amendment appeared in the 'Anchorage Daily News', 'Fairbanks Daily News-Miner', and the 'Ketchikan Daily News'.

ORDER AMENDING
REGULATIONS OF
THE ALASKA DEPARTMENT OF LABOR

The attached page of regulations amending 8 AAC 61.010, which deals with occupational safety and health standards which have been adopted by reference by the Department of Labor, and the attached page of safety and health standards amending Subchapter 4, Occupational Health and Environmental Control Code, which is adopted by reference in 8 AAC 61.010 and which deals with the responsibility of employers in the State with respect to retention of records of personal or environmental monitoring of asbestos exposure, are hereby adopted and certified to be correct copies of the regulations and standards which the Department of Labor amends under authority vested by AS 18.60.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This order takes effect on the 30th day after it has been filed by the lieutenant governor as provided in AS 44.62.180.

Date 11/9/76


Edmund N. Orbeck
Commissioner of Labor

I, Lowell Thomas, Jr., lieutenant governor for the State of Alaska, certify that on November 16, 1976, at 11:00 p.m., I filed the attached regulations according to the provisions of AS 44.62.040--44.62.120.


Lowell Thomas, Jr.
Lieutenant Governor

Effective 60 ^{Register}; 12/16/76
Register

Register 60, January 1977

8 AAC 61.010

LABOR

CHAPTER 61
ARTICLE 1

ADOPTION OF STANDARDS

8 AAC 61.010. STANDARDS. The Alaska Department of Labor adopts by reference Subchapters 1 (effective 6/30/73, as amended as of 9/30/76), 2 (effective 9/26/74), 3 (effective 6/30/73, as amended as of 9/30/76), 4 (effective 6/30/73, as amended as of 12/16/76), 5 (effective 9/26/74, as amended as of 9/30/76), 7 (effective 3/27/76, as amended as of 9/30/76), and Subchapters 11 (effective 8/11/76), 12 (effective 8/11/76), 13 (effective 8/11/76), and 14 (effective 9/30/76) of the Alaska Occupational Safety and Health Standards (AOSHS), as outlined below. These standards are adopted in accordance with AS 18.60.020, as the minimum standards to be followed throughout the State of Alaska. The standards are adopted by reference pursuant to a finding by the Lieutenant Governor that a detailed printing of the regulations in the Alaska Administrative Code would be impractical.

Note to Publisher: Outline of standards remains unchanged.
note change in history line

SUBCHAPTER 4

OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROL CODE

04.0102(f)(1)

(i) Recordkeeping

(1) Exposure records. Every employer shall maintain records of any personal or environmental monitoring required by 04.0102. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

Register ^{60 Jan. 1977} ~~59, October 1976~~

8 AAC 35.010
8 AAC 35.044

TITLE 8. LABOR

CHAPTER 35. OIL AND GAS LEASES, LOCAL HIRE

8 AAC 35.010. EMPLOYER REQUIREMENTS. (a) Repealed.
(Eff. 6/21/73, Reg. 46; am 7/8/76, Reg. 58; am 8/20/76,
Reg. 59)

Note to Publisher:

Subsection (b) remains unchanged

8 AAC 35.011. REDUCTION OF WORK FORCE. (a) When either a resident employee or a non-resident employee, working in the same trade or craft, is to be laid off, the non-resident may be retained only if no resident employee is qualified to fill the position.

(b) This section does not require that a resident employee be transferred from employer to employer where a project has more than one employer, nor does it require that a resident employee be transferred from one geographic work unit, camp, or site to another.

(c) This section does not preclude an employer from laying off an entire work crew, irrespective of the resident status of its members, unless the composition of the employer's crew was made in a manner discriminatory to residents before the lay-off. A crew, for purposes of this subsection, is a work unit no larger than the employer's smallest sub-division under the supervision of a foreman or that size unit which is traditional or commonly used in the affected industry or project. (Eff. 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Authority: AS 23.05.060(5)
AS 23.05.130
AS 38.40.030(d)
AS 38.40.060

8 AAC 35.044. (e) A complaint or a request for a complaint form must be made within 15 days of the date of the alleged discrimination or of the date that the complainant became aware of the facts which lead him to believe he was discriminated against.

(k) Repealed. (Eff. 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Note to Publisher:

Subsections (a)-(d), (f)-(j) remain unchanged

60, January 1977
Register 59, October 1976

8 AAC 35.050
8 AAC 35.055

TITLE 8. LABOR

8 AAC 35.050. (1) The hearing officer shall prepare a written decision which shall be final. A copy will be mailed or otherwise delivered to the complainant and respondent. (Eff. 6/21/73, Reg. 46; am 7/8/76, Reg. 58; am 8/20/76, Reg. 59)

Note to Publisher:

Subsections (a)-(k) and (m) remain unchanged

8 AAC 35.055. COMMISSIONER'S DECISION. Repealed. (Eff. 8/20/76, Reg. 59)

Revenue

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

January 17, 1977

Dear Member of the Regulation Review Committee:

The Department of Revenue has amended the regulations pertaining to games of chance and skill. Salient points of these amendments are summarized, and regulations which might be out of conformity with legislative intent are discussed in greater particularity with reference to the statute(s) supposedly being interpreted or implemented.

15 AAC 05.300 is amended to state that "a certificate or letter of tax exemption issued by the Internal Revenue Service is evidence that the organization qualifies" as an organization which operates without profits to its members. Although this regulation would appear to be ambiguous on the question of whether a letter or certificate from the Internal Revenue Service is the only evidence which will serve to establish that the organization operates without profit to its members, persons at the Department of Revenue informed me that such was their intent. Therefore, any operator of a game of chance or skill would have to submit, or if not already obtained, to obtain and submit a certificate or letter testifying to his tax exempt status both at time of original application and at time of renewal. In this regard AS 05.15.140 provides as follows:

PROOF NECESSARY TO QUALIFY FOR PERMIT. The commissioner of revenue may not issue or renew a permit except upon proof, satisfactory to him, that the applicant is a qualified organization....Upon request of the commissioner of revenue, the applicant shall prove conclusively each of these requirements before a permit may be issued or renewed.

Did the legislature intend the only satisfactory proof that an organization operates without profit to its members to be a prior finding to that effect by the Internal Revenue Service?

15 AAC 05.400(6) sets limits on the amount of cash prizes which may be awarded in bingo, and provides that game tickets may not be paid as a part of a cash prize.

15 AAC 05.460 increases the amount of the permit fee from ten dollars to twenty dollars, in accordance with ch. 182 SLA 1976. This regulation also adds a requirement that an applicant for a permit submit a list of 25 members with his application, which would seem to be within the authority granted the commissioner to add to the definition of which is a "qualified organization", pursuant to AS 05.15.130.

15 AAC 05.500 is amended to require an applicant to designate at the time of application a single person to be in charge and primarily responsible for the conduct of the game of chance and skill, whereas before amendment, a permittee was only required to have one of its active and bonafide membership present during the conduct of the game. As amended, the regulation provides that an alternate may be designated to fill the place of the person named as being primarily responsible.

15 AAC 05.520 is amended to reflect amendments made to AS 05.15.020 and AS 05.15.080 by ch. 182 SLA 182.

X 15 AAC 05.510 is amended by adding subsections (b), (c), and (d). These subsections are addressed to the question of which expenses, including building expenses, may be deducted in the computation of the net proceeds, and also list some expenses which may not be deducted. It might be worthwhile to the members of the committee to read this regulation as it is now amended.

X 15 AAC 05.570(b) is amended by adding subsections (b) and (c) to implement amendments to AS 05.15.150(a), effected by ch. 66 SLA 1976. Subsection (b) provides definition of the language "for the promotion of the welfare and well-being of the membership within their own community", added by ch. 66 SLA 1976, stating that a member may receive assistance in the form of various charitable donations, and enumerating the form which the donations might take.

Subsection (c) of 15 AAC 05.570 incorporates the same approach in defining a non-profit organization as was used in 15 AAC 05.300 i.e. defining a non-profit organization as one which is certified as a tax exempt organization under the Internal Revenue Code, Section 501(c)(3). The same objections enumerated earlier would apply.

ARTICLE 3. AUTHORIZED GAMES OF CHANCE AND SKILL

Section

- 300. Definition of qualified organization
- 310. Civic or service organization
- 320. Religious organization
- 330. Charitable organization
- 340. Fraternal organization
- 350. Education organization
- 360. Veteran's organization
- 370. Police or fire department and company
- 380. Dog mushers' association
- 390. Fishing derby association
- 400. Bingo
- 410. Raffles and lotteries
- 420. Ice classics
- 430. Dog mushers' contests
- 440. Fish derbys
- 450. Contest of skill
- 460. Issuance of permits
- 470. Renewal of permits
- 480. Suspension and revocation of permits
- 490. Investigation
- 500. Person in charge of activities
- 510. Net proceeds
- 520. ~~Cash receipts and disbursements~~ Annual financial statement
- 530. Method of accounting
- 540. Maintenance of records
- 550. Disposition of funds
- 560. Display of permit
- 570. Use of dedicated net proceeds
- 580. Violation
- 590. ~~Cross-reference~~

Publisher:
 Sections not set
 out on the following
 pages remain
 unchanged. *[Signature]*

15 AAC 05.300. QUALIFIED ORGANIZATION. (a) "Qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog musher's association, or fishing-derby association in the State, which operates without profits to its members, which has been in existence continually for a period of five years immediately ^{before} ~~prior~~ to the making of an application for a permit and which has at least 25 members. Qualified organizations may be firms, corporations, companies, associations or partnerships.

(b) "Qualified organization which operates without profits to its members" means that no part of the net earnings of the organization shall inure to the benefit of any private shareholder or individual.

(c) A certificate or letter of tax exemption issued by the Internal Revenue Service is evidence that the organization qualifies under (b) of this section. This certificate and letter may be submitted along with an application for a permit under sec. 460 of this chapter or with an application for the renewal of a permit under sec. 470 of this chapter. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.400 (6) IS REPEALED AND A NEW PARAGRAPH IS ADDED TO READ.

(6) A single prize awarded in bingo, ^{may} must not exceed \$1,000.00 and the total prizes awarded during any one bingo session shall ^{may} not exceed \$5,000.00. Prize amounts shall be stated ^{in advance} prior to the beginning of each game and prizes shall be awarded as stated. Game tickets ^{may} cannot be considered as, nor included in, a cash prize. For example, if a person wins a \$45.00 jackpot, that person must receive and sign for \$45.00 in cash. The prize cannot be divided into \$30.00 cash and \$15.00 in game tickets. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 05.410. RAFFLES AND LOTTERIES.

(4) In holding, operating and conducting raffles or lotteries, a permittee shall not raffle prizes of personal property, including cash or a negotiable instrument, the aggregate total of which is in excess of the sum or value of \$30,000 in any one calendar year and real property in excess of the sum or value of \$50,000 in any one calendar year. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

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15 AAC 05.460. ISSUANCE OF PERMITS. An applicant for a permit shall submit an application on a form prescribed by the department which may be obtained from the Department of Revenue, State Office Building, Juneau, Alaska or at any local Department of Revenue Field Office. The original application shall be filed with the Department of Revenue, State Office Building, Juneau, Alaska, and two copies of the application shall be mailed to the nearest city or borough for their consideration. An applicant shall also retain a copy of the application. The original of the application filed with the department must be accompanied by a permit fee of \$20.00 in addition to certified, true copies of articles of incorporation, or, if not incorporated, by-laws and copies of national and state charters, a current list of at least 25 Alaskan members of the organization and, if applicable, an Internal Revenue Service certificate or letter of tax exemption. For 15 days after receipt by the Department of Revenue, this application is subject to protest by the city or borough nearest to the location of the proposed activity as specified in AS 05.15.150. Upon approval of the application by the department, a permit will be issued for that calendar year. Activities may not be conducted until an annual permit has been issued. The activity or activities authorized under the permit may be conducted during the calendar year, unless the permit is suspended or revoked by the department. Refunds of permit fees will not be granted. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.020
AS 05.15.060
AS 05.15.100
AS 05.15.130

15 AAC 05.470. RENEWAL OF PERMITS. (a) A permit may be renewed by filing an application on the prescribed form with the department.

(b) Certified copies of the articles of incorporation or the by-laws, copies of any national and state charters, and a list of Alaskan members need not accompany the application for renewal unless amendments to these documents have been made during the preceding year.

(c) If applicable, an IRS certificate or letter of tax exemption may accompany all renewals unless it has previously been sent in. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.020

15 AAC 05.480. SUSPENSION, REVOCATION AND DENIAL OF PERMITS. The following are grounds which will constitute a basis for the suspension, revocation or denial of permits:

- (1) any false statement made in an application for a permit or any report required under AS 05.15 or this chapter;
- (2) failure to keep sufficient books or records to substantiate year end reports to the department;
- (3) failure to timely file any reports required by AS 05.15 or this chapter;
- (4) the conviction of a permittee or an officer or employee of a permittee of a felony or any crime involving moral turpitude, or violation of any municipal, state or federal gambling law;
- (5) knowing violation by a permittee or officer or employee of a permittee of any provision of AS 05.15 or this chapter;
- (6) failure to devote net proceeds in accordance with AS 05.15 or this chapter; ~~within one year without permission for an extension of time from the commissioner;~~
- (7) paying or incurring unreasonable or exorbitant expenses or fees by the permittee; and
- (8) ^{allowing} the use of a permit by another organization.

(Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 05.500. PERSON IN CHARGE OF ACTIVITIES. An organization applying for a permit shall designate on the original application a bona fide and active member to be responsible for the conduct of the activities on each occasion of holding a game of chance and skill. That member shall be responsible for maintaining all records required under this chapter. The member in charge shall be present during the conduct of each of the specific activities stated on the permit. An alternate member may be designated to conduct the authorized activities during the absence of the member in charge. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.510. NET PROCEEDS. (a) "Net proceeds" means the gross income from the sale of tickets or rights (including advance sales) to participate in an authorized activity, less the cost of prizes and authorized expenses as defined in (b) of this section.

(b) Authorized expenses are charges, fees and deductions which are reasonable and necessary to the operation of the activity as stated on the permit. Authorized expenses include payment for

- (1) equipment actually purchased for games;
- (2) printing of tickets or cards;
- (3) advertising for games;
- (4) non-alcoholic refreshments for games;
- (5) hall rentals, but only if the building is not owned by ^{the} permittee and only for the time actually used for operation of the games;
- (6) utility, repair and maintenance, and depreciation costs of a building owned by the permittee; ^{these costs} are allowable on a pro-rated basis for the actual hours used for the games in accordance with the provisions of subsection (c) ^b of this section;
- (7) repairs for damages to equipment used for the games;
- (8) wages paid to workers operating the games, which may include members of the organization; ^{these wages} shall be paid only for the number of hours the games are actually being conducted and may not exceed one dollar per hour over the state minimum hourly wage;
- (9) postage, freight or accounting actually necessary for the games;
- (10) miscellaneous expenses directly pertaining to games only.

(c) The pro-ration of building expenses shall be computed using a maximum use factor of 14 hours per day. For example, a bingo game is conducted 2 days a week at 5 hours per day for a total of 10 hours a week. Since there are 98 use hours in a week (14 use hours per day times 7 days per week equals 98 use hours per week), 10.20% (10 hours per week divided by 98 hours per week equals 10.20%) of the pro-ratable expenses for the week may be included in the authorized expenses. For depreciation purposes, the life of the building must be the guideline life provided in the Internal Revenue Code and the only approved method of depreciation shall be straight line.

(d) Unauthorized expenses are those not directly related to the operation of the games and they can not be deducted. Unauthorized expenses include, but are not limited to, payment for

- (1) expenses on buildings except as provided in (b) of this section on a pro-rata basis;
- (2) mortgage or interest payments;
- (3) purchase of furniture, fixtures or equipment, except those necessary for the operation of the games and used exclusively for the games;
- (4) payments to members as gifts, excluding authorized prizes;
- (5) travel or per diem expenses outside the state under any circumstances;
- (6) organization membership fees to national, or international, affiliated or unaffiliated, organizations;
- (7) personal or organizational vehicle expenses;
- (8) consultant fees paid to a member or paid for a member's benefit;
- (9) legal fees paid to a member for services or paid for a member's benefit;
- (10) organizational advertising or notices;
- (11) organizational entertainment (picnics, dinners, parties, etc.);
- (12) organizational accounting or other operating expenses except those directly related to the operation of the games;
- (13) taxes on real or personal property and taxes based on net income;
- (14) purchase of alcoholic beverages.

(Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.150

15 AAC 05.520. ANNUAL FINANCIAL STATEMENT. A statement accounting for all ~~profits~~ generated from authorized games of chance and skill for the year must be filed by January 31 following the end of the calendar year. The permittee shall also file with the financial statement a copy of the Internal Revenue Service Form 1099 for every

Register 60, January 1977

REVENUE

15 AAC 05.520
15 AAC 05.570

person who received prizes, awards or money of \$600.00 or more during the calendar year. A fee of one percent of the net proceeds generated from the games of chance and skill shall be paid at the time of filing the annual financial statement. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.080
AS 05.15.130

15 AAC 05.530. METHOD OF ACCOUNTING. A permittee shall maintain and keep books and records necessary to substantiate the particulars of each annual financial statement. All money collected or received from games of chance and skill activity shall be deposited in a separate bank account. Where cash prizes are awarded, the recipient of the award shall sign a receipt indicating that the cash award was received, and the awarding of the cash award shall be contingent upon the recipient executing the receipt. All expenses of activities shall be paid by check only, and the check may not be drawn to "cash" or a fictitious payee. Each check drawn on the bank account required under the section shall bear two authorized signatures of the organization. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.130

15 AAC 05.540. MAINTENANCE OF RECORDS. All records and supporting documents pertaining to activities permitted under AS 05.15 shall be maintained for at least three years following the close of the calendar year. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060

15 AAC 15.570. USE OF DEDICATED NET PROCEEDS. (a) The dedicated net proceeds given to a qualified organization may not be used to pay any person for services rendered in the connection with the activities from which the funds were derived. Detailed records of all disbursements must be kept for later audit review. These must be kept with the other accounting records for a period of three years.

In AS 05.15.150(a),

(b) Disbursements for the promotion of the welfare and well-being of the membership means that a member may receive assistance in the form of various charitable donations, which have been approved by the organization's board of directors. Charitable projects which an organization may sponsor include educational grants, training assistance or job counseling, food baskets, medical or health care assistance, charitable functions and dinners for the community, etc. The qualifications to receive the charitable donations must include a requirement that all members of the organization within the community may qualify and receive the assistance. These payments shall not be devoted to organizational parties, dinners or benefits, picnics, or social functions limited to members and their families.

(c) Permittees ^{may} shall not be allowed to erect, buy or lease buildings or land for their organization with the net proceeds unless these buildings are area

(1) used exclusively for educational, civic, public, or religious purposes (such as hospitals, churches, schools, government buildings, or community centers); or

(2) turned over to an appropriate non-profit organization, ^{to a local,} or state or federal government;

^{which qualifies} ~~(3) the non-profit organization must qualify as a tax exempt organization under the Internal Revenue Code, Section 501 (C) (3).~~

(Eff. 3/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.150

15 AAC 05.580. ⁹ VIOLATION ^(INELIGIBILITY) A revocation of a permit based on a violation of AS 05.15 or this chapter shall ^{make} cause the person, association, corporation, or other organization to be ineligible to apply for a permit for a period of one year from the date of that revocation. (Eff. 9/7/60, Reg. 2; am 11/6/76, Reg. 60).

Authority: AS 05.15.060
AS 05.15.040

3/4/77

ARRC
Attachment G

Register 61, APRIL 1977 Commerce and 12 AAC 38.020
Economic Development 12 AAC 38.050

PROFESSIONAL AND VOCATIONAL REGULATIONS

CHAPTER 38. GUIDE LICENSING & CONTROL BOARD

Section 1. 12 AAC 38.020 is amended ^{by adding a new subsection} to read:

~~12 AAC 38.020 GUIDE REGISTER. (a) On December 31 of the register year, the names of all persons holding a master or registered guide license shall be entered by the board on a register maintained by the board and shall be published for distribution to the public.~~

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subsec. (a).

(b) All guides shall advise the board of their current address and all changes ~~of the same~~ ^{of address.} (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (4)
and (5)
AS 08.54.050

Section 2. 12 AAC 38.040 (b) is amended to read:

(b) Twenty-six ~~(26)~~ guide districts are established and defined as being identical to those areas described as game management units by the Board of Fish and Game in 5 AAC 90.010 as of January 1, 1974 with the addition of two sub-districts

(1) 18A - Nunivak Island and all waters within one mile of that island;

(2) 22A - St. Lawrence, King and Little Diomed Island and all waters subject to the jurisdiction of Alaska between 62n. lat. and 67n. lat., except ~~those~~ ^{that} waters within one mile of the mainland of Alaska. (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (3)
and (6)
AS 08.54.050

Section 3. 12 AAC 38.050 (a) is amended to read:

(a) Registration of camps by guides will be allowed based on occupancy, use, financial value and other considerations that must be substantiated to the board's satisfaction. (Eff. 6/28/74, Reg. 50; am. ~~0~~ ^{8/29/75, Reg. 55; am. 2/25/77, Reg. 61})

Authority: AS 08.54.040 (a) (3)
AS 08.54.050

Section 4. 12 AAC 38.050 (c) is amended to read:

(c) Petitions will be accepted for all guide districts. Hearings on the granting of petitions ~~shall~~ ^{will} be scheduled by guide area on dates to be determined by the board but in no event earlier than six months after filing. (Eff. ~~2/25/77~~ ^{2/25/77}, Reg. ~~61~~ ⁶¹)

Authority: AS 08.54.040 (a) (6)
AS 08.54.050

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TITLE 20.
MISCELLANEOUS BOARDS AND COMMISSIONS

Chapter

15

Student Financial Aid

MISCELLANEOUS BOARDS, COMMISSIONS
CHAPTER 15.
STUDENT FINANCIAL AID

Article

1. Scholarship Loans

MISCELLANEOUS BOARDS, COMMISSIONS

ARTICLE 1.
SCHOLARSHIP LOANS

Section

- 10. Purpose of scholarship loan program
- 15. Administration
- 20. Filing dates
- 25. Priority ranking of applicants
- 30. Computation of authorized loan awards
- 35. Limitations on granting authorized loan awards
- 40. Conditions of loans
- 45. Disbursement of loan awards
- 50. Repayment of loans
- 55. Deferment of payments
- 60. Grants
- 65. Default
- 70. Appeals to the executive secretary
- 75. Appeals to the committee
- 80. Complaint file
- 85. Definitions

20 AAC 15.010 PURPOSE OF SCHOLARSHIP LOAN PROGRAM. The scholarship loan program provides low cost educational loans to Alaskan students enrolled in undergraduate, graduate, or career degree programs. (Eff. 3/3/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.020. ADMINISTRATION. The executive secretary of the student financial aid committee shall appoint, subject to approval of the committee, a director of student financial aid. The director reviews all applications for scholarship loans and determines an applicant's eligibility and amount of award, subject to review by the executive secretary and the committee. (Eff. 3/3/77, Register . . .)

Authority: AS 14.40.757

EDITOR'S NOTE: Applications for scholarship loans are available from the Alaska Commission on Postsecondary Education, Director of Student Financial Aid, Pouch F, Juneau, Alaska 99811.

20 AAC 15.020. FILING DATES. (a) In each school year the application deadline for each of the priority categories set out in sec. 25(a) of this chapter is as follows:

(1) renewal applications from students who received loans for the prior school year - the third Monday in April;

(2) students, other than entering freshmen or first year graduate students, who did not receive a scholarship loan in the prior school year - the first Monday in May;

(3) entering freshmen - the third Monday in May;

(4) first year graduate students who did not receive a loan for the prior school year - the first Monday in June.

(b) An application will be considered timely filed only if it is postmarked on or before the applicable deadline and contains all information required to make a determination of the applicant's eligibility and the amount of the loan award.

(c) An incomplete application will be returned to the applicant with a request for further information. No further action will be taken on an incomplete application until it is resubmitted. An application which is resubmitted within 30 days after being returned to the applicant will be processed as if filed when originally submitted. Applications resubmitted later than 30 days after they are returned to the applicant will be processed as if filed on the date the resubmission is postmarked.

(d) Applications postmarked after the deadlines established in (a) of this section will be processed in the order they are postmarked. Loans will be awarded to late applicants only if funds are available after loans have been awarded to all applicants who submitted completed applications before the deadlines.

(e) Except in unusual situations and for good cause shown, an application will not be accepted from a person who has attended one-half or more of the school term for which the loan is requested. (Eff. . / . / . . , Register . . .)

Authority: AS 14.40.757

20 AAC 15.025. PRIORITY RANKING OF APPLICANTS. (a) Upon receipt of a completed application before the relevant deadline set out in sec. 20 of this chapter, the application will be placed in one of the following categories and processed in a descending order of preference:

(1) renewal applications from students receiving loans for the prior school year;

(2) students, other than entering freshmen or first year graduate students, who did not receive a scholarship loan in the prior school year;

(3) entering freshmen;

(4) first year graduate students who did not receive a loan for the prior school year.

(b) Within each priority category, applicants will be ranked based on an evaluation of the following factors:

(1) financial need;

(2) personal recommendations from the applicant's instructors, counselors, employers, or other persons familiar with the applicant's abilities;

(3) the applicant's record of achievement, as indicated by his educational history, past employment, community service, or any other activities which the applicant feels exemplify his abilities and which are capable of being independently verified and assessed; and

(4) whether an entering freshman, or other applicant, is a graduate of an Alaskan high school or a graduate of a high school outside the state which he attended after establishing residency in Alaska, if he continued to maintain his Alaska residency after attendance at that high school. (Eff. . / . / . . , Register . . .)

Authority: AS 14.40.757

AS 14.40.767

20 AAC 15.030. COMPUTATION OF AUTHORIZED LOAN AWARDS. (a) As provided in AS 14.40.759 and AS 14.40.761, respectively, the maximum amount of an authorized loan award in any one school year is \$2500 for applicants enrolled in an undergraduate or career degree program and \$5000 for applicants enrolled in a graduate degree program. A loan recipient's maximum indebtedness under the scholarship loan program may not exceed \$10,000, excluding accrued interest payable on prior loans.

(b) The maximum authorized loan for an applicant enrolled for less than a full school year, as defined by the enrolling institution and as approved by the director, is determined by prorating the maximum authorized loan award under (a) of this section based on the actual period of attendance.

(c) Subject to the limitations of (a) and (b) of this section, an applicant's authorized loan award will be based on the director's computation of the applicant's financial need. Financial need will be computed as the difference between the required fees, tuition and room and board, as applicable, charged by the institution for the course of study for which the applicant has been accepted or is enrolled in full-time status, plus expenses normally considered as educational costs, plus any ongoing expenses the applicant may have that are demonstrably at a reasonable and necessary level, less the amount of funds available to the applicant from other sources to meet those expenses. The amount of the authorized loan award will be the next lower multiple of \$50 below the computed financial need.

(d) Married students applying for separate loans may apportion those expenses listed on their applications which are for common use or commonly held property as they see fit. However, the total of commonly shared expenses listed on both applications may not exceed 100% of the actual expense.

(e) An applicant who elects to live off campus when room or board is available from the institution may list as an expense only the cost of the room or board available from the institution, unless it can be demonstrated that any additional expense for living off campus is reasonable and necessary.

(f) The director may require an applicant to furnish copies of financial records and other relevant information to verify statements on his application.

(g) An applicant who has been awarded a loan based on his admission to a particular institution must notify the director immediately if he elects to attend a different institution. The applicant must then resubmit a loan application based on his admission at the new institution. The applicant will not lose his priority category status, as determined under sec. 20(a) of this chapter, but must give 60 days notice of the change in institutions to insure the timely receipt of funds. (Eff. 1/1/71, Register . .)

Authority: AS 14.40.757
AS 14.40.759
AS 14.40.761

Original 1977

Register, MISCELLANEOUS BOARDS, COMMISSIONS

20 AAC 15.035
20 AAC 15.040

20 AAC 15.035. LIMITATIONS ON GRANTING AUTHORIZED LOAN AWARDS. (a) Subject to (b) of this section, loan awards will be made to applicants in the amount determined by the provisions of sec. 30 of this chapter.

(b) Funds available for scholarship loans may be less than the amount necessary to grant the full amount of all authorized loan awards. Should this occur, loans will be awarded to applicants based on the priority categories established under sec. 25 of this chapter. Loan awards will then be made in the full authorized amount to all applicants in a priority category until that category is reached for which the remaining available funds are insufficient to award loans in the full authorized amount to all students in that category. Loans to students in that category will be awarded to applicants in the full authorized amount based on the rankings made by the director using the criteria in sec. 25(b) of this chapter until all funds have been awarded.

(c) When the director has determined an applicant's eligibility and amount of loan award he will forward the application to the executive secretary for presentation to the student financial aid committee.

(d) If more funds become available for scholarship loans after the procedures in (b) of this section have been utilized, loan awards will be made to the remaining applicants in the order they are ranked by the director using the factors in sec. 25(b) of this chapter. (Eff. 7/1/77, Register.)

Authority: AS 14.40.757

20 AAC 15.040. CONDITIONS OF LOANS. (a) The recipient of a scholarship loan shall report to the director any changes which would affect the conditions of his loan or his repayment schedule, including any change of address, marital status, withdrawal or dismissal from his full-time course of study, change in schools or college residency status.

(b) Funds received for a scholarship loan may be used only for books, tuition, required fees, and room and board.

(c) A promissory note in the full amount of the loan award must be signed by the recipient, or by the recipient's parent or legal guardian in the case of a recipient under sixteen years of age. However, liability for the loan is limited to the actual amount of the loan funds disbursed to the recipient, plus interest.

(d) The provisions of this chapter will be incorporated by reference into each promissory note.

(e) Loans will not be granted for more than a total of six full school years.

(f) The costs incurred in the collection of a defaulted loan, including attorney fees and court costs, shall be borne by the recipient.

(g) Interest on a loan begins to accrue on the first day of the month following the termination of the recipient's full-time course of study.

(h) Interest shall be computed at the annual rate of 5% of the outstanding balance of the loan.

(i) At the time the promissory note is mailed to the recipient, the director will provide him with an anticipated repayment schedule for the total amount of the current loan and any loans received in prior consecutive years. The repayment schedule will be computed from the date ~~of the~~ recipient anticipates the completion of his full-time course of study. The schedule will include: a 12-month optional deferment period, the number and amount of payments, including interest, over the six succeeding years, and the annual percentage rate of interest. (Eff. 3/3/77, Register 61)

Authority: AS 14.40.757
 AS 14.40.763(a)
 AS 14.40.763(d-h)
 AS 14.40.771

20 AAC 15.045. DISBURSEMENT OF LOAN AWARDS. (a) The loan will be disbursed in equal installments, with each installment issued before a school term the recipient has indicated he will attend.

(b) A warrant for the appropriate amount of the loan disbursement and a record of disbursement and receipt form will be mailed to the recipient in care of the financial aid officer of the institution which the recipient is attending.

(c) Before delivering the warrant to the recipient, the financial aid officer will be requested to certify on the record of disbursement and receipt form that the recipient is a full-time student at the institution.

(d) At the time the warrant is delivered to him, the recipient must certify its receipt on the record of disbursement and receipt form.

(e) The recipient is responsible for the return of the record of disbursement receipt form to the director. Failure to return a completed form will result in no further warrants being issued to the recipient. (Eff. / / , Register .)

Authority: AS 14.40.757

20 AAC 15.050. REPAYMENT OF LOANS. (a) Subject to sec. 55 of this chapter, repayment of a loan must begin on the date the recipient first terminates his full-time course of study, with the first payment becoming due on the first day of the month following the date the recipient first terminates his full-time course of study.

(b) At the time the recipient first terminates his full-time course of study he must contact the director and establish a repayment schedule satisfactory to the director.

(c) Payments for loans granted to a recipient in consecutive years during which the recipient continued to be a full-time student will be consolidated into single monthly or quarterly payments.

(d) Subject to the deferment provisions of sec. 55 of this chapter and the hardship provisions of (e) and (f) of this section, a loan must be fully repaid within six years from the date first payment is due.

(e) In cases of hardship and based on such factors as the seriousness of the hardship, its anticipated duration and the expectation of increased earnings in later years, the director may, in his discretion, alter the repayment schedule by extending the period of repayment, subject to the deferment provisions of sec. 55 of this chapter, to a maximum-term of 11 years, or weight the regular payments to ease payment in the first years and require larger payments in later years, or both.

(f) A recipient whose repayment schedule has been modified as a result of hardship must certify annually to the director the continued existence of the conditions under which the hardship determination was made. At the time the conditions no longer exist, the recipient must notify the director and renegotiate his payment schedule, based on the loan's outstanding balance and accrued interest, over a term acceptable to the director.

(g) If a recipient chooses to make a payment in an amount larger than that required by the repayment schedule, the difference will be applied to the remaining principal of the loan unless otherwise specified by the recipient. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757
AS 14.40.763(g)

20 AAC 15.055. DEFERMENT OF PAYMENTS. (a) Loan repayments may be deferred by the director upon request of the recipient under the following conditions:

(1) for up to 12 months following the date the recipient terminates his full-time course of study, or completes required military service, or alternative required service as is approved by the selective service system, if the service began upon the termination of his full-time course of study;

(2) during any period a recipient is a full-time student;

(3) during any period a recipient is serving a required tour of duty in the military or alternative required service as is approved by the selective service system; or

(4) when a recipient has suffered partial or total disability and when that condition is certified by a doctor to continue in excess of 90 days.

(b) A recipient who desires a deferment of payments under this section must inform the director of his request to be considered for a deferment. Upon receipt of this notification, the director will send the recipient a form by certified mail, return receipt requested, which must be completed by the recipient describing the conditions under which he requests the deferment. Except for good cause shown, failure to return the form within 30 days of the date it is received will result in the continuation of interest accrual and required payments, if applicable.

(c) Interest does not accrue on a recipient's loan while payments have been deferred under paragraphs (a) (2) or (3) of this section.

(d) A recipient who has received a payment deferment must notify the director immediately when the conditions under which the deferment was granted no longer exist. When the director receives this notification, he will redetermine the recipient's payment schedule and notify the recipient of the number and amount of the payments required to retire the loan.

(Eff. 2/1/77, Register 6.)

Authority: AS 14.40.757
AS 14.40.763(c)
AS 14.40.763(e)
AS 14.40.763(g)

20 AAC 15.060. GRANTS. (a) Under AS 14.40.763(j), a recipient is eligible to have up to 40% of his total loans and accrued interest treated as a grant if he continues his Alaska residency upon the successful completion of his course of study, is awarded an appropriate degree, diploma or certificate, and has been continuously employed, except for brief periods, in the state during the period for which he claims the grant.

(b) Computation of the period of employment for the purposes of the grant will begin on the first day the recipient becomes employed after he successfully completes his course of study. However, the employment must begin within one year of the last day of the school term in which the recipient successfully completed his course of study.

(c) Grants under this section will be computed as follows:

(1) if the recipient satisfies the requirements of (a) and (b) of this section for at least two, but less than three consecutive years, he will be eligible for a first grant in the amount equal to 10% of his total loan, plus 10% of the total interest accrued as of the second anniversary of the date he first became employed;

(2) if the recipient satisfies the requirements of (a) and (b) of this section for at least three, but less than four consecutive years, he will be eligible for a second grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the third anniversary of the date he first became employed;

(3) if the recipient satisfies the requirements of (a) and (b) of this section for at least four, but less than five consecutive years, he will be eligible for a third grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the fourth anniversary of the date he first became employed;

(4) if the recipient satisfies the requirements of (a) and (b) of this section for at least five consecutive years, he will be eligible for a fourth grant in an amount equal to 10% of his total loan, plus 10% of the interest accrued as of the fifth anniversary of the date he first became employed.

(d) Subject to (g) of this section, that portion of the grant based on the total loan will be credited against principal and that portion of the grant based on accrued interest will be credited against interest.

(e) In order to receive a grant, the recipient must notify the director of his eligibility and complete a form available from the director certifying that the recipient has satisfied the appropriate residency and employment requirements.

(f) A recipient who ceases to be a resident of Alaska during the period he is eligible for a grant loses his eligibility for any further grants under this section.

(g) A recipient whose loan is completely repaid before becoming entitled to the maximum grant available to him may notify the director of his eligibility for a grant in the manner provided in (e) of this section each time he qualifies for a recomputation of his grant. Upon verification of the recipient's eligibility, the director will issue a warrant payable to the recipient in the amount to which he is entitled. (Eff. 2/3/77, Register . .)

Authority: AS 14.40.757

AS 14.40.763(j)

20 AAC 15.065. DEFAULT. (a) A recipient's loan will be considered in default if he fails to make three consecutive monthly payments or two consecutive quarterly payments, fails to comply with the reporting requirements of sec. 40 (a) of this chapter, or is determined by the director to have falsified any document required by this chapter.

(b) When a loan is found to be in default by the director, the recipient will be notified of that fact by certified mail, return receipt requested. The recipient has 30 days from the receipt of the notification to cure the default or otherwise respond in writing to the director's finding. Failure to cure the default or otherwise respond to the default notification within this time period will result in the director forwarding the recipient's file to the executive secretary for appropriate action. (Eff. ./. /., Register . .)

Authority: AS 14.40.757

AS 14.40.763(i)

20 AAC 15.070. APPEALS TO THE EXECUTIVE SECRETARY. (a) A decision or other determination of the director under this chapter may be appealed in writing to the executive secretary of the committee, Alaska Commission on Postsecondary Education, Pouch F, Juneau, 99811. The appeal must be postmarked within 30 days of the date the decision or determination being appealed was mailed, must clearly state the objections to that decision or determination, and must set out justification for any alternative action sought.

(b) The executive secretary shall acknowledge receipt of an appeal by certified mail, return receipt requested, within 30 days. The executive secretary shall render his decision, in writing, as expeditiously as possible after receipt of the appeal and send it to the appellant by certified mail, return receipt requested.

(c) At the appellant's request, the executive secretary ^{shall} will afford the appellant or his designated representative the opportunity to present his appeal in-person. (Eff. 2/3/77, Register . .).

Authority: AS 14.40.757

20 AAC 15.075. APPEALS TO THE COMMITTEE. (a) A decision of the executive secretary may be appealed to the chairman of the committee. The appeal must be made within 30 days of the receipt of the executive secretary's decision, must clearly state the objections to that decision, and must set out justification for any alternative action sought.

(b) The chairman of the committee will place an appeal on the agenda for the committee's next meeting and notify the appellant of the time and location of the meeting and that he or his designated representative may present his appeal in person to the committee at that time.

(c) The committee's decision on an appeal is final. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.080. COMPLAINT FILE. (a) A written complaint regarding the administration of the scholarship loan program will be answered within 30 days of its receipt.

(b) The director ^{shall} will maintain a separate complaint file.

(c) At the committee's first meeting of the calendar year the director will provide the committee with a synopsis of all written complaints received during the prior 12 months and a description of the action taken on each complaint. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757

20 AAC 15.085. DEFINITIONS. In this chapter and AS 14.40.751-14.40.771, unless the context requires otherwise,

(1) "accredited school" means an institution which:

(A) is accredited by a national accreditation association, or the regional accreditation association for the area in which the school is located; or

(B) offers a career education degree approved by the Department of Education;

(2) "career education degree program" means a full-time course of study in a recognized occupation leading to a degree, diploma or comparable certificate of completion;

(3) "commission" means the Alaska Commission on Postsecondary Education;

(4) "committee" means the student financial aid committee of the commission;

(5) "director" means the director of student financial aid;

(6) "employed" means full-time employment in an occupation, as determined by the number of hours in a day, days in a week, weeks in a month, or months in a year which are usual to that occupation;

(7) "employed in the state" means;

(A) employed physically within the geographic boundaries of Alaska; or

(B) employed outside the geographic boundaries of Alaska but:

(i) subject to Alaska state income tax laws and regulations; and

(ii) files a resident Alaska state income tax return for that outside employment;

(8) "full-time course of study" means:

(A) a course of study which consists of the completion of a minimum of 24 semester or 36 quarter hours within one school year by an undergraduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(B) a course of study which consists of the completion of a minimum of 18 semester or 27 quarter hours within one school year by a graduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(C) a course of study by a career education student which:

(i) consists of the completion of a minimum of 1080 clock hours, as clock hours is defined in subparagraph (9) (c) of this section, within one school year;

(ii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion remaining of the school year when enrollment commences after the first term of the school year; or

(iii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion of the school year represented by the length of the career education program when the career education program does not last for the entire school year.

(9) "full-time student" means:

(A) an undergraduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of 12 semester or 12 quarter hour systems;

(B) a graduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of nine semester or nine quarter hours per academic term for institutions utilizing trimester, semester, or quarter hour system; or

(C) a student enrolled in a career education program for at least 30 clock hours per week, a clock hour being a period of time which is equivalent of

(i) a 50- to 60- minute class, lecture, or recitation;

(ii) two hours of laboratory, shop training or internship requiring outside preparation;

(iii) two hours of outside preparation related to the activities specified in (i) and (ii) of this subparagraph; or

(iv) three hours of laboratory, shop training, or internship not requiring outside preparation;

(10) "graduate degree program" means an educational program for which a master's degree, doctorate, or other degree requiring study beyond that necessary for a bachelor's degree is awarded;

(11) "hardship" means being unable to meet the obligation to repay a scholarship loan over the term or in the amount determined by the director;

(12) "prospective graduate" means a high school student who will graduate within six months of the submission date of his application for a scholarship loan;

(13) "resident" means a person who, except for brief intervals, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained his domicile in Alaska for at least the period required under AS 14.40.806(4) immediately before the date of submission of his application for a scholarship loan; domicile is the true and permanent home of a person from which he has no present intention of moving and to which he intends to return whenever he is away;

(14) "total loan" means the total amount of all loans received by a recipient in consecutive school years;

(15) "undergraduate degree program" means:

(A) an educational program for which a bachelor's degree is awarded; or

(B) an educational program for which an associate degree, or comparable certificate is awarded, and which is acceptable, upon transfer, for full credit towards a bachelor's degree. (Eff. 1/1/77, Register . . .)

Authority: AS 14.40.757

1977-1978

SENATE COMMERCE COMMITTEE

LIST OF FILES (PAGE 1)

HB 55

HB 67

HB 308

HB 350

HB 356

HB 357

HB 668

HB 703

HB 739

HB 756

HB 786

HB 872

HB 876

SB 326