

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

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➤ **BUT IT MAY BE INEVITABLE** → If a truly important principle is involved, the party must go to factfinding regardless of costs.

Factfinding

[¶5635] **What is it?**—Factfinding is often the second step in the hierarchy of impasse techniques used in the public sector. If mediation fails, factfinding begins. Factfinding is the investigation of a public sector labor dispute by an individual, panel, or board that submits a report to the parties describing the issues involved. The report may contain recommendations for settlement and sometimes may be made public.

Factfinding, like mediation, is not usually attacked legally because factfinders' recommendations are not binding on parties. Many state laws authorize or require it. In addition, the parties may agree to submit disputes to factfinding in the absence of a legal requirement to do so.

Factfinding differs from mediation in that it is a formal proceeding. It is comparable to arbitration with one important difference. Factfinding leads to *recommendations* for settlement. Arbitration means a *prescribed* settlement.

➤ **ADVISORY ARBITRATION** → Factfinding is similar to advisory arbitration. When the process is used to settle grievance disputes, it's generally called advisory arbitration. When used to settle contract impasses, it's called factfinding.

[¶5636] **Who serves as factfinder?**—Factfinders are generally supplied by labor relations boards. They often are experienced private or public sector arbitrators.

➤ **CHECK THE PROPOSED FACTFINDER** → Assume you'll be assigned a competent factfinder but, if you have a choice under your state law, you can check the factfinder's background. Review recommendations made in comparable cases. They are frequently made public.

[¶5637] **Criteria.**—Factfinder's criteria may or may not be set out in the law authorizing the procedure. Generally, the laws do set out the procedure to be followed in detail but do not specify criteria. One exception is the *Indiana* collective bargaining law for teachers [Ind. ¶17,113].

The criteria generally relied on by factfinders are these:

- Comparisons of wages and other conditions of employment of the employees with those of others doing comparable work in the public or private sector at nearby locations.
- The employer's traditional rank when so compared.
- The employer's ability to pay
- Cost-of-living increases.
- The bargaining history of the parties.
- The public interest.

[¶5638] **What factfinders do.**—Factfinders analyze the relevancy of the facts and contentions presented to them. Then it's their job to come up with recommendations. The recommendations are hopefully palatable to both sides. If either side finds them otherwise, unless there's a further step in the impasse procedure, the impasse continues until the force of public opinion produces a change of position by one side or the other.

➤ **UNCERTAINTY OF FACTFINDING** → Factfinders, like arbitrators, needn't be consistent. They may stick to "precedents" established by previous arbitration or factfinding awards or they may not. They can also find any number of reasons for deviating from the principles of other cases. The circumstances, in their opinion, may differ or the value of one criterion as opposed to another may vary. For example, ability to pay may be a crucial factor in the current dispute even though in a prior case it was hardly considered.

Some state laws expressly authorize factfinders to use mediation techniques. When laws are silent or nonexistent, factfinders often confer on or off the record before making official recommendations.

➤ **FACTFINDERS NEED NOT MEDIATE** → Don't assume that the factfinder will try to mediate. The parties must fully prepare on each issue, regardless of time or cost. If the factfinder does try to mediate, such preparation doesn't hinder the process.

Factfinders perform their function as the law requires or, if there is no law, as their experience dictates. For example, private communications with a factfinder may be taboo. Generally, a factfinder can't even communicate in writing with one of the parties without giving notice to the other and an opportunity for both to comment on the subject discussed.

Acceptability to both parties is the chief object of professional factfinders.

[15639] The hearing.—Even though factfinders make nonbinding recommendations, they expect and merit professional presentation of the positions of both parties. This is no task for amateurs. The agency's legal counsel may qualify if well versed in the technique of handling grievance arbitrations. If the agency has a labor relations department, its director or a staff member should be qualified. *How* an agency's case is presented may be more important than *what* is presented!

➔ PUT YOUR BEST FOOT FORWARD ➔ Don't assume that a factfinder is merely going to add two figures and then divide by two. Put forward your best proposals. Don't hold back anything you're willing to concede. How equitable a factfinder's recommendations are depends largely on how persuasively the case is presented.

After both parties have had all the time necessary to present their cases at the formal hearing, the factfinder prepares a report and recommendations on each issue submitted. Occasionally a specific issue will be remanded to the parties for further negotiation.

The factfinder's report is presented initially for private consideration by both parties. After a short period of perhaps a few days, the recommendations, if not accepted by both parties, may be made public. More often than not, direct negotiations are resumed. In some states another super-factfinding panel may hold further hearings.

[15640] A hypothetical factfinding case.—Assume factfinding is the result of mutual consent by an employer and an employee organization that are locked in impasse. The parties are a municipal government and a union representing the nonsupervisory employees of a public library. Assume that they've fixed no special rules, that no holds are barred. The sole issue, the parties agree, is the amount of the general salary increase in next year's agreement. The factfinder is a lawyer experienced as an arbitrator. After oral discussion of the one issue before him or her, the ground rules are set: (1) Only one spokesman for each side; any other participants can appear only as witnesses and must be sworn; (2) statistical or other exhibits may be introduced; (3) witnesses may testify as to their relevancy; (4) written briefs may be filed at the close of the hearings; (5) the parties will be given 10 days to comment on each other's briefs; (6) court rules of evidence will not be followed.

Argument for the librarians: The librarians are the moving party. Therefore, their spokesman goes first and asks for a 20% across-the-board increase. This increase, he argues, is merely a catch-up to keep the local library salary rates in line with those paid by other libraries in the area. It's obvious to the factfinder that the term "area" has been loosely defined. Information is presented that salary rates in effect in other libraries are much higher than those currently paid in the town. The geographical or other criteria used in making comparisons is a proper question to be considered by the factfinder.

But this isn't the union's only argument. In the broad metropolitan area where the library is located, the regional Consumer Price Index has advanced 9% since the last general wage increase. In addition, evidence shows that the average increase of municipal clerks and unionized employees, including specifically the municipalities' blue collar workers, has amounted to 15% as a result of a 2-year contract entered into in the prior year.

Argument for the city: The city claims its finances are in too rough a shape to permit more than a minimal increase, maybe 2% or 3%. The librarians have picked out the richest cities in the state with which to compare themselves. They even reached out to include an affluent town in an adjoining state. Some of the cities listed as comparable have a big tax base from industry whereas the city involved is rural. The city submits its own list of comparable cities.

In addition, the Consumer Price Index has no relevancy. Librarians are professionals. It is argued that the BLS Consumer Price Index can't be applied to professional and other highly-paid white collar employees. Even if the Index is a proper factor, the city lies outside of the metropolitan area cited. If used at all, it should be the national, not a regional, index.

Finally, librarians in this city are already being paid fairly. Their last increase put them on a par with the rates paid in other comparable cities. In addition, one indicator invariably used by unions to indicate low salaries and low morale is the turnover rate. However, the union hasn't used it inasmuch as the turnover of city librarians has been almost zero.

Outcome: The factfinder prepares a graduated list of the last three years' salary scales from both the city's and the union's lists of comparable libraries. He/she discovers that—on the combined list—the city ranked seventh for two of the three years. This year, however, it fell to ninth. The city's tax rate and base are compared with those of adjoining communities. The factfinder discovers that although the city's tax base is small, its rate is fairly low, so a tax increase isn't out of the question.

The factfinder recommends a two-year contract with an 8% boost in the first year. This increase will bring the city's libraries back into seventh place in salaries. He/she recommends that the increase be broken up into two parts—4% now and 4% in six months—in order to ease the boost's burden on the city. For the second year, a cost-of-living adjustment based on the regional Consumer Price Index is recommended to give the librarians an inflation hedge.

Arbitration

[§5645] What is it?—Impasse arbitration is a formal adversary hearing presided over by a neutral who determines with finality the terms and conditions of a collective bargaining agreement. The neutral—or arbitrator—may be an individual or the third member of a panel whose other members are partisans of each of the parties.

Arbitration of grievances (sometimes called "rights" disputes) has long been accepted in the private sector and its legality (at least when authorized by statute) and usefulness in the public sector is widely acknowledged. But arbitration of impasses (sometimes called "interest" disputes) is another matter. Its supporters say it's necessary to provide a means for final settlement of impasses where the strike alternative is not available. Others question its legality and object to forced settlements by a stranger to the collective bargaining process.

[§5646] Arbitration laws.—Some laws authorize the parties to agree voluntarily to impasse arbitration. They have not resulted in a stampede for the services of arbitrators. On the contrary, when arbitration is voluntary, it's rarely used. Other laws *require* arbitration. They usually apply to police and firefighting personnel since there's a special need for strike-substitutes for members of these groups.

Compulsory arbitration of the disputes of other public employees is not common. One notable exception is the City of New York. In an effort to reduce disruptions of public services that have at times approached crisis proportion, the city in 1972 adopted amendments to its bargaining law requiring final binding determination of bargaining impasses [N. Y. §25,030 et seq.]. Eugene, Ore. also has an ordinance requiring city employees to arbitrate impasse disputes [Ore. §25,021].

Criteria. In some cases arbitrators' criteria are imposed by statute. They are similar to factfinders' criteria. Generally speaking, the criteria require comparisons with employees doing similar work in public and private employment and consideration of the employer's ability to pay and cost-of-living data. They may also include the "interests and welfare of the public" and "such other factors normally taken into consideration in the determination of wages, hours and employment conditions in the public and private sector" [Mich. §19,509].

[§5647] Legality.—Compulsory arbitration laws have been attacked on the ground that they unlawfully delegate governmental decision-making powers to a nongovernmental authority. This is a reflection of the "sovereignty" doctrine, under which only the public employer can establish the terms and conditions of employment of government employees. In practice however, governments do relinquish their "sovereign" rights in many ways, including their participation in the collective bargaining process.

Courts tend to uphold compulsory arbitration laws if they set guidelines for, and impose limits on, the powers of the arbitrator. The Supreme Judicial Court of Massachusetts held that binding arbitration provisions for police and firefighters (Mass. §11,117) superseded a town's "Home Rule" decision-making powers under the state constitution. The bargaining law is a general law, the Court said, and applied to all cities and towns; in case of inconsistency or conflict, local laws must yield. The Court also ruled that the legislature may delegate to a panel of private individuals the authority to implement legislative policy, so long as proper safeguards are provided [Town of Arlington v. Bd. of Conciliation and Arbitration (Sup. Jud. Ct., 1976) 352 N.E. 2d 914].

The Washington State Supreme Court upheld the constitutionality of a binding arbitration provision (Wash. §13,133) that set guidelines for the arbitration panel and standards for court review as a

safeguard against arbitrary action [City of Spokane v. Spokane Police Guild (S. Ct., 1976) No. 43954, 553 P. 2d 1316]. The Court also pointed out that although a binding arbitration award could result in the need for a city to raise taxes, the arbitration law itself didn't unconstitutionally impose a tax on the city to meet the costs of an arbitration award. But the Supreme Court of Utah held the state couldn't withdraw the power of local elected officials to determine wages, hours and conditions of employment for firefighters and grant it to a panel of private citizens without providing for court review or any other safeguard to protect the public interest [Salt Lake City v. IAFF (Utah S. Ct.) No. 14689, 4-25-77].

The Colorado Supreme Court barred binding arbitration in public sector disputes as an unconstitutional delegation of authority, without considering the issue of safeguards [Greeley Police Union v. City Council of Greeley (S. Ct., 1976) No. 26992, 553 P. 2d 793].

➤ **POWER TO TAX** → Some laws meet the objection against giving an arbitrator power over the purse strings by providing that an award requiring legislative implementation is not final until that body acts (N.Y. § 25,043).

[§ 5648] **OTHER OBJECTIONS.**—The basic objection to binding arbitration, legal arguments aside, is that it undermines the collective bargaining process. Collective bargaining is a do-it-yourself technique. An imposed settlement is alien to it. Moreover, parties knowing that they won't have the final say tend to save their best shots for the arbitrator. It's realistic to expect them to hold off on compromises if they expect an arbitrator to split the difference.

Public employers also believe arbitration undermines their authority to run the show. This objection is at least partially answered by limits placed on the arbitrator whose authority is not wider than the scope of bargaining so his/her power may, as a practical matter, be no more than that enjoyed by a powerful union. Nevertheless, compulsory arbitration does mean that the employer is giving up to an outsider its right to say "no" on crucial issues of wages, salaries and conditions of employment. The arbitrator, in turn, doesn't have to live with the results of decisions and will not be called to account for them though court review may overturn them.

➤ **EMPLOYEES' VIEW** → Employee organizations find arbitration less objectionable than management. Deprived of the strike weapon, they tend to look with favor on any procedure that deprives management of some of its trump cards.

[§ 5649] **Possible solutions.**—Some localities are experimenting with various methods to soften objections to arbitration. These include final offer arbitration (on a total package or issue-by-issue basis) and "Med-Arb."

➤ **A DRAWBACK** → A drawback of the total package technique is that it completely ties the arbitrator's hands. What if the wage package of one of the parties is reasonable and its proposals on working conditions are out of line? While the total package technique does encourage negotiation and compromise, it can force the arbitrator into a difficult position and result in an unreasonable award.

The Wisconsin legislature has experimented with the total package, final offer technique for its law enforcement (except those in Milwaukee and small towns) and firefighting personnel [Wisc. § 13,124]. The law requires total package, final offer arbitration unless the parties agree to submit to traditional arbitration.

Final offer arbitration. With this method, the arbitrator is usually asked to choose the more reasonable *total package* final offer of one party. This, unlike conventional arbitration, encourages negotiation and compromise since a party is not likely to submit a package to an arbitrator if it sees a likelihood that the adversary's total package may be deemed more reasonable than its own. What happens, though, if both offers seem unreasonable to the arbitrator? Some final offer procedures have attempted to avoid such potential problems by allowing the arbitrator to select the better offer on individual *issues*, rather than the complete package. So the arbitrator may, as an example, find the employer's wage offer more reasonable and the union's proposed change in leave of absence provisions a fairer solution. In this way, both sides get a settlement that is a truer compromise. Final offer selection on an *issue-by-issue* basis is an alternative offered under New Jersey's compulsory arbitration law for police and firefighters [§ 19,505]. New Jersey and Massachusetts [§ 11,117] also permit a factfinder's recommendations as one of three total packages from which an arbitrator may choose (the other two being the final offers of the parties).

Med-Arb. A hybrid in the arsenal of public sector impasse techniques is called "Med-Arb." Under this technique the arbitrator takes on the dual role of an arbitrator and mediator. He/she attempts to encourage

settlement by finding common grounds of agreement, meeting privately with each of them and making recommendations. If mediation efforts fail, the neutral arbitrates the dispute, and all decisions are final and binding.

Authorities are divided on the value of this technique. Those objecting claim that taking off a mediator's hat and putting on an arbitrator's hat is easier said than done. They believe it is impossible for a neutral to participate as a mediator without undermining one's authority as an arbitrator. Both the New York City arbitration law [N. Y. §25,034] and the Eugene, Oregon, ordinance [Ore. §25,011] specifically authorize impasse panels to mediate.

Strikes

[§5651] What is a strike?—A strike is the concerted refusal of employees to perform all or part of their work as a pressure tactic for improving working conditions. It has been defined by law as "concerted action in failing to report for duty, the wilful absence from one's position, the stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment" [Pa. §11,103].

Job actions. A definition such as the one used above could also cover job actions such as slow-downs. Authorized employee acts such as sick-calls and work-to-rule tactics could also be included. The employer's problem is one of proof. If firemen suddenly take advantage of their right to go off duty to have a physical checkup immediately after a fire, the city must show this was a pressure tactic and part of a concerted plan if it wants to prove it's a strike.

➤ **MASS RESIGNATIONS** → Mass resignations pose a special problem. If employees have resigned, they're no longer employees. Anti-strike laws apply to "employees." The problem for the employer is whether it *can* prove a job action was a strike and, more importantly, whether it *wants to*. Its basic objective is probably to get the "plant" running again under terms it can live with. Sometimes it needs court actions to accomplish this; other times negotiations will dispel the need to find out whether a particular job action was a strike.

[§5652] **Legality.**—Public sector employees do not have a constitutional right to strike [National Association of Letter Carriers v. Blount, 305 F. Supp. 546 (D.D.C. 1969); appeal dismissed 400 U.S. 801 (1971)]. The federal and state governments are therefore free to impose this restriction on their employees and they have freely done so. Strikes by federal employees are unlawful under federal law [5 U.S.C. §7311] and are an unfair practice under E.O. 11491 [Fed. §11,141], and many state laws are in accord. When laws are silent on the legality of strikes, courts have ruled public employee strikes are illegal [See Cal. & N.J. §10,100]. In both of these states, however, firefighter strikes are specifically prohibited by law. New Jersey law also prohibits police strikes [See N.J. §19,500 and Calif. §14,100].

➤ **PENALTIES** → Many laws impose penalties on strikers. Under federal law they are subject to \$1,000 fine and a year and a day imprisonment [18 U.S.C. §1918]. State laws also impose penalties. For example, under New York's Taylor Law an employee may be penalized two-days pay for each day on strike and may be placed on probation for a year. An employee organization loses its dues check off privilege [N.Y. §11,113]. Strikers may also be subject to fines or imprisonment for violating anti-strike injunctions.

Legal strikes.—Some states do permit *some* strikes. Laws in Alaska [§11,124], Hawaii [§11,125], Pennsylvania [§11,134] and Vermont [§13,110] permit strikes that do not endanger the public health and safety. Public sector nurses in Montana may also strike in some circumstances [Mont. §18,109].

The Alaska statute is unique in establishing different rules for different employee groups. Thus, police and fire protection employees, correctional employees and hospital employees are not permitted to strike. For these groups arbitration is the final step impasse procedure. Public utility, snow removal, sanitation and public school employees may strike after mediation. However, once the strike "has begun to threaten the health, safety or welfare of the public" a court may issue a back-to-work order. All other employees may strike if a majority of the employees in the bargaining unit vote to do so.

[§5653] Should public employee strikes be allowed?—For many years there was near total agreement that anti-strike laws were needed because the feeling was that acts against the "sovereign" are akin to

treason, government employment is a privilege and not a right, and strikes run counter to the public interest. There is still near total agreement that many strikes cannot be tolerated. Mass walk-outs by police and fire officers can have disastrous consequences. Extended walkouts by others such as sanitation workers can also seriously endanger the public health and welfare.

➤ **ON THE OTHER HAND** → There's a growing awareness that public employment isn't the sole factor in determining whether services are essential. For example, are strikes by public sector clerks and park attendants more serious than those of private sector utility workers? Or strikes by public sector bus drivers more disruptive than strikes by private sector bus drivers?

Reappraisals. These considerations have made a small but growing number of policy-makers conclude that blanket strike bans are not justified (permissive laws in Alaska, Hawaii, Pennsylvania, Vermont illustrate this). Moreover, they don't work. Public employees have not abandoned and are not likely to abandon a successful technique when the issues are big enough to make the risk worthwhile. Strike penalties are not a deterrent if they're not enforced and many strike settlements include an agreement for amnesty.

➤ **AN EXAMPLE** → The illegal postal strike of 1970 resulted in commitments for sizable wage and salary increases, the eventual resolution of inter-union rivalries and coverage of postal workers under the National Labor Relations Act. Moreover, no one went to jail.

From the employee view, the strike or the threat of it provides needed leverage. But the employer may also prefer a strike, in some instances, to the alternative of a settlement imposed by a third party such as an arbitrator. At least management retains its right to say "no."

ALASKA

There are two public employee bargaining statutes on the books in the State of Alaska. The Public Employment Relations Act requires employers to negotiate with recognized employee organizations on wages, hours, and fringes and gives limited strike rights to the state's public employees except police, fire, prison, and hospital employees. The other requires school boards to negotiate in good faith with teachers. Full text of the laws follows:

Public Employment Relations Act

Full text of Secs. 23.40.070 to 23.40.260 comprising the Public Employment Relations Act, as enacted by Ch. 113, L. 1972, as amended by Ch. 85, L. 1976, and as last amended by Ch. 143, L. 1978, effective July 13, 1977.

Ed. Note: Sec. 4 of Ch. 113, L. 1972, effective September 5, 1972, states that the "Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

In *State of Alaska v. City of Petersburg* (89 LRRM 8095, July 24, 1975), the state Supreme Court ruled that City of Petersburg could not validly reject application of the Act more than six months after it became effective, and after members of City Council had learned of substantial organizational activity of City's power plant employees.

For related rulings, see LR ▶ 42.10.

Sec. 23.40.070. Declaration of policy. — The legislature finds that joint decision making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

Ed. Note: The Public Employment Relations Act does not cover noncertified school district employees and does not impose on independent school districts, created to replace the centralized Alaska State Operated School System (ASOS), a duty to bargain with union that had represented noncertified ASOS employees in contract negotiations with the state, the state supreme court held. Finding that the independent school districts have no statutory duty to bargain with a bargaining representative, the court also held that the PERA does not bind ASOS to the collective bargaining agreements negotiated between state and union representing statewide bargaining unit of ASOS noncertified employees. (*Educational Attendance Area v. Local 71, 102 LRRM 2312, Alaska Sup Ct, March 16, 1979*)

For related rulings, see LR ▶ 54.10, 54.62.

(3) maintaining merit system principles among public employees.

Sec. 23.40.080. Rights of public employees. — Public employees may self organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 23.40.090. Collective bargaining unit. — The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable and unnecessary fragmenting shall be avoided.

Sec. 23.40.100. Representatives and elections. — (a) The labor relations agen-

cy shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the bargaining unit, or

(2) by the public employer alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the

election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by a public agency by mutual consent.

(e) No election may be directed by the labor relations agency in a bargaining unit in which there is in force and effect a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement, if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Sec. 23.40.110. Unfair labor practices.

— (a) A public employer or his agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in Sec. 80 [Sec. 23.40.80] of this chapter;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 90th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining

agent for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in Sec. 80 [Sec. 23.40.80] of this chapter, or

(B) a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter as the exclusive representative of employees in an appropriate unit.

Sec. 23.40.120. Investigation and conciliation of complaints. — If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by Sec. 110 [Sec. 23.40.110] of this chapter, or a written accusation that a person subject to Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding.

Sec. 23.40.130. Complaint and accusation. — If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusations upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62).

Sec. 23.40.140. Orders and decisions. — If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter. If

the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation.

Sec. 23.40.150. Enforcement by injunction. — The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond.

Sec. 23.40.160. Power to investigate and compel testimony. — (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena.

Sec. 23.40.170. Regulations. — The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter.

Sec. 23.40.180. Penalty for violation of order or decision. — A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than \$500.

Sec. 23.40.190. Mediation. — If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public

employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings.

Sec. 23.40.200. Arbitration. — (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the

judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organization and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference.

Sec. 23.40.210. Agreement. — Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of the effective date of this Act, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agree-

ment has a right of action to enforce the agreement by petition to the labor relations agency. (As amended by Ch. 62, L. 1977)

Sec. 23.40.212. Agreement with the board of regents. — (a) The board of regents of the University of Alaska may delegate to the department of administration its authority under Secs. 23.40.070 to 23.40.260 to negotiate with an organization for an agreement.

(b) The department of administration shall participate in the negotiations between the board of regents and an organization. An agreement between the board and an organization requires the approval of the department. (As added by Ch. 148, L. 1978)

Sec. 23.40.215. Funding. — The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. — Upon written authorization of a public employee within a bargaining unit, the employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative.

Sec. 23.40.225. Exemption from public employment relations act. — Notwithstanding the provisions of Sec. 220 of this chapter, a collective bargaining settlement reached, or agreement entered into, under Sec. 210 of this chapter that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights and nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were non-payment of dues. The receiving union or association

shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the labor relations agency. (As added by Ch. 85, L. 1976)

Sec. 23.40.230. Assistance by department of labor. — When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices.

Sec. 23.40.240. Effect on existing units, representatives and agreement. — Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargain representative, or collective bargaining agreement if the unit, recognition or agreement is in effect at the time this Act becomes effective.

Sec. 23.40.245. Postsecondary student involvement in collective bargaining. — (a) When a bargaining unit includes members of the faculty or other employees of a public institution of post secondary education, the public employer and the representative of the bargaining unit shall permit student representatives of that institution to (1) attend and observe all meetings between the public employer and the representative of the bargaining unit which are involved with collective bargaining; (2) have access to all documents pertaining to collective bargaining exchanged by the employer and the representative of the bargaining unit, including copies of transcripts of the meetings.

(b) Student representatives may not disclose information concerning the substance of collective bargaining obtained in the course of their activities under (a) of this section, unless that information is released by the employer of the representative of the bargaining unit.

(c) For the purpose of this section, the students of the institution involved in negotiations shall select their representatives from the institution directly involved in negotiations.

(d) When the institutions are negotiating with bargaining units representing

more than one major geographic area of the state, the student representatives shall be from those areas. No more than three student representatives may attend meetings at any time. (As added by Ch. 148, L. 1978)

Sec. 23.40.250. Definitions. — In Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget-making process and negotiate in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligation do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in Sec. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or non-certificated employees of school districts;

EN NOTE Employees of the state division of marine transportation are covered by the Public

Employee Relations Act even though there is another state statute (Sec. 23.40.040, above) governing collective bargaining for those ferry system employees, the state Supreme Court ruled. According to the court, Sec. 23.40.040 "is a subset of the broader PERA coverage and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions." The court added that both acts "can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting PERA." (*Hasting v. Inlandboatmen's Union*, 99 LRRM 3060 Alaska Sup Ct. October - 6, 1978)

For other rulings, see LR ▶ 100.2

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer.

EN NOTE Group life and health insurance benefits are part of employees' economic interests and are legitimate items for collective bargaining under Sec. 23.40.250(7), above, according to the state's attorney general. Retirement benefits, however, are not negotiable, the attorney general said, since all state employees are required to join and contribute to the Public Employees Retirement System as a condition of employment and changes in retirement benefits are public policy (Attorney General Opinion No J-61-414-78, issued January 21, 1978)

Sec. 23.40.260. Short title. — Secs. 70-260 [Secs. 23.40.70 to 23.40.260] of this chapter may be cited as the Public Employment Relations Act.

Teachers:

Full text of Secs. 14.20.550 to 14.20.610, Ch. 20 of Title 14, extending organization, representation and bargaining rights to certificated employees of public schools, as enacted by Ch. 16, L. 1970, as amended by Chs. 43 and 71, Ls. 1971, and as last amended by Chs. 124 and 201, Ls. 1975.

Sec. 14.20.550. Negotiation With Certified Employees. Each city, borough and regional school board shall negotiate with

its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (As added by Ch. 124, L. 1975)

Sec. 14.20.555. Optional Coordinated Employee Negotiations. (a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in Sec. 560(f) of this chapter, and one team representing all the participating regional school boards.

(b) Each team may consist of as many members as there are regional school boards. Each board is entitled to one member on the team. However, each negotiating team shall consist of not less than five members.

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with Sec. 550 of this chapter. (Sec. 14.20.555(a) to (c), as added by Ch. 124, L. 1975)

Sec. 14.20.560. Teachers' Bargaining Groups.(a) When a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska.

(b) The organization representing a majority of the certificated employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of the certificated employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certified staff votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit bargaining agency case each year.

(c) Upon the request of 25 per cent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

(f) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot. (Added by Ch. 43, L. 1971)

Sec. 14.20.570. Mediation Board. (a) Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that the parties cannot agree on an independent private mediator and that good faith negotiations have terminated in an impasse, the following occurs:

(1) Within seven days of the certification the requesting party shall ask the U.S. Federal Mediation and Conciliation Service to serve as the agency to resolve the dispute.

(2) The mediator shall chair mediation meetings between the disputing parties and attempt to resolve the differences between the disputing parties and reach common acceptance of terms and conditions or other items in dispute wherever possible.

(3) Within 30 days of the initial meeting of the parties to the dispute the mediator shall have reduced all the agreed terms, conditions and other items to a written contract. If mutually agreed the period for reporting the contract to both parties may be extended.

(4) Each party to the dispute may select a team of not more than five persons to present the evidence, thinking and position of the group they represent, to the mediator.

(b) If the mediation meetings are held during the school day, teachers representing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay. (As amended by Ch. 201, L. 1975)

Sec. 14.20.580. The Mediation Report. (a) Within 10 days each party to the dispute shall accept or reject in total the mediation report.

(b) If rejected by either party, the mediator shall have an additional five days to review the objections and prepare a final report.

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (As amended by Ch. 201, L. 1975)

Sec. 14.20.590. Grievance Procedures. Negotiations agreements executed after the effective date of this Act shall define "grievances" and provide for grievance procedures for the certificated staff. The grievance procedures shall provide that the final step in the procedure shall be binding arbitration. The negotiations agreement shall provide a method for the selection of an arbitrator. (As amended by Ch. 201, L. 1975)

Sec. 14.20.600. Individual Cases. Nothing in Secs. 550-590 of this chapter prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases.

Sec. 14.20.610. Legal Responsibilities of Boards. Nothing in the foregoing provisions shall be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the School Board including the right to make final decisions on policies.

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SENATE AMENDMENT

By SENATE RESS COMMITTEE

To: _____ SENATE BILL No. 577

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

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STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

JAY S. HAMMOND, GOVERNOR

POUCH L
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

March 24, 1982

Honorable Charles H. Parr
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

Re: SB 671, Chiropractic Licensing by Credentials

Speaking on behalf of the Chiropractic Board of Examiners, we are in full support of SB 671. This is legislation which has been derived from the work of the board and the Sunset review provisions of 1980.

This legislation will update our chiropractic law in keeping with the required changes of Sunset review and trends in legislation in the rest of the United States.

Again, we are in favor of the legislation as it stands in SB 671.

If there are any questions, please contact either myself or Dr. Keith Godfrey, the board president, in Anchorage.

Thank you for your consideration.

Sincerely,

for Anita W. [Signature]

for P. T. Davis, DC
Member
Alaska Chiropractic Board
of Examiners

PTD/saG/3

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 671 "An Act relating to licensing of certain
Title chiropractors without examination; and providing for an effective date."
Requested by Senate HESS Committee Date 1-22-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & Licensing of Professions
(Note: If more than one budget component is affected, separate line item
amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 1-25-82

PREPARED BY Margaret Odland
AGENCY Division of Occupational Licensing
PHONE 465-2535

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

1981 LEGISLATIVE PROPOSAL REQUEST FORM

AGENCY REQUESTING: Department of Commerce & Economic Development
Division of Occupational Licensing

SUBJECT OF PROPOSED BILL: An Act relating to licensing of chiropractors; and providing
for an effective date.

BRIEF SUMMARY: Amends AS 08.20.140: License by credentials; adds requirement
of 3yrs active practice, interview with the board, and various
other evidences of license equivalency for out-of-state licenses.
(Attach a more detailed explanation if you can.)

ESTIMATED FISCAL IMPACT: No fiscal impact

OTHER STATE AGENCIES CONSULTED/AFFECTED: None

CONSTITUTE GROUPS Those opposed: Unknown

Those in favor: Unknown

Those yet to be contacted: None

Has this or a substantially similar bill been introduced (and not passed) in the legislature in a previous session? Yes _____ No X

If so, please state: Bill number _____
Dept. of Law log no: J-77- _____
(if it was a Governor's bill)

PREFERRED HOUSE OF INTRODUCTION: _____

RATE THE BILL'S IMPORTANCE TO DEPARTMENT: _____

DRAFT ATTACHED: Yes X No _____ Not finalized _____

APPROVAL BY COMMISSIONER: _____

DATE: _____

(Return completed form and attachments to Rebecca L. Engen, Special Assistant, Office of the Governor, by October 15, 1981.)

IN THE _____

BY THE RULES COMMITTEE
REQUESTED BY THE GOVERNOR

BILL NO. _____
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

For an Act entitled: "An Act relating to licensing of chiropractors,
and providing for an effective date."

*Section 1. AS 08.20.140. is repealed and reenacted to read:

Sec. 08.20.140. LICENSE BY CREDENTIALS. The board may provide for licensing without examination of a chiropractor who

(1) is a graduate of a legally chartered accredited school of chiropractic approved by the board which requires for graduation a residence course of instruction of not less than four years of nine months each;

(2) has been licensed to practice chiropractic in another state, territory, or region with licensing requirements similar to or higher than those of this state at the time of original licensure in another state;

(3) has been engaged in continuous active practice for three years immediately preceding the application;

(4) is not the subject of an unresolved complaint, review procedure or disciplinary proceeding undertaken by a professional association;

(5) has not previously had a license revoked;

(6) has not failed the practical examination of this state;

(7) is personally interviewed by the board; and

(8) pays all fees required under AS 08.20.180.

*Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

Proposed Legislation, 1982 - Physical Therapy

The purpose for adding "chiropractic" to AS 08.84.120(8) and 08.84.160, is to allow physical therapists to perform their services on patients referred to them by licensed chiropractors. Unless chiropractors are specifically stated in the law as being allowed to refer patients to physical therapists, it is unlawful for physical therapists in this state to accept and treat such patients as referred. Attached is a letter from the chairman of the Alaska Board of Chiropractic Examiners explaining the position of the board on this issue. It was the Board of Chiropractic Examiners who originally requested this amendment in the physical therapy law. The Board of Physical Therapy is against the requested change. The Department of Law has been researching this issue for several months in regards to anti-trust suits.

The Board of Physical Therapy has requested AS 08.84.065(d) be deleted, which mandated issuance of temporary permits for foreign-trained therapists while serving an internship in the state. The board feels that a temporary permit should only be issued to a foreign-trained therapist after successful completion of an internship, since the purpose of the internship is to evaluate their competency and, often, their proficiency in understanding English.

January 8, 1981

Mr. Keith Godfrey, President
Board of Chiropractic Examiners
3800 Lake Otis Parkway
Anchorage, AK 99504

Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

Dear Mr. Godfrey:

The division of occupational licensing of the Department of Commerce and Economic Development has referred to our office the question raised by Adrian Barber in his letter to you of August 8, 1980 (enclosed). I understand that you wish an attorney general's opinion regarding the validity of AS 08.84.120(8) and AS 08.84.160, which preclude physical therapists from accepting referrals or prescriptions from chiropractors.

First, it is correct that the statutory sections do exclude chiropractors from the classes of health care providers from whom physical therapists may accept referrals or prescriptions, since AS 08.84.160 specifically names health care providers from which a physical therapist may accept prescriptions, and does not include chiropractors. Also, the Chairperson of the Physical Therapy Board, Ms. Donna Klokkevold, informs us that that board does interpret the statute to exclude referrals from chiropractors and that physical therapists do not accept such referrals.

The validity of the statutory provisions is questionable, as the exclusion of chiropractors may represent a serious antitrust violation. This is probably a question of federal law, however, under the Sherman Antitrust Act */ The extension

*/ As you are aware, several lawsuits have been brought by or on behalf of chiropractors in other states in which this issue is being litigated.

January 8, 1980

of antitrust doctrine into the area of health care is a fairly recent trend in the law, and it is not possible to state definitely what the law is on the particular point that you raise.

Our office can only state that, as a general matter, a law must be followed until (1) it is amended or otherwise changed by the legislature; or (2) it is attacked and found invalid by a proper court. Our office has no power to invalidate the determinations of the legislature, although, in situations where we believe a particular provision is clearly unconstitutional, we will advise an agency to not carry out or enforce it. These particular provisions appear questionable not only on antitrust grounds, but also on grounds that a patient has a right to the full course of treatment recommended by the health care provider of his or her choice. Further, they appear subject to attack on the constitutional grounds of equal protection and right to privacy. However, they are not so clearly infirm that we may confidently state that they are invalid.

We suggest that you contact the governor's legislative assistant regarding a possible change in AS 08.84.120(8) and AS 08.84.160. Then, if legislative change is not forthcoming, your board may want to consider a legal action attacking the provisions in question.

I hope this answers your questions. If I can be of any further assistance, please feel free to contact me.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: *Sarah T. Kavasharov*

Sarah T. Kavasharov
Assistant Attorney General

STK/blc

cc: Keith Specking, Legislative Assistant
Office of the Governor

Ms. Donna Klokkevold, Chairperson
Physical Therapy Board

*286-5744
modrak*

February 20, 1981

Ms. Donna Klokkevold
Chairperson
Physical Therapy Board
3800 Lake Otis Parkway
Anchorage, AK 99504

Re: Validity of AS 08.84.120(8) and
AS 08.84.160
Our File: J-66-318-81

Dear Ms. Klokkevold:

On January 8, I sent to you a copy of a letter to Mr. Godfrey, president of the Board of Chiropractic Examiners, regarding the questionable validity of the above statutory provisions. I wonder if your board has had time to review the provisions and what is the board's view about retaining them? Our office believes that their validity is so questionable that an effort should be made to change them, but the first step in the process of change is to determine whether the boards may work this out and agree upon a recommendation that the governor may submit to the legislature.

Please let me hear from you regarding this.

Thank you.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By:

Sarah T. Kavasharov
Sarah T. Kavasharov
Assistant Attorney General

STK:wjp

cc: Keith Godfrey, President
Board of Chiropractic Examiners

Harry Treager, Director
Division of Occupational Licensing

Keith Specking, Legislative Assistant
Office of the Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

Phone: 465-2534

April 6, 1981

State Of Alaska
Department Of Law-Office Of Attorney General
Pouch K-State Capitol
Juneau, Alaska 99811
Attn: Sarah T. Kavasharov

Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

Dear Ms. Kavasharov:

I am enclosing explanations of the Chiropractic activities along with those of the Alaska Chiropractic Society in regard to the Physical Therapist Board and their statutory provisions validity.

Lacking any response from the Physical Therapy Board or further response from the Physical Therapy Association to date, it now appears we are at an impasse as far as reaching an agreement for the Governor to submit to the Legislature. With the present session this far along it seems unlikely it would get far anyway.

Judging from what has transpired thus far, it appears the Physical Therapists are more prepared to have The Department of Law recommend the provisions not be enforced; or, have them changed without inter-professional cooperation. The Chiropractic Physicians feel with temporary non-enforcement, at least the problem would temporarily be alleviated with legislation to follow next session.

It has been suggested the Physical Therapy Law is now open because of H.B.106. We have no idea whether the Physical Therapists requested the Bill, whether it could be amended or if it stands a chance of going anywhere this session. The Academy of Physical and Rehabilitative Medicine has settled out of court with the Chiropractors in their suit. Their recommendations include full inter-professional cooperation between Medical Physicians' and Chiropractic Physicians.

With the "hand and glove" relationship existing between the Physical Medicine people and the Physical Therapists it seems quite odd there would be any difficulty in the Physical Therapists changing their statutes to accomplish this end.

APR 9 1981

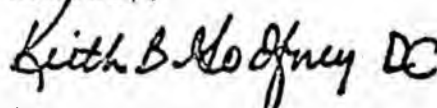
Page 2

Re: Refusal by Physical Therapists
of Chiropractic Referrals
J-66-318-81

As the American Osteopathic Association stated in their settlement, "inter-professional cooperation and referrals are in the best interest of the patient." That's just exactly where our concerns lie.

We look forward to hearing from you and remain interested in pursuing this problem toward an equitable solution.

Sincerely,



Keith B. Godfrey, D.C.
President-Alaska Board Of
Chiropractic Examiners.

KBG/kh

Enclosed:

- 1-Board letter read at
P.T. Association meeting.
- 2-Letter to Board from ACS.
- 3-Letter to Dr. Barber from
Marsha Wakeland, L.P.T.
- 4-Supporting material presented
by ACS to P.T. Assoc.

Minutes of Meeting
Alaska Physical Therapy Board

5-14-81

12 AAC 74.940 - #3, line 2, change the word "continuing" to "daily."
#4, line 2, change the word "working" to "practicing." #5, line 1,
delete the word "periodic" to read "on-site supervision."

The board decided not to adopt the changes made to these regulations at this time but to wait until Marjorie Odland, Regulations Specialist, reviews the changes and presents a final draft for the board's review.

BOARD POLICIES: There were no policies to be reviewed because a majority of the topics which were covered by policies are now addressed by regulations. The board suggested that policies be tabled until such time that the regulations are finalized.

HB 106 (Athletic Trainers): Donna Klokkevold explained to the board that HB 106 was introduced to the Legislature by request of a physician in Anchorage. The board expressed that they had no desire to regulate athletic trainers under the Physical Therapy Practice Act. The board also stated, for the record, that the board was not in favor of HB 106 and will not pursue the matter further unless asked to.

Tom Sutton advised that the APTA does not give recognition to athletic trainers either.

CHIROPRACTOR STATUTES: Donna Klokkevold mentioned the on-going problem of chiropractor statutes being in conflict with the physical therapy statutes. Donna advised she received a letter, dated February 20, 1981, from Sarah Kavasharov, Assistant Attorney General, in which Sarah was contacted by the Board of Chiropractors inquiring about the validity of the Physical Therapy statutes which state that physical therapists accept referrals from medical doctors only. Sarah Kavasharov asked if the Physical Therapy Board had reviewed this statute. Donna brought the letter to the Alaska Physical Therapy Associations' meeting for their opinions. The APTA invited the chiropractors to their meeting which they did attend, and, following their discussions, the therapists expressed that they were not in favor of having the physical therapy statutes changed. Donna advised she read an opinion by an attorney for the American Physical Therapy Association, who researched this topic and stated that the physical therapists had no reason to change their statutes unless it came to court. Bud Simpson also agreed with the opinion of the APTA attorney and also mentioned that he could not see where the physical therapy statutes would be questionable in respect to its validity because various organizations are created differently under the anti-trust laws. He also mentioned that one reason that the physical therapists may want to accept referrals by chiropractors would be to avoid chiropractors practicing physical therapy. Donna advised she had consulted a physician in regard to this topic and the physician felt it would be fine to have a chiropractor-physician referral, where the physician could review any problems but not a chiropractor-therapist situation where there would not be an adequate diagnostician involved.

IN THE _____

BY THE RULES COMMITTEE
REQUESTED BY THE GOVERNOR

BILL NO. _____
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

For an Act entitled: "An Act relating to the practice of physical therapy, and providing for an effective date."

*Section 1. AS 08.84.120(8) is amended to read:

(8) has treated or attempted to treat ailments of human beings otherwise than by physical therapy, or has attempted to practice independent of the prescription and direction of a person licensed to practice medicine, osteopathy, dentistry [OR], podiatry or chiropractic.

*Sec. 2. AS 08.84.160 is amended to read:

A person licensed under this chapter may not treat human ailments by physical therapy or otherwise except under the prescription and direction of a person licensed to practice medicine, osteopathy, dentistry, [OR] podiatry or chiropractic. This chapter does not authorize any person to practice medicine, osteopathy, chiropractic, or other method of healing.

*Sec. 3. AS 08.84.065(d) is repealed.

*Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

Alaska Treatment Center - Donna Klokkvold. 272-0586

Beth Nanson 3260 Hospital Ave 99801

Physical Therapist 1-14-

representing Alaska Chapter of physical therapy in
Juneau. Also considered non-medical approach
to treatment. Diagnostic capabilities are
questionable. Some of their techniques are
similar to physical therapy modalities.
PT do therapy but don't diagnose

Check rule of Pt. Assoc.

^{physical therapy}
Adapted Barry - per the chapter
Natl Pt. Assoc - code of ethics
does not include Chiropractors - only from medical

Do other states:

Idaho

Calif. does not require referral
Hawaii

S

B

6

7

3

Telephone Testimony on SB 673 and SB 674
Received From Jane Brodie - Anchorage - April 19, 1982 - 1:15
p.m.

To Chairman Parr and Senators of the HESS Committee.

First I want to thank you for scheduling this hearing on vision and hearing screening as put forth in SB 673 and 674. In a previous Letter to you I did detail my concerns and reasons for supporting the development and implementation of:

1. Comprehensive vision and hearing programs in all School districts and
2. Facilities in Dept. of H.S.S to assist districts in training personnel to perform screening and in maintaining comprehensive programs of high standards

I am sure that you have reviewed this information . I strongly urge you to consider this and other testimony in support of screening and that you pass SB 673 and 674.
Thank you.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 673 (HESS)am
Title An Act relating to vision and hearing screening in schools
Requested by Senate HESS Date 4/19/82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
Program Category Affected PUBLIC HEALTH
BRU, Program, Or Subprogram(s) Affected Child & Family Health
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		43.3	47.6	52.3		
200 TRAVEL		20.0	22.0	15.0		
300 CONTRACTUAL		5.0	4.0	4.0		
400 COMMODITIES		4.0	4.0	4.0		
500 EQUIPMENT		4.2	3.0	2.0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.5	80.6	77.3		

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.5	80.6	77.3		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	1	1		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note is based on the DHSS Fiscal note Dated 4/16/82 by David Spence. This Fiscal note reflects the elimination of section 1(c) of the bill as amended by the Senate HESS committee. Subsection (c) eliminates the grants to school districts.



DATE 4/19/82

PREPARED BY Charles Parr, HESS Chairman
AGENCY Senate

Original: Legislative Finance PHONE 465-4907

cc: Budget and Management
Prime Sponsor (First Legislator Named)

POSITION PAPER

Senate Bill No. 673

"An Act relating to vision and hearing examinations in public schools; and providing for an effective date."

OVERVIEW

Periodic examination of school children to detect hearing impairment and vision abnormalities has long been considered a valuable and cost effective preventive health measure. Simple tests can effectively and efficiently screen large numbers of children at minimal cost in order to identify those children who are in need of further corrective medical or remedial intervention. Early identification of hearing and vision abnormalities is critical in order to provide an opportunity for each child to maximize his learning experience.

The initiation of periodic vision and hearing examination of school children has been uniformly supported by the Departments of Education and Health and Social Services, local school districts, public health nurses, Native Corporations, the Governor's Council on the Gifted and Handicapped, and the private medical community. In spite of this widespread support, no uniform program currently exists in the State of Alaska. Recent reports by the Governor's Council on the Gifted and Handicapped and by a Blue Ribbon Committee on Otitis Media and Hearing Impairment strongly recommend legislation to establish a comprehensive program to provide for periodic vision and hearing examination of school children.

With the dramatic rise in health costs in Alaska and in the United States, efforts are increasingly being directed to preventive services and to the use where possible, of non-medical personnel. Screening examinations to identify children with hearing impairment or vision abnormalities can be performed effectively, rapidly, and inexpensively by appropriately trained lay personnel. The proposed legislation will allow vision and hearing tests to be performed by lay people who are appropriately trained to conduct the examinations. Periodic screening of all children in Alaska schools will allow for early intervention so that children with readily treatable impairments can be ameliorated and children with chronic or permanent impairment can be offered medical habilitation and educational program support.

The Department of Health and Social Services will have the responsibility to provide training and certification for persons doing vision and hearing screening and to assist with the needed referral and follow-up services.

Position Paper - SB 673
Page 2

During its April 22, 1981 regular meeting, the State Board of Education voted unanimously to support the concept of SB 673 and to recommend that the Department of Health and Social Services be responsible for paragraph (c), line 21-23. This bill contains all the features that our Departments feel are essential for development of a quality vision and hearing screening program.

POSITION

The Department of Health and Social Services and the Department of Education support passage of this bill with the recommended amendment to 14.30.075(c).

Approved by: Herbert Beine
Commissioner of Health
and Social Services

Approved by: [Signature]
Commissioner of
Education

Date: 4-19-82

4-17-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 673
Title "An Act relating to vision and hearing screening in public schools."
Requested by Commissioner's Office Senate HESS Date 4/16/82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
Program Category Affected Health/Public Health
BRU, Program, Or Subprogram(s) Affected Child & Family Health
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	43.3	47.6	52.3	57.5	63.3
200 TRAVEL	0	20.0	22.0	15.0	15.0	15.0
300 CONTRACTUAL	0	5.0	4.0	4.0	4.0	4.0
400 COMMODITIES	0	4.0	4.0	4.0	4.0	4.0
500 EQUIPMENT	0	4.2	3.0	2.0	1.5	1.5
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	199.8	220.0	240.0	260.0	280.0
TOTAL	0	276.3	300.6	317.3	342.0	367.8

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	276.3	300.6	317.3	342.0	367.8
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	1	1	1	1	1
PART TIME	0	0	0	0	0	0
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This fiscal note reflects the associated cost of a Public Health Nurse III, Range 18, Vision Health Consultant who will train nurses and para-professionals in vision screening skills and in management of the referral and follow-up of children found to be abnormal. This position will be located in Anchorage to minimize the extensive statewide travel requirements. Clerical support can be provided by continued funding of the Communicative Disorders Program, since there are features of hearing and vision screening activities that overlap. See attachment for a cost breakdown of this position.

The grant funds would be directed to school districts that request these funds for their costs in this screening activity.

IV. DATE 4/16/82 PREPARED BY David Spence, M.D.
AGENCY Department of Health and Social Services
Original: Legislative Finance PHONE 465-3100
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SENATE BILL NO. 673

100	Personal Services		
	Salary and benefits, Range 18, Anchorage		43,250
200	Travel		
	In-state: 20 week long trips to regional centers throughout Alaska-		
	Typical trip - Anchorage/Ft. Yukon/Anchorage		
	Airfare	\$286	
	Per diem x 5	450	
		<u>\$736</u>	
	Average trip=	\$800 x 20 trips =	16,000
	Out-of-state		
	Vision consultant travel to National Assoc. of Blind annual meeting on screening in New York		1,450
	Hearing consultant to national meeting of hearing screening consultants - ex. Chicago		1,250
	Guest speaker at an Alaska education meeting to emphasize importance of screening to educators		1,300
	TOTAL		20,000
300	Contractual		
	Office space 150 sq.ft. x \$100/sq.ft.	1,800	
	telephones and teleconferences	1,000	
	printing of materials, manuals	2,200	
	TOTAL		5,000
400	Commodities		
	Purchase of training materials, films, screening supplies, office supplies		4,000
500	Equipment		
	Office furniture-desk, chairs, files	1,500	
	Puretone audiometer	909	
	Slide and film projector and other audio-visual equipment - vision testing equipment	1,800	
	TOTAL		4,209

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

JUNEAU OFFICE

141 SOUTH FRANKLIN STREET
JUNEAU ALASKA 99801
PHONE (907) 586-4000

ANCHORAGE REGIONAL OFFICE

1411 WEST 10TH
ANCHORAGE ALASKA 99501
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229 COLLEGE ROAD
FAIRBANKS ALASKA 99701
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Robert C. Manners
Executive Secretary
Juneau Office

Robert C. Cooksey
Deputy Executive Secretary
Juneau Office

James D. Alter
Field Staff
Juneau Office

Charles L. O'Connell
Deputy Executive Secretary
Anchorage Office

Dianne Anderson
Field Staff
Anchorage Office

Steve Puikkinen
Field Staff
Anchorage Office

Mary Ann Eininger
Deputy Executive Secretary
Fairbanks Office

April 15, 1982

TO: Senator Charlie Parr, Chairman
Members of the Senate HESS Committee

RE: Senate Bill 675

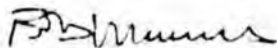
"An Act relating to vision and hearing screenings in public schools, and providing for an effective date."

NEA-Alaska supports SB 675 and encourages the Committee to urge its passage.

Early diagnosis of physical handicaps which impact the learning process greatly enhance every child's learning potential.

Since vision and hearing impairment may not always be obvious in a child's home environment, it is essential that public schools provide the diagnostic process as early as possible.

Respectfully Submitted:



Robert Manners
Executive Secretary

RM: jw

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT**

Nancy 4-19-82 2:45

DAVE Thomas - P.O. Box
Supports 808 - Douglas
97824
SB 673 + 674

Director of Special Education
J.D. School Dist.

Blind - vision impaired
Council -

Supports vision + hearing
screening

Can't testify today.

Meeting on 6/49

HEARING LOSS IN ALASKA

By

David R. Canterbury, Carl Dixon, Keith Gish, B. D. Kimball,
M. A. Lopez, Thomas McCarty, Pearl Bryant

For the past 7 years clinical services for the hearing impaired in all areas of Alaska have been provided by the 4 Regional Offices of the Alaska Communicative Disorders Program, Department of Health & Social Services, and the Audiology Unit of the Federal Alaska Native Medical Center, Indian Health Service. As has been noted in previous publications Canterbury (1978); Kimball (1977); the amount of hearing impairment in Alaska appears to be considerably greater than found in most other parts of the United States. This higher prevalence of hearing problems is largely due to acute and chronic otitis media. Noise induced hearing loss also contributes to the problem and appears to be occurring at an earlier age than was once suspected. The prevalence of chronic tympanic membrane perforations has been steadily reduced over the past decade due to the development of a village based health care system which receives backup support from centrally and regionally based ear specialists, public health nurses, physicians assistants, and audiologists. Additionally, an active surgical program has performed nearly 4,000 tympanoplasties during the past decade; Tower (1978). The existence of a productive medical component has no doubt reduced but certainly has not eliminated existence of a large number of hearing impairments as will be documented in this paper. Surgeries often leave residual hearing impairment, the surgical option is sometimes refused by the patient or is not recommended by the ear specialist, and other factors such as noise exposure also contribute to the ranks of the hearing impaired.

Efforts have been made to describe and quantify the extent of hearing impairment from time to time; however, basic problems previously existed regarding the

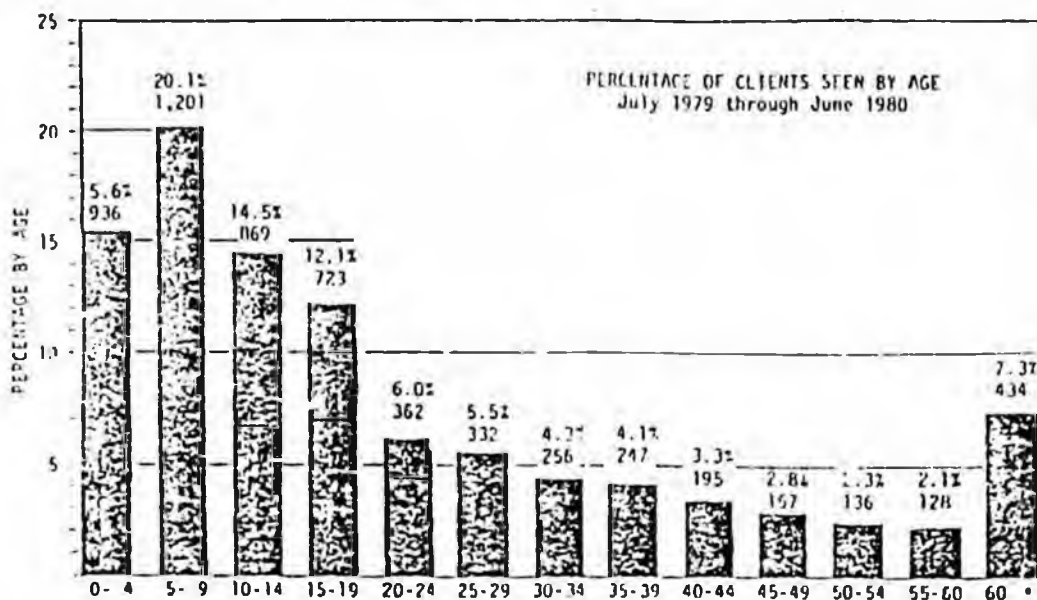
commonality of terms used in describing the hearing loss in the control of variables affecting the reliability and validity of such reports. Because of these problems, in 1975 the audiologists employed by the State and the Federal Indian Health Service program in Alaska agreed on certain training, testing, reporting, and referral standards including the use of standard audiometric forms. Similarly agreement was made to code these forms in a uniform manner regarding amount of hearing loss, type of hearing loss, impedance findings, referral recommendations, hearing aid use, and patient identifying information. This information is processed by an audiology data system which provides information on a scheduled basis for client management, planning, reporting, and statistical analysis. Each year for the past 3 years from 5,900 to 10,000 entries have been made into this system. To date 32,479 audiograms have been entered on a total of 21,465 clients. The following information is an analysis of the test findings for one year, the period ending June 30, 1980 on 5,986 clients. Although many clients were seen on several occasions, only the last entry per client was used in the compilation of these data in order to avoid duplications of reporting. These are statewide data and great variability exists from region to region and, in fact, even from village to village. All audiologic testing was done by clinically certified audiologists or by nurses or technicians directly trained and supervised by certified audiologists. Equipment used was electroacoustically calibrated annually to ANSI 1969 Standards and daily biological calibration checks were done each day the test equipment was in use. Each audiogram was clinically coded by the audiologist who did the testing or by the supervising audiologist according to the detailed coding criteria which is consistently used statewide. Copies of all the tests were then sent to the Central Office of the Communicative Disorders Program for inclusion in the data system.

Analysis of this information should be done with the clear realization these are not prevalence data but an examination of the various parameters of test

findings obtained from clients seen in our clinics during the year. Most of the school age subjects were referred from school screening programs conducted by public health nurses, school nurses, or other school screening personnel. (Screening is done at 20dB ANSI for the frequencies of 500, 1000, 2000 and 4000Hz). The failure rate for screening varied from 10.3% to 36.6% depending upon region with the moreremote areas having the highest failure rate. Other referrals of children were from medical care providers or were made because of known hearing impairment. The adults were not screened routinely but were seen on self referral. or on medical referral. As a consequence of the case selection process, it should be evident that this is not a random sampling of the Alaska population but is primarily made up of individuals who have been seen at our clinics with complaints of hearing problems. The percentages of problems in certain categories is not as significant as is the relationship between variables such as age, race, amount of hearing loss, type of hearing loss and impedance findings. Comparisons with other similar reports such as the Colorado study; Weber (1967), might also provide insight concerning problems unique to Alaska.

DESCRIPTION OF POPULATION

A total of 5,986 clients were seen during the reporting period ranging in age from less than 1 year to 99 years of age. The largest percentages (58.6%) were seen in

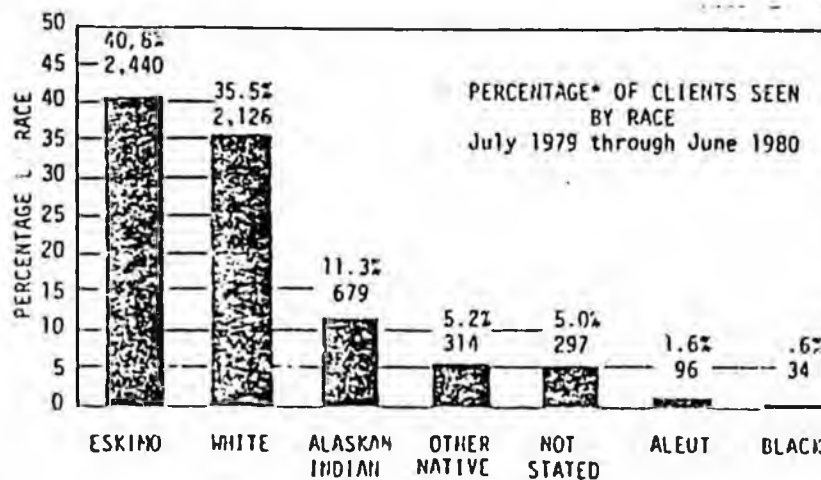


* The number of Clients represented here is 5,986. The figure below the percentage is the number of clients seen in that category.

FIGURE 1

the age bracket between 2 and 19 years inclusively. Three and seven tenths percent of the children seen were under one year of age. The age breakdown is detailed in Figure 1.

Fifty-six percent of the clients seen were male and 44% were female. Race was established from the health records or by questioning the clients. Fifty-eight and nine tenths percent were Alaskan Native (Eskimo, Indian, other Native or Aleut, see Figure 2).



* The number of Clients seen was 5,986. The figure below the percentage is the number of clients seen in that category.

FIGURE 2

Clients seen during this year were from 247 different communities. Eleven and three tenths percent of the 5,986 clients were from communities with population less than 250 people, 25.4% were from villages with population of from 250 - 1000 people, 26.5% were from communities ranging in size from 1000 - 4000 and 36.8% were from towns and cities larger than 4000 people. Many rural villages are entirely Alaskan Native but the ratio of native to non-native varies widely from region to region in the state. Overall, the rural communities have a much higher percentage of natives than the urban areas and the standard of living including health care access is not comparable to the urban centers.

Significant differences were not observed between the right and left ears. Percentages on the charts below indicate the occurrence of each condition within each age group. The percentages are for the total number of ears tested within each age group.

TYPE OF HEARING LOSS

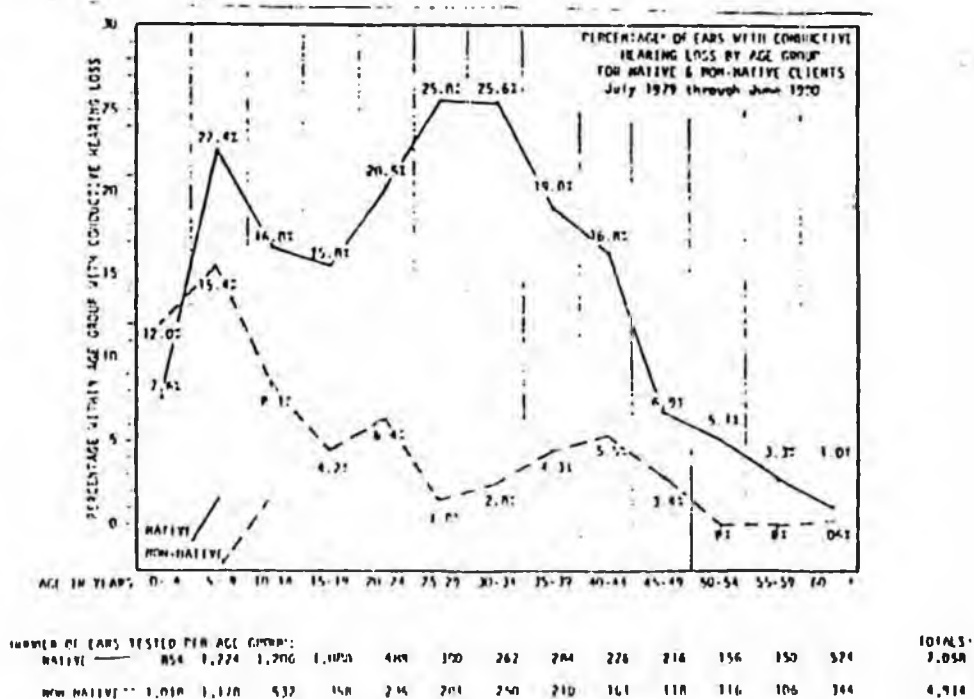
Each audiogram done during the year was coded by type of impairment for each ear. The categories were conductive, mixed, sensorineural, indeterminate and normal.

Establishment of both air and bone conduction thresholds was a requirement for determining type. Inability to accomplish this task on the under 2 years of age population results in underestimation of percentage figures of type of impairment for the 0 through 4 age group. Below is a discussion of the findings in the 3 major hearing impairment type categories.

Conductive loss (A 15dB air bone gap or more at 500, 1000, 2000 or 4000Hz).

Analysis of test findings confirms our clinical impression that conductive hearing loss is by far the most common finding in the 5 through 9 age group for both native and non-native groups. Twenty-two and four tenths percent of the natives tested and 15.4% of the non-natives tested were so classified, see Figure 3. The testing limitations for young children mentioned above cause underestimation of type of impairment in the 0 through 4 age group. Forty-two percent were in the indeterminate category. The impedance findings for the 0 through 2 age range are probably a better indication of the extent of pathology in the early years. Those figures are cited later in this paper. The difference in percentage of occurrence between natives and non-natives with conductive loss is established by 5 years of age and becomes more and more prominent until age 35 when the margin between the two groups again narrows.

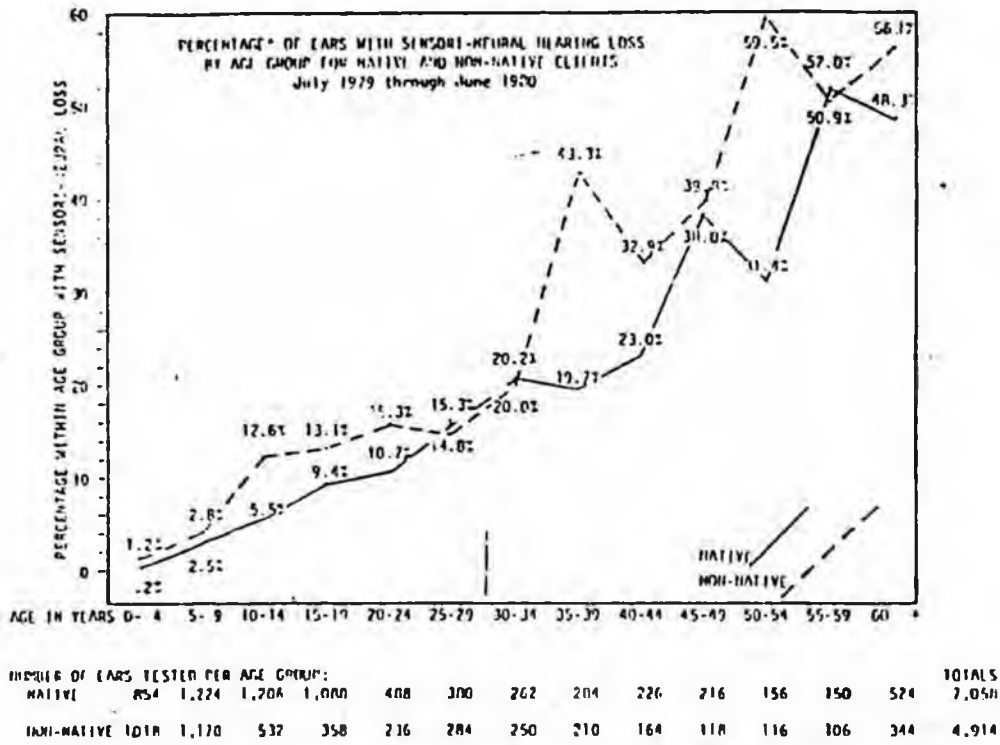
This inordinate number of Alaskan Natives with conductive loss at all ages is no doubt due in large degree to the lingering effects of middle ear pathology during their earlier years of life; Kaplan (1973). This is also reflective of the continuing rehabilitation efforts being directed at this group since known cases of chronic otitis media are likely to be seen on a recurring basis.



* Figures shown represent percentages of ears tested within that age group. Total ears tested per age group are shown below the graph.

FIGURE 3

Sensorineural loss (Bone conduction loss of more than 25dB at 500, 1000, 2000 or 4000Hz). The existence of sensorineural loss of clients seen for both native and non-native populations increased progressively with age from .02% of the 0 thru 4 group to more than 50% of those over 55 years of age. (See Figure 4.) Non-natives had a slightly higher number of purely sensorineural problems. Many Alaskans are exposed to inordinate amounts of high intensity noise from light aircraft, rifle fire, chain saws, snowmobiles, etc. In a separate survey done over a 4 year period; Kimball (1977), it was found that from 9 to 17% of Alaskan Natives entering high school had some degree of sensorineural impairment.



* Figures shown represent percentages of ears tested within that age group. Total ears tested per age group are shown below the graph.

FIGURE 4

Mixed loss (Presence of both the conductive and sensorineural criteria as described above). The percentage of mixed impairments seen for both racial groups was quite low until age 20. Above age 20 the occurrence of mixed loss increased steadily for the natives to 25% of the clients served at age 50 - 54. The non-natives did not show a similar increase with age. (see Figure 5). As was shown in the above reference to pure conductive and sensorineural loss, the non-natives have a similar or higher occurrence of sensory loss, but the probability of the necessary conductive component being present in adults in order for the results to be labeled "mixed" was greatly diminished. Also note that by combining the numbers of mixed and sensorineural losses it becomes evident that the percentages of Alaskan Natives with some degree of sensory deficit (sensorineural or mixed) is more than that of the non-native population seen.

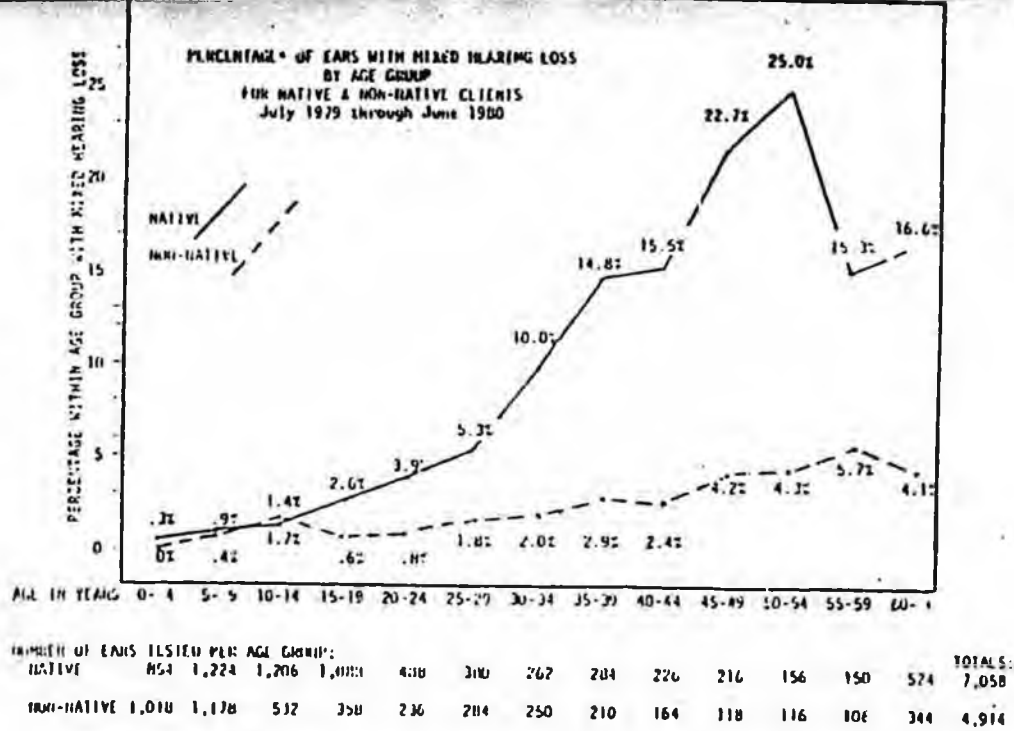


FIGURE 5

AMOUNT OF HEARING LOSS

The amount of hearing loss for each client was classified into one of six categories according to severity based upon the pure tone average (average of 500, 1000 and 2000Hz). The classifications are listed below.

- | | |
|------------|------------------------------|
| Normal | PTA 15dB or less |
| Borderline | PTA 16dB to 25dB inclusively |
| Mild | PTA 26dB to 40dB inclusively |
| Moderate | PTA 41dB to 60dB inclusively |
| Severe | PTA 61dB to 80dB inclusively |
| Profound | PTA 81dB or more |

Figure 6, 7, 8 and 9 shows the comparison of native verses non-native by age and indicate marked differences in the acuity throughout the span of ages tested. The differences between racial groups narrows with age for normal and borderline categories. The difference is slight for more severe losses until age 20. Beyond that age the margin between the groups widens substantially with the frequency of loss in natives being in excess of non-natives.

FIGURE 9

Figures shown represent percentages of ears tested within that age group. Total ears tested per age group are shown below the graph.

AGE IN YEARS	0-4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60+
NUMBER OF EARS TESTED FOR ACUTE DEAFNESS	400	350	400	350	250	200	250	200	150	100	50	20	10
TOTALS	2,050	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000

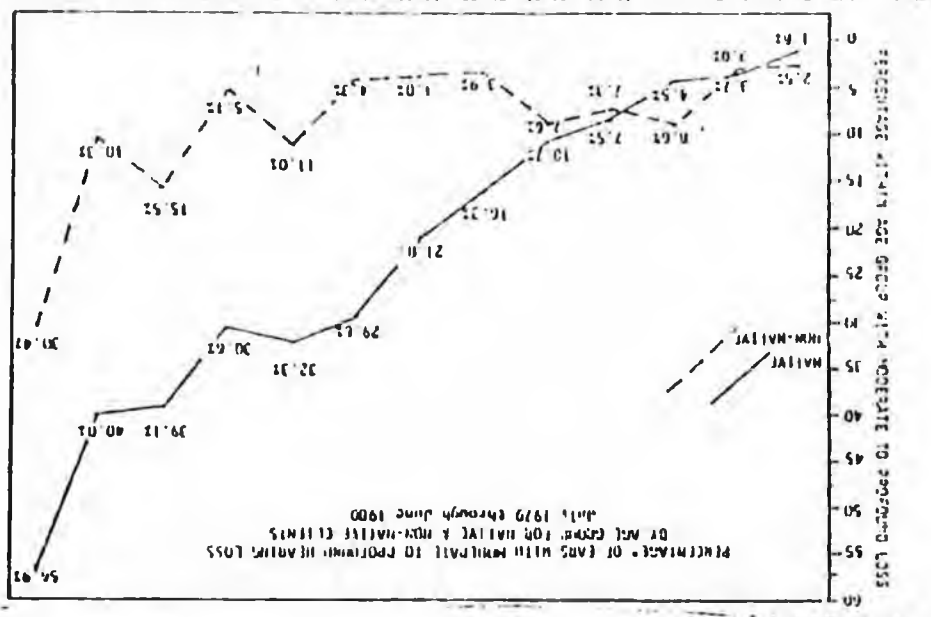
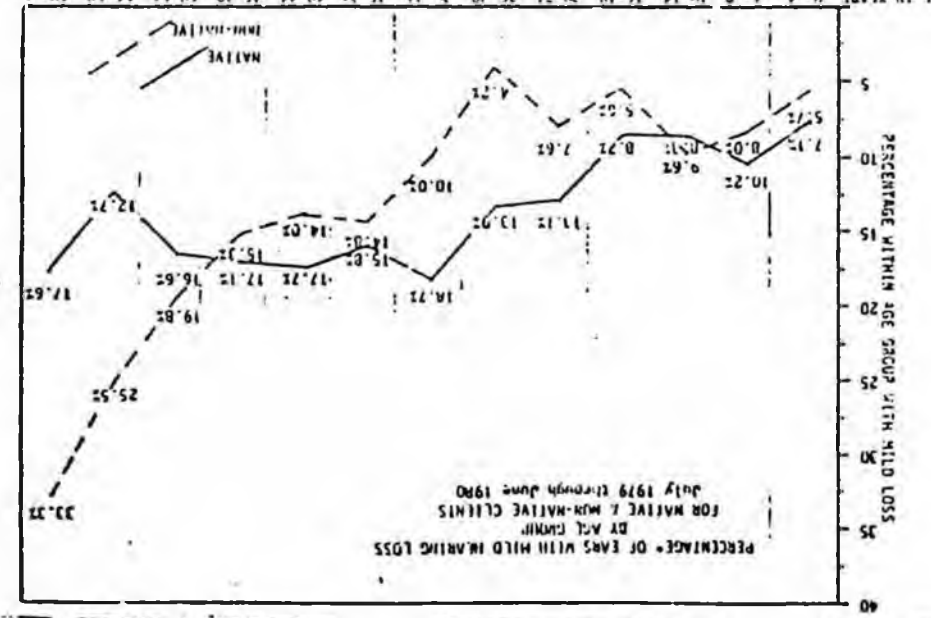


FIGURE 10

Figures shown represent percentages of ears tested within that age group. Total ears tested per age group are shown below the graph.

AGE IN YEARS	0-4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60+
NUMBER OF EARS TESTED FOR ACUTE DEAFNESS	400	350	400	350	250	200	250	200	150	100	50	20	10
TOTALS	2,050	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000



BILATERAL HEARING STATUS

The figures mentioned previously are for the total number of ears tested. It was determined that 61.2% of those with conductive losses had bilateral conductive losses. The remaining 38.8% had various combinations of conductive loss and of other types of loss. Eighty one and five tenths percent of the sensorineural losses were bilateral in nature while 53.5% of the mixed losses occurred in both ears.

When level of hearing acuity was evaluated in terms of bilateral symmetry it was found that 82% of the clients with normal acuity in one ear also had normal acuity in the other. Sixty-one and seven tenths percent of the borderline (PTA 16dB to 25dB), 43.5% of mild (PTA 26dB to 40dB), 46.9% of the moderate (PTA 41dB to 60dB), 32% of the severe (PTA 61dB to 80dB) and 34.9% of the profound (PTA 81dB +) were bilateral losses of the same degree.

IMPEDANCE FINDINGS

Of the 5,986 clients seen 3,264 received impedance testing including 1,912 natives and 1,351 non-natives. Findings indicate that abnormal middle ear status was common in both young native and young non-native clients. Problems greatly subside for the non-natives, however in the middle and upper age brackets, while the Alaskan Natives continue to demonstrate ongoing middle ear difficulties when seen for audiological evaluations and are far more likely to show at all ages test findings of large middle ear volume characteristic of tympanic membrane perforations or patent vent tube. Because of difficulty in medical followup in rural areas, vent tubes are not used as frequently with the natives as with non-natives. Results were classified according to criteria developed by Jerger; Jerger (1970), and are summarized below (See Figures 10, 11 and 12.)

Figure 9 shows percentage of ears tested within that age group. Total ears tested per age group are shown within the graph.

NON-NATIVE	819	876	209	161	93	97	84	56	60	28	32	14	24
NATIVE	750	524	502	260	203	156	169	114	123	69	76	171	2,821
TOTALS:													

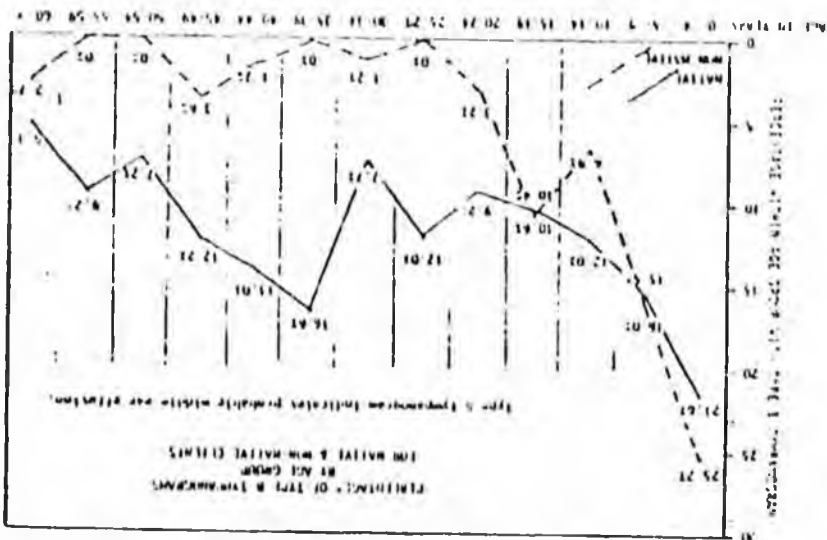
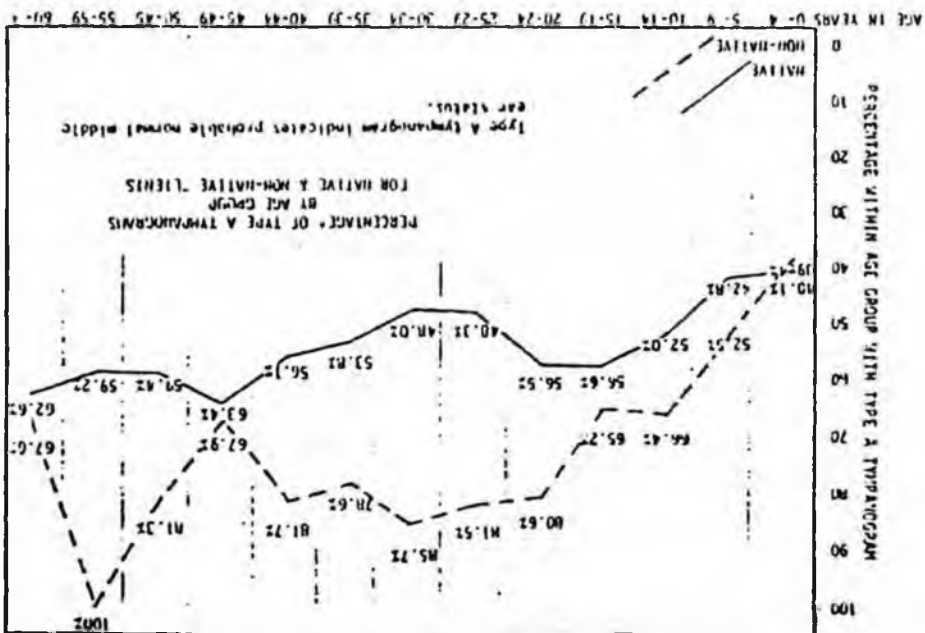


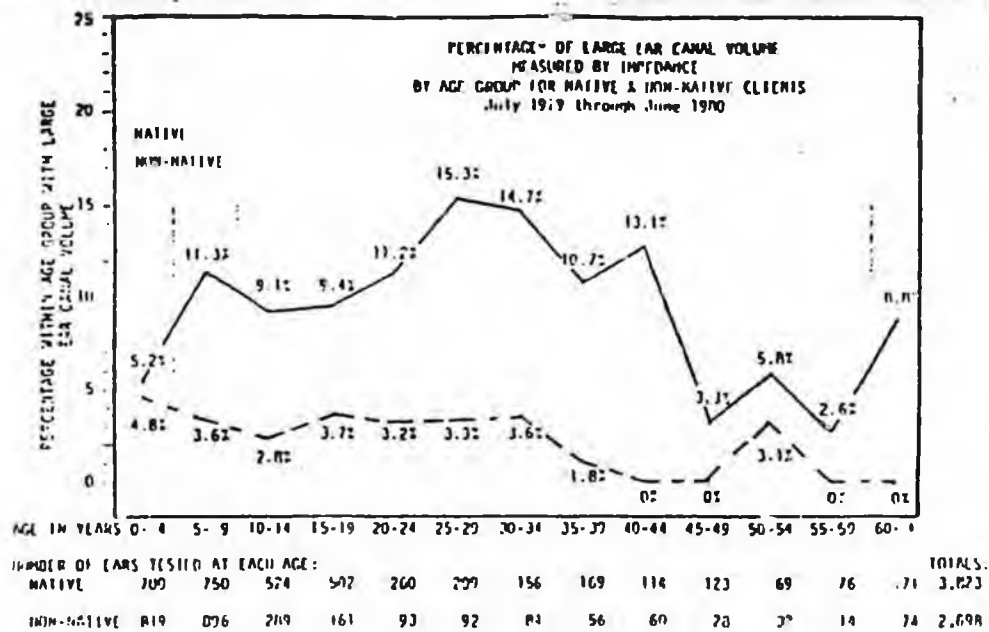
FIGURE 10

Figure 10 shows percentage of ears tested within that age group. Total ears tested per age group are shown within the graph.

NUMBER OF EARS TESTED AT EACH AGE GROUP:

NON-NATIVE	750	524	502	260	203	156	169	114	123	69	76	171	2,821
NON-NATIVE	819	876	209	161	93	97	84	56	60	28	32	14	24
TOTALS:													





* Figures shown represent percentages of ears tested within that age group. Total ears tested per age group are shown below the graph.

FIGURE 12

DISCUSSION

The data presented in this study clearly indicates that Alaskan Natives seen in our clinics during the past year have:

1. A higher failure rate on hearing screening tests.
2. A much higher occurrence of conductive loss and abnormal impedance findings at an early age. These conditions were also seen far more often in older clients than is true for non-natives.
3. A higher occurrence of sensory impairment (sensorineural and mixed).
4. A dramatically higher occurrence of mixed loss.
5. More hearing loss of every degree and substantially more individuals in the moderate to severe hearing loss categories beyond age 20.

One of the primary variables used in the study was the race of the clients served. It would however be a serious error to assume that the reason for high numbers of hearing impaired individuals who are the Alaskan Natives is solely because of the race of the clients. The remote environment of many Alaskan Natives results in numerous differences in life style and health care from the urban

dwelling, non-native Alaskans. Other variables which should be taken into consideration are differences in housing, nutrition, sanitation, climate and health care access.

The past 7 years have been a time during which the quality and quantity of audiologic services available in Alaska have increased rapidly. The diagnostic programs for the hearing impaired are now largely in place. The next area of concern should clearly be the further development of comprehensive aural rehabilitation programs which addresses the needs of all ages. This effort should be closely linked to the existing clinical programs but should draw upon the resources of both the educational and health system in the state. The geography and cultural diversity of Alaska will indeed make this a challenge. Our efforts in the future will be toward this goal.

Acknowledgements

This research was partially supported by Crippled Childrens RB Special Projects Grant #10-H-820003-11-0. Cathy Wheeler and June Hill assisted greatly in the compilation of this information and the preparation of this manuscript.

B I B L I O G R A P H Y

- Canterbury, D., Public Health Audiology in Rural Alaska: An Interagency Approach, ASHA Journal (1978).
- Ciocco, A., Audiometric Studies on School Children, Pub. Hlth Rep. 51, 1609 - 1621 (1936).
- Kaplan, G., Fleshman, K., Bender, T., Baum, C., and Clark, P., Long Term Effects of Otitis Media - A Ten Year Co-hort Study of Alaskan Eskimo Children, Pediatrics, 52, 558 - 577 (1973).
- Kimball, B., Ear Pathology and Hearing Loss in an Alaskan High School, Audionews 2, 7 (1977).
- Jerger, J., Clinical Experience with Impedance Audiometry, Arch. Otolaryngol., 92, 311 - 324 (1970).
- Tower, E., Chronic Otitis Media in Alaskan Natives: 1954 - 1979 An Historical Perspective (1979).
- Boer, H., McGovern, F., Zink, D., An Evaluation of 1000 Children with Hearing Loss, Journal of Sp. and Hrng Disord. Vol. 32 No. 4 (1967).

ALASKA BLIND/VISUALLY IMPAIRED PROGRAM

BRISTOL BAY REGIONAL RESOURCE CENTER
429 "D" Street, Suite 306
Anchorage, Alaska 99501
907-274-4534

JANE BRODIE
PROGRAM COORDINATOR

RECEIVED

March 5, 1981

MAR 10 1981

ALASKA D. D. COUNCIL

Senator Charles Parr
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Parr:

Dot Truran of the Governor's Council on Handicapped and Gifted requested that I provide you with some information on vision screening. This relates to the proposed vision and hearing screening legislation that Dot and John Nuttall, Chairperson of the Legislative Committee, spoke with you about approximately two weeks ago.

In order to provide current statistics regarding the value of vision screening, contacts out-of-state were made. Ms. Elizabeth Field, Vision Screening Consultant for Arizona Department of Health and Social Services reported that last year 7-10% of their school age youngsters failed the vision screening and thus required referral for a complete visual examination by an eye specialist. Of these, 75% were actually followed up on and saw an eye physician. Ms. Field indicated the 75% rate was higher than average and felt this was due to Arizona's practice of having the entire process (initial screening through referral) being handled by one person within the local districts as opposed to a few technicians hired to mass screen a state with someone else handling the follow-up. She also reported that the National Society for the Prevention of Blindness reports on a 6% failure rate for pre-school children. This too is considered significant.

The statistician for the National Society for the Prevention of Blindness was unable to be contacted by telephone and a written request for information has been sent.

Mr. Jim Nelson, Chief of Child Health for the State of Illinois was also contacted. He advised they had just completed the FY80 Annual Report of Hearing and Vision Screening. This report is a complete summary of all their screening statistics. This is being sent to Alaska via special delivery. When more information is received, I shall forward it to your office.

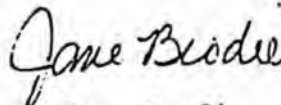
Senator Charles Parr

March 5, 1981

Page Two

As a teacher of visually impaired, I see the importance of and great need for comprehensive vision screening for Alaskan children. I do hope you will consider sponsoring this important legislation. If you need additional information, please do contact me.

Sincerely,



Mrs. Jane Brodie
Program Coordinator

jr

cc: Senator Don Bennett

↳ Governor's Council on Handicapped
and Gifted

MEMORANDUM

Substantiation of need

Proposed Hearing Screening Legislation

The following information is provided as guidance material to be used when considering the proposed hearing screening legislation (SB). This legislation will provide establishment of a uniform hearing screening program statewide for school children to be conducted by trained lay personnel. Training will be provided by the Communicative Disorders Program (H & SS) staff according to standards established by the Vision and Hearing subcommittee of the Governor's Council for the Handicapped and Gifted. Efforts to initiate such screening to date have resulted in sporadic compliance due to lack of standards, poor funding and poor definition of who has designated responsibility for this task. This legislation addresses each of these issues. Through such a screening program approximately 41,300 children would be screened annually. A conservative estimate of a 10% failure rate statewide would mean that 4,130 students at high risk would be identified each year. Of the 4,130 students failing screening approximately half would be referred for medical attention, one fourth would be found to need other non-medical services (such as counseling concerning noise exposure, hearing aid management, preferential seating in school etc.) One fourth would be found to have normal hearing and would not need further services.

Hearing loss continues to be one of the major health problems in Alaska. Statistics from other states indicate that a hearing screening failure rate of 5% is usually anticipated. In Alaska when the same screening procedures are employed the failure rate ranges between 10.3% and 36.6%. The highest failure rate is found in the remote areas (especially in the rural villages of Northern and Western Alaska).

Cases of hearing loss identified by these screening procedures vary from mild transitory ear infections to severe sensory damage. Otitis media (middle ear infection) is by far the most common condition identified prior to grade three. Cases of otitis media will be referred to a physician, public health nurse or health aide who will administer medications, monitor the case over a period of time, and refer for more specialized attention when indicated.

RE: Proposed Hearing Screening Legislation

Hearing loss due to noise exposure is also found commonly in older students through screening. High school students at Mt. Edgecumbe have had their hearing routinely checked for several years. This type of hearing loss has been discovered in 9 to 17% of the student population each year. It is believed that this high prevalence of noise induced hearing loss is caused by excessive exposure to high intensity noise from rifle fire, light aircraft, snow mobiles and motor boats. This condition is permanent and may be progressive with continued exposure. Early identification is important so that ear protection, counseling and hearing health education material may be provided.

The implementation of a uniform hearing screening effort in Alaska is a necessary part of developing a preventative program. Cases identified can be; 1) referred for prompt medical attention, 2) counseled concerning prevention of further hearing loss, 3) provided with remedial services through existing agencies, 4) monitored on an ongoing basis. Without prompt and systematic identification many of these cases will no doubt go undetected until corrective procedures are less effective.

Should you wish further information concerning hearing loss in Alaska please contact me.

jrh



COUNCIL OVERVIEW
RECOMMENDATIONS STATE OF ALASKA
GOVERNORS COUNCIL FOR THE HANDICAPPED AND GIFTED

UNIVERSITY PLAZA OFFICES WEST SUITE C • 600 UNIVERSITY AVENUE • FAIRBANKS, ALASKA 99701
PHONE (907) 479-6507

February 23, 1981

- * During the past two years the Governor's Council for the Handicapped and Gifted established a Vision and Hearing Screening Committee which studied the need for a statewide vision and hearing screening program for all school-age children and developed comprehensive vision and hearing screening standards and guidelines. The committee members included a wide range of community members, physicians, vision and hearing specialists, public health nurses, educational specialists, and representatives of the Departments of Health and Social Services and Education as well as school administrators.
- * The Committee finalized its comprehensive report in October 1981 and presented recommendations to the Departments of Health and Social Services and Education. The Department of Health and Social Services attempted to institute vision and hearing screening in place of the presently required physical examinations (AS 14.30.070). Proposed regulations to this effect went to public hearing in December 1980. Due to the amount of testimony received in favor of retaining physical examination requirements, the Department abandoned this effort in favor of supporting statutory change which would include vision and hearing screening and allow persons other than physicians or nurses to conduct the screening.
- * The Council believes that vision and hearing screening is important to the school-age community and that every effort should be made to institute the vision and hearing screening programs according to the standards recommended by the Committee. Both the Department of Health and Social Services and the Department of Education are in agreement with the Council.

It is the Council's hope that legislators will support introduction of this important legislation, enact the legislation, and institute statewide vision and hearing screening programs in local school districts during the 1981-82 school year.

John Nuttall

John Nuttall

Council Chairperson-elect
Chairman, Legislative Committee



February 23, 1981

LEGISLATIVE PROPOSAL

VISION AND HEARING SCREENING OF SCHOOL-AGE CHILDREN

PURPOSE: The State of Alaska should insure that adequate resources are provided so that all school-age children receive periodic vision and hearing screening.

NEED: There is a definite relationship between a child's physical well-being and his/her readiness to learn. Seventy-five per cent of all learning is attained through the sense of vision. A great deal of learning is obtained by auditory means. Undetected vision and hearing difficulties can and do adversely affect a child's school adjustment, learning, and health.

While many school districts (22 of 33 districts which responded to a 1980 survey) conduct some type of vision and hearing screening, other districts do not. There is presently no requirement for all children to receive vision and hearing screening.

OBJECTIVES:

School vision and hearing screening programs should be required to:

1. Identify children who may have vision or hearing problems.
2. Inform parents of each child who fails screening of the possibility of a problem.
3. Recommend to the parents, when appropriate, that professional examination and/or treatment be sought and instituted.
4. Refer children who have a vision or hearing impairment (as identified by a physician, audiologist or eye specialist) for evaluation of the educational and communication implications of the hearing loss or vision impairment.
5. Inform the child's teacher of the vision or hearing difficulty.
6. Maintain records of the status of children referred to insure that needed services are obtained whenever possible.
7. Maintain records of the over-all screening program activities and complete and transmit reports of these activities at the close of each school year.

PROGRAM: A statewide screening system must include the following:

1. Regulations, program standards and guidelines adopted by the Department of Health and Social Services in conjunction with the Department of Education.
2. General supervision of school district screening programs by the Department of Health and Social Services:

Vision Consultant Public Health Nurse in the Division of Public Health for vision screening.

Communicative Disorders Program in the Division of Public Health for hearing screening.

3. Training and certification of screening personnel by the Department of Health and Social Services.
4. Funding for local school districts on a cost per child basis and funding for general statewide program supervision and training of screening personnel.

RATIONALE: The Department of Health and Social Services position states that:

Screening to detect vision and hearing impairments is a valuable and cost-effective preventive health measure. Simple tests can effectively and efficiently screen large numbers of children at minimal cost in order to identify those children in need of further treatment or intervention. Early identification is critical in order to provide an opportunity for each child to maximize his/her learning experience.

The initiation of periodic vision and hearing screening of school children has been uniformly supported by the Departments of Education and Health and Social Services, local school districts, public health nurses, native corporations, the Governor's Council for the Handicapped and Gifted, and the private medical community.

With the dramatic rise in health costs in Alaska and the United States, efforts are increasingly being directed to preventive services and to the use, where possible, of non-medical personnel. Screening examinations which can identify children with vision or hearing impairments can be performed effectively, rapidly, and inexpensively by appropriately trained lay personnel. Children who fail the initial screening are referred for further evaluation, diagnosis, treatment, and remediation. Children with chronic or permanent impairments will be identified so that remedial or special education programs can be appropriately provided.

LÉGISLATIVE OPTIONS:

PRIORITY 1: New legislation under educational statutes, Section 14 as follows:

"An Act relating to vision and hearing screening in the schools,
and providing for an effective date."

Section 14.30.080. Vision and hearing screening required. Vision and hearing screening shall be required for all school children.

(a) Screening shall be done in accordance with regulations promulgated by the Department of Health and Social Services in cooperation with the Department of Education.

(b) The Department of Health and Social Services shall train local school district screening personnel, assist with referral and follow-up of children needing professional examination or treatment, and assist with maintenance and repair of screening equipment.

(c) Local personnel conducting vision and hearing screening shall be trained and certified by the Department of Health and Social Services.

(d) School districts shall receive funds for screening from the Department of Education on the basis of cost per child per screening event.

(e) This Act takes effect July 1, 1981.

PRIORITY 2: Amend existing physical examination statute as follows:

Section 1. AS 14.30.070 is amended by adding a new sub-section to read:

(d) Vision and hearing screening examinations required by regulations promulgated under AS 14.30.065 shall be made by a competent individual authorized by the commissioner of health and social services to perform such tests.

Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

FUNDING: The fiscal note for a proposed new statute or an amendment to existing statute for vision and hearing screening is as follows:

DEPARTMENT OF EDUCATION;

Funds to school districts based on \$3.00 per screening per child.

1980-81 enrollments in grades to be screened in public schools:

Vision grades		Hearing grades	
K or 1	6,700	K or 1	6,700
3	6,725	2	6,737
5	7,049	3	6,725
7	6,385	7	6,385
11	<u>6,603</u>	11	<u>6,603</u>
	33,462		33,150

Total children eligible = 66,612 x \$3/child = \$199,836

DEPARTMENT OF HEALTH AND SOCIAL SERVICES;

Vision Consultant Public Health Nurse Position

Anchorage based	
Range 18, PHN III	
Salary \$31,680	
Benefits 8,479	
Total	<u>40,159</u>
	\$40,159

Travel for both vision and hearing consultants (hearing personnel already employed by the Communicative Disorders Program of the Division of Public Health) to train school district and REAA personnel and Public Health Nurses to do screening:

	20,000
Contractual	9,100
Commodities	4,750
Equipment	<u>2,450</u>
	\$76,459

TOTAL FISCAL NOTE: \$276,295

ALASKA VISION AND HEARING SCREENING

NEEDS

Hearing Screening

Vision Screening

Standards

Standards

Uniform practices

program requirements
program coordination
program reporting;
follow-through;
surveillance

Uniform practices

program requirements
program coordination
program reporting;
follow-through;
surveillance

Training for screening

Training for screening

Certification of
screening personnel

Same personnel to do
← both →

Certification of
screening personnel

Screening personnel

School nurses
Health clerks
-paraprofessionals/
technicians
Speech & language
specialists

Screening personnel

Funding

Funding

Program Coordination

Program Coordination

Screening Personnel

Screening Personnel

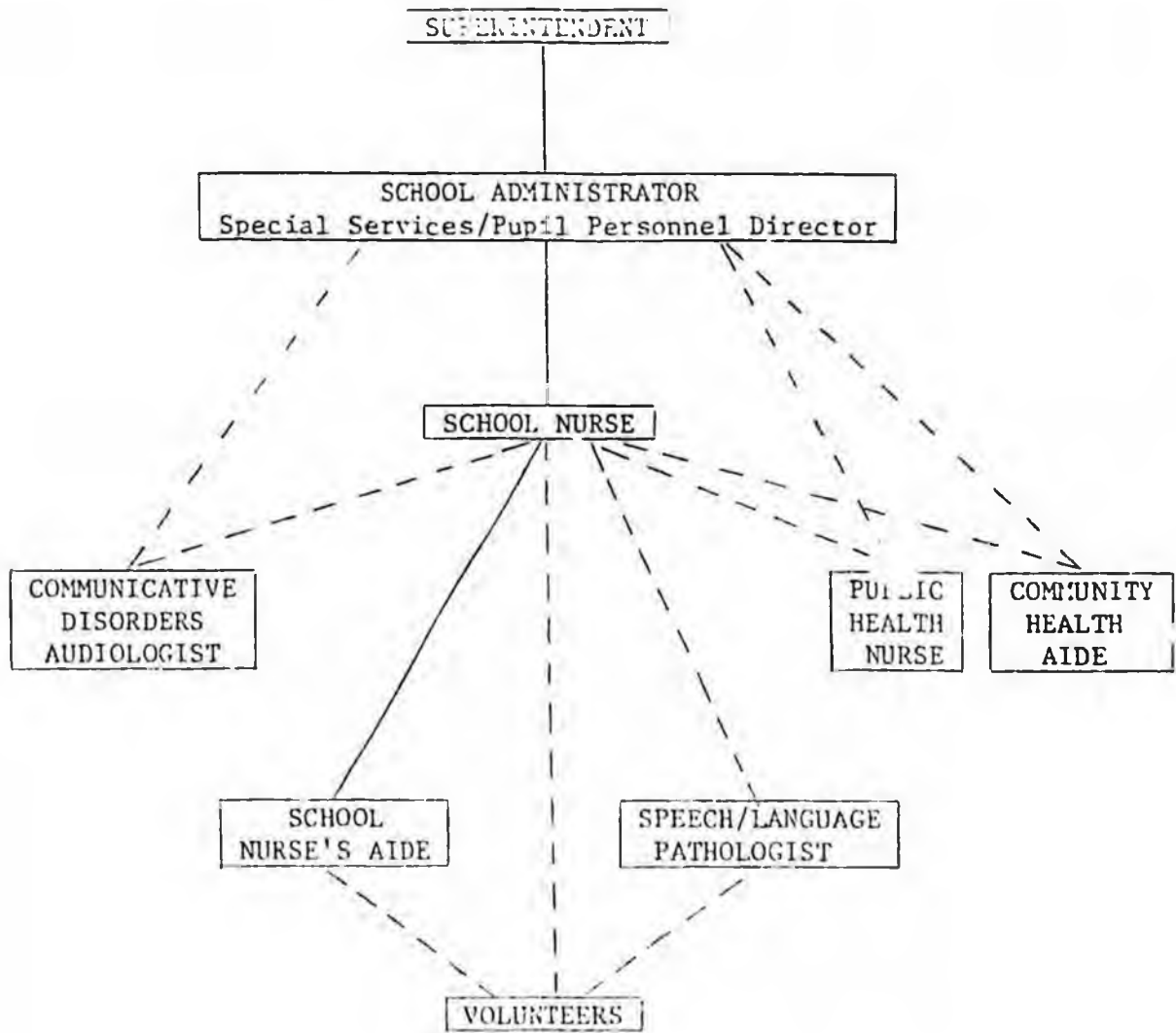
Screening equipment
purchase
maintenance

Student equipment
glasses

Student equipment

Public Education/Awareness

PERSONNEL INVOLVED IN SCREENING FOR WHOM A COORDINATED SYSTEM NEEDS TO BE DEVELOPED



FEB 16 1982

Rural Alaska Community Action Program, Inc.

February 11, 1982

Senator Terry Stimson
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Senator Stimson:

It is my understanding that you intend to hold a hearing on House Bill 464 and 465 on Friday, February 12th. We appreciate this opportunity to comment. We applaud the efforts of Representative Zharoff in addressing the needs of children of Alaska. Our concern in this particular legislation (i.e., 464 and 465) is that we are once again excluding pre-school children.

We must begin to consider the needs of young children, if we are truly committed to prevention rather than management by crisis. I would like to know specifically if there has been input from Dr. Middaugh, the state epidemiologist, on this matter. The state had a Blue Ribbon Committee on hearing screening and ear disease a year ago. It was a very involved, hard-working committee that developed and produced a very elaborate report and recommendation regarding hearing screenings. It would benefit the NESS Committee of both Houses to review that Blue Ribbon Committee report and consider the recommendations therein and make appropriate amendments.

This is a precedent that is being established here. It is beginning to allow our cumbersome bureaucracies to work together in addressing some important needs of the young child. I believe that it is imperative that we do this in a positive and professional manner. I would conclude with imploring your assistance in getting the state to realize that young children between the ages of 0 and 5 are human beings with needs and should be included in this type of legislation.

Senator Terry Stimson
February 11, 1982
Page Two

Recommendations:

- 1) That children enrolled in Head Start programs be included:

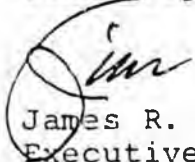
i.e., Bill 464, line 13

...when the child enters school "or Head Start"... or

- 2) That the full recommendations of the Blue Ribbon Committee be reviewed.

Please contact me if you have any comments or questions.

Sincerely,



James R. Ayers
Executive Director

cc: Representative Michael Beirne
Representative Terry Martin
Representative Botte M. Cato
Representative Hugh Malone
Representative Sally Smith

RECOMMENDED

ALASKA
VISION SCREENING STANDARDS

OCTOBER 1980

DEVELOPED BY THE VISION/HEARING SCREENING COMMITTEE
OF THE
GOVERNOR'S COUNCIL FOR THE HANDICAPPED AND GIFTED

These Vision and Hearing Screening Standards have been developed through the diligent efforts of the following individuals who represented their respective professions and/or organizations on this subcommittee of the Alaska Governor's Council for the Handicapped and Gifted.

Ms. Jean Lucius	Public Health Nursing
Dr. David Spence	MCH-CCS-Pediatrics
Mr. Tom Buckner	State Department of Education Special Education Section
Dr. Marj Robinson	Rural Special Education Admin.
Dr. Thomas Harbour	Alaska Optometrists Assoc.
Dr. James Patterson	Alaska Ophthalmologists Assoc.
Mr. Carl Dixon	Alaska Native Medical Center
Dr. Richard Raugust	Alaska Otolaryngologists
Mrs. Barbara Seidl	School Nursing
Ms. Ann Rogers	N.E.A. Alaska
Mr. Carl Pohjola	School Superintendent
Dr. Jim Ayers	Head Start Program
Dr. David Canterbury (Co-chairperson)	Communicative Disorders Program
Mrs. Jane Brodie (Co-chairperson)	Blind/Visually Impaired Program

Consultants:

Miss Elizabeth Field
Vision Screening Consultant
Arizona Dept. of Health

Mr. Jim Nelson
Child Health Section
Illinois Department of Health

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1.0 INTRODUCTION

The State of Alaska is committed to the belief that each child has a right to an equal opportunity for a quality education. Research has shown that there is a relationship between a child's physical well-being and his or her readiness to learn. Since up to 75% of all learning is attained through the sense of vision, vision difficulties can adversely affect a child's learning. High quality vision screening programs identify those children who need diagnostic attention by an eye specialist (ophthalmologist/optometrist) in order that their visual condition is treated and/or corrected to the best possible status.

Effective screening involves implementing uniform policies and methods by trained personnel using appropriate equipment; and adhering to well organized referral; follow-up; and reporting procedures. Programs of high quality can be established through the cooperative efforts of (1) school personnel, i.e., school nurses, teachers, teacher aides; (2) health personnel, i.e., public health nurses, community aides, physicians, ophthalmologists and optometrists; and (3) appropriately trained volunteers.

Two things need to be emphasized in screening programs. The first is that screening procedures are not intended to be diagnostic. It is improper to conclude that persons who fail screening procedures have vision loss. Screening selects the population that needs further, more refined evaluations. Parents and visual screeners should be instructed to seek a professional visual evaluation by an eye specialist (ophthalmologist/optometrist) whenever they have any doubt about any child's vision, regardless of any recent vision screening with normal results.

Secondly, the diagnostic process which follows screening may identify those youngsters who after best correction still have a vision impairment to such an extent that they meet the eligibility criteria for special education. At this time, the educational implications of a vision loss need to be added to the medical implications. Too often the sole goal is referral of medical needs of those who fail screening procedures.

Objectives of a School Vision Screening Program are:

1. To identify the children who may have eye problems.
2. To inform parents of each child who fails the screening of the possibility of a problem.
3. To recommend to the parents, when appropriate, professional visual evaluation and care be sought for children with possible visual problems.

1.0 INTRODUCTION (Continued)

4. To pursue the matter until an examination is made and appropriate evaluation and/or treatment is instituted.
5. To inform teachers of their students' visual difficulties and its resolution.
6. To refer children who have a vision impairment (as identified by an eye specialist), for evaluation in the unique educational implications of the vision impairment.
7. To maintain records of the status of children referred to insure that needed services are obtained whenever possible.
8. To maintain records of the overall screening program activities and complete and transmit as required annual reports of this activity at the close of each school year.

2.0 SCREENING PROCEDURES

Vision screening involves testing in an abbreviated way, large numbers of children. The main purpose is to identify children who are in need of a diagnostic visual examination and to refer them for professional diagnosis.

From the following screening schedule it is apparent that the specific screening tests used will vary from one grade to another. It is recommended that the age appropriate battery of tests be administered at one time. The frequencies of screening stated below are minimal standards state-wide for Alaska. More frequent screening may be justifiable based on local circumstances.

2.1 POPULATIONS TO BE SCREENED

2.1.1 SCREENING SCHEDULE

SCREENING PROCEDURE	GRADES							ALL SPEC ED STUDENTS ANNUALLY	ALL NEW STUDENTS
	*Preschoolers	K and/ or 1	3	5	7	11			
Observation	At all grade levels - P-12							X	X
Distance Visual Acuity	X	X	X	X		X	X	X	
Cover/Uncover	X	X		X			X	X	
Color Deficiency	Once after grade six for all students								After Grade six

2.1.2 Waivers

A child is exempt from screening or testing if a parent, guardian, or person in loco parentis of the child presents a written statement or given verbal notification to the administration of the child's school that the parent, guardian, or person in loco parentis does not wish the child to be screened.

2.2 TYPES OF SCREENING

2.2.1 Observation

Observation of visual behavior is one of the most important means of determining potential visual problems. Observation

- *Preschoolers
- (1) Ages 2 1/2, 3 or 4.
 - (2) School districts are not required to screen preschoolers until school entry.
 - (3) Other agencies who are involved in children of this age should adhere to these standards.

2.2 TYPES OF SCREENING (Continued):

2.2.1 Observation (Continued):

should be an ongoing activity and performed by all persons who are in contact with children, i.e., teachers, aides, volunteers, parents, relatives, and other health personnel. See "Observation--Signs of Eye Trouble" - Appendix A.

2.2.2 Distance Visual Acuity:

Distance Visual Acuity is the most important single test of visual function. Distance Visual Acuity tests the individual's ability to see and to report correctly forms seen under standards testing conditions. The following screening test symbols are recommended and are ranked in decreasing order of difficulty and effectivity.

1. Snellen Letter - may be used for 1st grade and above.
2. E Chart - may be used with pre-school, K, and special education students.
3. Hand Chart - may be used with pre-school, K, and special education students.
4. Picture Chart - reliability less refined as with above tests useful with pre-school and special education students.

2.2.3 Cover/Uncover Test:

The cover/uncover test will determine any abnormality of muscle imbalance or ocular alignment. The eyes must be properly aligned to have binocular vision. Muscle balance screening is especially important in young children to detect such conditions as strabismus which may produce amblyopia. If muscle imbalance is detected and properly treated before the age of 4 to 6, visual prognosis is good.

2.2.4 Color Test:

Assessment of color vision does not need to be made until a student has reached grade 6 and need be made only once. Deficiency in color vision is not correctable, but is important for the individual and his parents, and appropriate personnel to be aware of such a deficiency. A knowledge of color deficiency is important in art, science, safety, and vocational counseling. Color vision can be screened by using appropriate sets of color plates. (See Section 6.2)

2.3 RESCREENING OF FAILURES

If a child fails one or more of the tests (except color) he/she should be rescreened with the failed test on a subsequent day.

2.3 RESCREENING OF FAILURES (Continued)

optimally about one week later. If the student again fails, he/she should be referred under the criteria and methods listed in Section 3.0 - Referrals. This rescreening procedure is necessary to prevent over-referrals. It should be noted that in remote areas rescreening may have to be done on the same day.

2.4 SCREENING OF CHILDREN WHO WEAR GLASSES OR CONTACT LENSES

Vision of children who wear glasses or contact lenses should be tested with their glasses or contact lenses in place. The determination of the need for a referral should be based on levels of referral delineated in Section 3.0.

2.5 TEST ENVIRONMENT

It is recommended that an isolated area at least 20 feet long be made available to conduct vision screening with Snellen charts. Room lighting recommended is 10 to 30 foot candle power. Where equipment is not available to determine this, normal lighting for school work will provide adequate illumination to conduct vision screening. Be sure there is no glare or shadows on the charts.

2.6 VISION SCREENING MACHINES

If your district is considering using vision screening machines, it is recommended you contact the Maternal and Child Health Department of Public Health for information on these machines. The vision consultants on this committee discourage their use.

3.0 REFERRALS

One of the most crucial aspects of vision screening is referral for a professional diagnostic visual evaluation of those students who fail any area of the vision screening after rescreening. The referral for a professional visual evaluation should be initiated and monitored by the school district; however, ultimate responsibility for follow through rests with the parents. It is important therefore to involve the parents in the process at the earliest possible time. (See Figure 1 on page 7.)

3.1 CRITERIA FOR REFERRAL

SCREENING PROCEDURE	AGE	CRITERIA
Distance Visual Acuity	3, 4, or 5 year olds	Two lines of difference in acuity between the Right and Left Eye OR, 20/50 or Less in one or both eyes
	6 year olds and above - including students wearing glasses, and contact lenses	20/40 or Less in one or both eyes
Cover/Uncover	All Ages	Any movement indicative of a tropia or large phoria
Observation	All Ages	Any child who has an obvious sign of eye defect or valid eye complaints

3.2 REFERRAL FOR PROFESSIONAL DIAGNOSTIC VISUAL EVALUATION

Any individual who fails one vision screening test on two occasions should be referred for a professional diagnostic visual evaluation by an eye specialist. Figure 1 on page 7 diagrams the referral process.

3.3 REFERRAL FOR SPECIAL EDUCATION PLACEMENT

A child with a visual impairment may be eligible for special education placement in accordance with the eligibility guidelines in the current Alaska Special Education Handbook of the Department of Education.

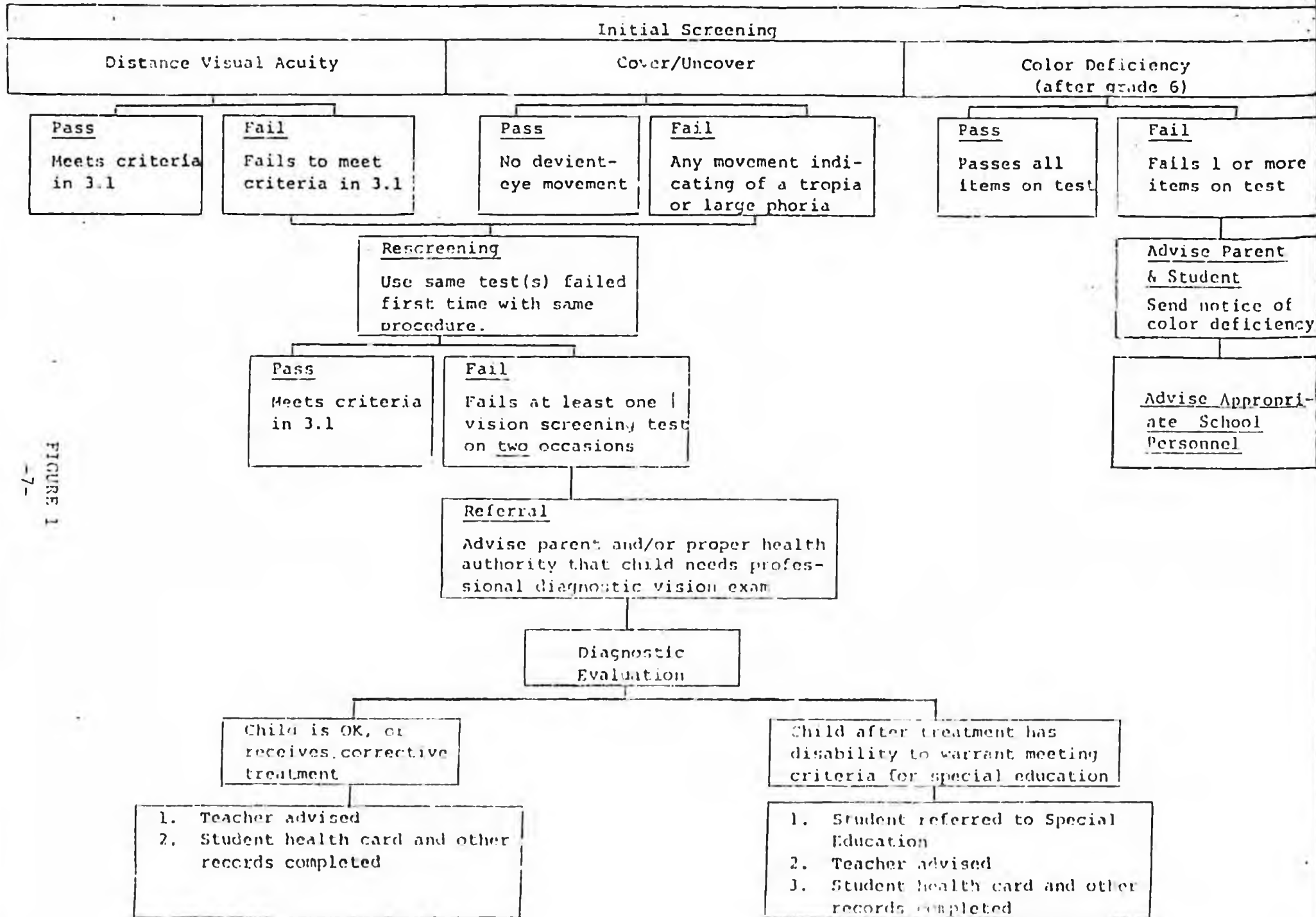


FIGURE 1
-7-

4.0 RECORDKEEPING, REPORTING, AND FORMS

A vital component of the vision screening program is the recordkeeping and reporting process. The individual in each district who has been designated to coordinate vision screening activities should also be responsible for recordkeeping and reporting as is stipulated below:

4.1 CONFIDENTIALITY

Individual screening and testing records shall be confidential as required by district policy. The records shall be available to health agencies to assist in obtaining proper and necessary health and educational care.

4.2 MANAGEMENT

The following forms should be used in the manner recommended below when conducting the vision screening process.

4.2.1 Reporting Observations

At the outset of each school year the information sheet Observation--Signs of Eye Trouble and the Student Observation Form should be distributed to each teacher in the district. The Observation--Sign of Eye Trouble is meant to inform teachers of the types of behavior exhibited in the classroom which might indicate a vision disorder. The Student Observation Form comes in duplicate and is used for referring those students to the individual responsible for screening. The second copy is to be kept by the teacher for classroom records. Samples of these forms are in Appendix A and B.

4.2.2 Recording Daily Screening Activities

The form Vision Screening Worksheet should be used by the screener to record the daily screening activities. Data from these forms will be used in the Annual Vision Screening Report submitted at the end of each school year. A sample of the Vision Screening Worksheet is in Appendix C.

4.2.3 Referrals to Parents

4.2.3.1 Professional Diagnostic Visual Evaluation

When, as a result of vision screening, it is determined that a professional diagnostic visual evaluation is needed, the parents should be notified by mail, by telephone, or by parent conference. Use of the Parents Referral Form is

4.2.3.1 Professional Diagnostic Visual Evaluation (Cont.)

recommended. This form informs the parent of the reason for the referral and has a "tear off" portion which the eye specialist can use to report findings back to the schools. The form comes in duplicate, one copy to be kept by the referring party. See sample in Appendix D.

4.2.3.2 Color Vision

When color deficiency has been detected the parents should be notified by sending them the form Parents Notification of Color Deficiency or by direct parent contact. A sample of this form is in Appendix E. The appropriate school personnel should also be notified.

4.2.4 Exam Results and Recommendations

When the results of the professional diagnostic visual evaluation are returned to the coordinator of vision screening, these results should 1) become part of the individual's school health record, 2) be communicated to the individual's teacher(s), and 3) be considered if a child study team is reviewing a child for special educational services.

4.2.5 School Health Records

School health records will exist in varying form from district to district. Entry should be made in the health record whenever the child has failed screening and rescreening tests. The subsequent referral for professional diagnostic visual evaluation should be traceable in the record.

4.2.6 Annual Report

During April or May of each year an annual report of vision screening activities should be completed using the screener's copy of the Screening Worksheet, Parent Referral Form, Parent Notification of Color Deficiency, and professional diagnostic evaluation reports as sources of input. A sample of the Annual Vision Screening Report is included in Appendix F. A copy of this report should be sent to Vision Screening Consultant, Department of Health & Social Services, Section of Family Health.

5.0 PERSONNEL AND TRAINING

5.1 PERSONNEL

State: Coordination and administration of vision screening at a state level should be the responsibility of a full time Vision Screening Consultant from the Department of Health & Social Services. The Vision Screening Consultant shall develop and conduct training programs, monitor compliance to standards, coordinate screening services performed by various agencies in the state, keep all state records and reports regarding vision screening, and disseminate information about vision screening.

Local: The administration of vision screening should be the responsibility of superintendent of the school district. The superintendent should designate the management or direction of the vision screening program to a local health care provider such as a school nurse or public health nurse. This individual should be certified in vision screening by the State Vision Screening Consultant to assure that districts' standards and procedures for follow-up activities are known and followed.

Alaska school districts may employ or contract personnel for this purpose. The needs of some districts may be best served by establishing an agreement with the appropriate local public health nurse's office or regional public health agency to provide the supervisory and consultative function.

In managing the vision screening program the local health care provider should perform the following duties:

- a) Arrange a screening schedule and notify all involved.
- b) Administer screenings and rescreenings.
- c) Notify parents of referrals.
- d) Follow-up on referrals.
- e) Complete recordkeeping and reporting.

The local health care provider may arrange for the training of other individuals such as teachers, aides, volunteers (to be known as screeners) to administer the vision screenings and rescreenings. School districts should make an effort to employ reasonable permanent screeners; persons who understand that they carry screening responsibility over a period of time and thereby have an opportunity to accumulate knowledge and develop necessary skills.

5.2 TRAINING

It is recommended that the State Vision Screening Consultant of the Department of Health & Social Services, develop the curriculum for a training program for vision screeners and that this program also establish certification and recertification procedures for such personnel, including the use of a competency based test. A minimum of eight hours of training, including practicum is

suggested for new screening team members. A minimum of two hours refresher training should be provided by or under the direction of the State Vision Screening Consultant. Training procedures for vision screening should be designed to provide personnel with basic knowledge of vision and its effect on learning and with technical skills adequate to perform the screening task properly. Training should ensure that screeners develop competencies in:

1. Operation of screening equipment.
2. Identification of improperly functioning equipment.
3. Instruction-giving.
4. Conditioning techniques.
5. Eliminating inappropriate cues.
6. Evaluating the reliability of responses.
7. Making pass/fail judgements.
8. Identifying the difficult-to-test child.
9. Follow-up procedures.
10. Accurate recording of data.

Additionally, training should include a competency based evaluation of the knowledge and skills acquired by the screener to ensure that he/she meet minimum competencies. Evaluation should be done annually.

6.0 MATERIALS AND EQUIPMENT

Each local education agency should provide and make available for its vision screening program those testing materials recommended in the Screening Procedures Section 2.2 and 2.4. Sources for those materials are listed below.

6.1 Tests for Screening Visual Acuity

Snellen Letter & E Charts with Cover Cards

National Society for the Prevention of
Blindness
79 Madison Avenue
New York, N.Y. 10016

Snellen Letter & E Charts, Picture Charts

The Lighthouse
New York Association for the Blind
111 E. 59th Street
New York, N.Y. 10022

Snellen Letter & E Charts, Picture Charts

American Optical Company
312 Dexter Avenue North
Seattle, Washington 98109

Sjogren Hand Test

The House of Vision, Inc.
135-137 N. Wabash Avenue
Chicago, IL 60602

Stycar Screening Tests

National Foundation for Education Research
in England
London, England

6.2 Tests for Screening Color Vision

Gay's Color Test for Children

Western Optical Corporation
1706 Mercer
Seattle, Washington 98109

Luminata Test

The Good-Lite Company
7420 W. Madison Street
Forest Park, IL 60130

Pseudo-Isochromatic Plates

American Optical Company
217 Dexter Avenue North
Seattle, Washington 98109

6.3 Stereoscopic and other machines for screening various components of vision:

American Optical Child's Vectrograph and Project-O-Chart

American Optical Company
14 Mechanic Street
Southbridge, MA 01550

Bausch and Lomb School Vision Tester

Bausch and Lomb
635 St. Paul Street
Rochester, NY 14602

Good-Lite Vision Screener

Good-Lite Company
7426 W. Madison Street
Forest Park, IL 60130

Keystone Telebinocular (Keystone Preschool Test used for young children with the No. 46 Telebinocular available)

Keystone View Company
Meadville, PA 16335

Titmus Vision Tester

Titmus Optical Company, Inc.
1015 Commerce Street
Petersburg, VA 23803