ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672
8536 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

GUIDANCE CONCERNING STATE AND LOCAL RESPONSIBILITIES UNDER THE GUN-FREE SCHOOLS ACT OF 1994

This guidance is to provide information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994 [the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)], Public Law 103-382. Preliminary information, including a copy of this new legislation, was mailed to Governors and Chief State School Officers in a letter dated November 28, 1994.

The GFSA states that each State receiving Federal funds under ESEA must have in effect, by October 20, 1995, a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of the local educational agency (LEA) to modify the expulsion requirement on a case-by-case basis.

The legislation explicitly states that the GFSA must be construed to be consistent with the Individuals with Disabilities Education Act (IDEA). Therefore, by using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

The following questions and answers have been prepared to assist States, State educational agencies (SEAs), and LEAs in implementing these new requirements.

Q1. What entities are affected by the provisions of the Gun-Free Schools Act?

A. Each State, as well as its State educational agency and local educational agencies, has responsibilities under the GFSA.

Q2. Are private schools subject to the requirements of the Gun-Free Schools Act?

A. Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion

requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

Q3. Will SEAs and LEAs have a period of time to comply with the requirements of the Gun-Free Schools Act?

A. States must take prompt action to implement the requirements of the GFSA, including prompt action to initiate the legislative process. States have until October 20, 1995 to enact and make effective the one-year expulsion legislation required by Section 14601. States that have not enacted and made effective legislation by this date risk losing ESEA funds.

In order to be eligible to receive ESEA funds, LEAs must have an expulsion policy consistent with the required State law.

LEAs must take immediate action to implement the referral policy required by Section 14602, because the GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q4. Is compliance with the requirements of the Gun-Free Schools Act a condition for the receipt of Federal financial assistance under the ESEA?

A. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA.

Q5. Will failure to comply with the requirements of the Gun-Free Schools Act result in the termination or withholding of funds made available to the State under the ESEA?

A. Failure to comply with the requirements of the GFSA could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under the ESEA; however, it is anticipated that technical assistance provided to States will result in timely compliance and make withholding of funds unnecessary.

Q6. May a State request a waiver of the requirements of the Gun-Free Schools Act?

A. Yes. The ESEA authorizes the Secretary to waive the requirements of the GFSA if that action will increase the quality of instruction for students or will improve the academic performance of students. However, it is not anticipated that the requirements of the GFSA will be waived except in unusual circumstances.

Q7. Does the Gun-Free Schools Act's one-year expulsion requirement preclude any due process proceedings?

A. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a weapon to school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).

Q8. What does the Gun-Free Schools Act require of States?

A. The GFSA requires that each State receiving Federal funds under the ESEA must, by October 20, 1995: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school; (2) have in effect a State law allowing the LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to SEAs. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 14602.

<u>One-Year Expulsion Requirement</u>

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

<u>Case-by-Case Exception</u>

Each State's law must allow the chief administering officer of an LEA to modify the one-year expulsion requirement on a case-by-case basis.

Annual Reporting

Each State must report annually on LEA compliance with the one-year expulsion requirement, and on expulsions imposed under the State law, including the number of students expelled in each LEA and the types of weapons involved.

Q9. What does the Gun-Free Schools Act require of LEAs?

A. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the LEA's expulsions; and (4) adopt a referral policy for students who bring weapons to school.

One-Year Expulsion Requirement

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, any student who brings a weapon to school must be expelled for not less than one year.

LEA Assurance

An LEA must include in its application to the State educational agency for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

(A) the name of the school concerned;
(B) the number of students expelled from the school; and
(C) the type of weapons concerned

Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school.

Q10. When must an LEA implement its referral policy?

A. LEAs must take immediate action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. The GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

Q11. When must an LEA submit the required assurance?

A. In its first application to the State educational agency for ESEA funds after the date that the State enacts and makes effective the required one-year expulsion legislation, the LEA must include an assurance that the LEA is in compliance with the State law.

Q12. What is the role of the SEA in determining whether an LEA is in compliance with the Gun-Free Schools Act?

A. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

(1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and

(2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

(A) the name of the school concerned;
(B) the number of students expelled from the school; and
(C) the type of weapons concerned.

Q13. Who is an LEA's "chief administering officer"?

A. The term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which chief operating officer or authority (e.g., Superintendent, Board, etc.) has the power to modify the expulsion requirement on a case-by-case basis.

Q14. Can any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

A. No. However, the chief administering officer may allow another individual or entity to carry out preliminary information gathering functions, and prepare a recommendation for the chief administering officer.

Q15. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A. No, this exception may not be used to avoid overall compliance with the one-year expulsion requirement.

Q16. How is the term "weapon" defined?

A. For the purposes of the GFSA, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code.

According to Section 921, the following are included within the definition:

-- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive

-- the frame or receiver of any weapon described above

-- any firearm muffler or firearm silencer

-- any explosive, incendiary, or poison gas
   (1) bomb,
   (2) grenade,
   (3) rocket having a propellant charge of more than four ounces,
   (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
   (5) mine, or
   (6) similar device

-- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter

-- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, the following are not included in the definition:

-- an antique firearm

-- a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes

-- any device which is neither designed nor redesigned for use as a weapon

-- any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device

-- surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10

In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of weapon.

Q17. Does the Gun-Free Schools Act preclude classes such as hunting or military education, or activities such as hunting clubs or rifle clubs, which may involve the handling or use of weapons?

A. No, the GFSA does not prohibit the presence at school of rifles that the owners intend to use solely for sporting, recreational, or cultural purposes.

Q18. Are knives considered weapons under the Gun-Free Schools Act?

A. No, for the purposes of the GFSA, the definition of weapon does not include knives. State legislation or an SEA or LEA may, however, decide to broaden its own definition of weapon to include knives.

Q19. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular school program at the location where the violation occurred.

Q20. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a weapon to school?

A. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however, require that students receive alternative educational services in certain circumstances.

Q21. What is an "alternative setting" for the provision of educational services to an expelled student?

A. An alternative setting is one that is clearly distinguishable from the student's regular school placement.

Q22. Is Federal funding available to provide alternative educational services?

A. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act may be used for alternative educational services. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q23. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the GFSA may be achieved consistently with the requirements that apply to students with disabilities, as long as discipline of such students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

Q24. Is it permissible to expel a student for a "school year" rather than a year?

A. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q25. Does the expulsion requirement apply only to violations occurring in the school building?

A. No. The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the LEA.

Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES

DATE: 2-21-95

PLACE: Capitol Room 106

SUBJECT OF MEETING:
HB 28
HB 94.
DOE Briefing

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Carl Rose	AK School Boards Assn	316 W. 1st St Juneau	99801	6-1083		(Y)	N	HB 94
✓ Helen Mehrkens	DOE&L	801 W. 10th St. Juneau	99801	~~5-8750~~	5-8730	(Y)	N	HB 28
✓ Margot Knuth	Law				5-3428	(Y)	N	HB 28
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

HB

30

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 30

Revision Date:
Title: School Dress Code
Sponsor: Representative Bettye Davis
Requester: Representative Bettye Davis

Department Affected: Education
BRU: Executive Administration
Component: Commissioner's Office

COMPONENT SERIAL NO. 185

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: $ 0.0

ANALYSIS: (Attach a separate page if necessary.)

Passage of this legislation will have no fiscal impact on the Department of Education.

Prepared by: Kimberly Homme, Special Assistant
Phone: 465-2803
Division: Commissioner's Office
Date: January 19, 1996
Approved by Commissioner:
Shirley Holloway, Ph. D.
Agency: Education
Date: January 19, 1996

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ZERO FISCAL NOTE - DOE

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 23, 1995 FURTHER REFERRALS:

Date of Committee Action: 2/15/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 30

HOUSE BILL NO. 30 SCHOOL DRESS CODES

"An Act relating to a dress code for public schools."

recommends it be replaced [ ] the same title
with the following committee substitute _____ [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) DOE [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	✓			
			✓	
			✓	
	✓			
			✓	

CHAIR'S SIGNATURE Con Bunde

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 16, 1995

FURTHER REFERRALS: HES

Date of Committee Action: Feb 23, 1995

The STATE AFFAIRS Committee considered: HB 30

HOUSE BILL NO. 30 SCHOOL DRESS CODES

"An Act relating to a dress code for public schools."

recommends it be replaced with the following committee substitute _____

[ ] the same title
[ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

[ ] fiscal note(s) _____

_____

[✓] zero fiscal note(s) Education

_____

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____

_____

[ ] zero fiscal note(s) _____

_____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
Jeannette James	James			✓	
Brian D. Porter	Porter			✓	
Scott Ogan	Ogan		✓		
Ed Willis	Willis			✓	
Vicki Robinson	Robinson	✓			
		(1)	(1)	(3)	

CHAIR'S SIGNATURE Jeannette James

HOUSE STATE AFFAIRS COMMITTEE REPORT

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MINORITY WHIP

CHAIR
CHILDREN'S CAUCUS

HEALTH, EDUCATION & SOCIAL SERVICES

STATE AFFAIRS

ECONOMIC TASK FORCE

REPRESENTATIVE BETTYE DAVIS
DISTRICT 21

February 3, 1995

Mirth Kvamme
P.O. Box 26
Togiak, AK 99678

Dear Mirth:

Thank you for taking the time to write to me regarding your concerns about HB30, the School dress Code Bill. I can understand your feelings about an obligatory dress code, and agree with you that to force you to wear something would be a violation of your constitutional rights.

Fortunately, HB30 is completely optional and aimed primarily at schools in urban areas that might need to protect their students from gang related dress and behavior. Any parent will have the right to opt out of the dress code program and six months notice will have to be given by the school district in any case.

There have been studies carried out in California which show that schools that have a uniform policy experience a " coming together", more school spirit and better behavior in and out of the classroom.

Mirth, I can understand your concerns and appreciate your taking the time to share them with me.

Sincerely,

Bettye Davis

Bettye Davis

CORRESPONDENCE

PO Box 26
Togiak, AK 99678
1/23/95

Representative
Representative Bettye Davis
Room 430
State Capitol
Juneau, AK 99801-1182

JAN 3 0 1995

Dear Bettye Davis:

I am writing to you relating to the house bill No. 30 on the dress code for public schools. Some of the things stated in this bill do make sense, but overall I would have to disagree with the bill related to the dress code. I think students are people too, endowed with the rights that people are supposed to have and we should have the right to wear what we choose. To take away our rights is to deny us our constitutional rights as Americans and also our chance to make mature decisions about our appearance. To force something like this upon students would only cause turmoil and rebellion.

I do however believe that there should at least be a minimum dress code that would prevent students from coming to school naked, but would not prevent them from wearing an article of clothing with a certain logo, color, or design as long as it isn't explicit or overly vulgar.

Sincerely,
Mirth Kvamme
Mirth Kvamme

ALASKA STATE LEGISLATURE

[illegible]
ANCHORAGE, ALASKA 99501
[illegible]

[illegible]
JUNEAU, ALASKA 99801-1182
[illegible]
FAX [illegible]

[illegible]
ANCHORAGE, ALASKA
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[illegible]
[illegible]

REPRESENTATIVE BETTYE DAVIS

DISTRICT 21

SPONSOR STATEMENT

HB30 - " An act relating to a dress code for public schools"

Today, many educators believe that school dress significantly influences student behavior. The adoption of an optional schoolwide uniform policy is a reasonable and economical way to provide some protection for students, without having to take teachers away from their normal duties to act as monitors and police officers.

This will also put parents in a position to choose the type of clothing they think is most suitable for their child and their child's school environment. With many School Districts moving to Site Based Management, principals, teachers and parents will be making decisions for their schools.

The schools that have adopted school uniforms experience a " coming together " feeling, greater school spirit and better behavior in and out of the classroom.

To minimize the inconvenience, the dress code policy shall not be implemented with less than six months notice, and parents will have the right to exclude their children from the dress code.

This would not preclude students who participate in a nationally recognized youth organization from wearing their uniforms on days when there are scheduled meetings.

Unfortunately, Alaska's is no longer isolated from the problems of the inner cities of the lower "48. The gang mentality, a product of poverty and abuse, is spreading inexorably toward Alaska.

In a society that seems to grow more violent each year, any steps that a school district can take to protect its students deserves our careful consideration.

Fashioning a New School Policy

Gangs. Assaults. Continuing violence. Public schools have been in the center of this escalating maelstrom over the past few years.

Some educators looking for remedies have fastened on the notion of requiring students to wear school uniforms.

In response, several states—California, Delaware, North Carolina, Utah and Virginia—have passed legislation that gives local school boards the option to require uniforms. The laws also specify that constitutional protections and needs of the poor be met. The California law links uniforms to school safety plans and provides for at least six months' notice to parents. The Utah law gives parents 30 days to disapprove a dress code.

Although the move is controversial, educators argue that uniforms help eliminate fights over certain kinds of clothes, especially those that are gang-related, and reduce distractions caused by students who wear things that are expensive, trendy or suggestive.

Do the policies work? They did in Long Beach, Calif. Since the student uniform policy was adopted for elementary and middle schools in 1994, there has been a 32 percent decrease in student suspensions, an 18 percent decrease in vandalism and fights are down by 51 percent.

"Look at the numbers; look at the reduction of crime," says Long Beach Principal Shawn Ashley, who now wears a uniform himself.

The Long Beach policy is being challenged in court, however, by 26 low-income parents who argue that, since they cannot afford uniforms, the rule does not provide equal access to education by the poor. There is some money available to help needy students, but the group contends that it is not enough.

Phoenix, Ariz., schools also faced a court challenge on uniforms, and won. Maricopa County Superior Court Judge Michael D. Jones ruled in November 1995 that a middle-school uniform rule did not violate the First Amendment freedom of choice and expression—even though the policy did not give students the option of not wearing a uniform. Jones ruled the school district decision reasonable because it adopted the policy to help eliminate gang-related clothing and put students of different socioeconomic levels on even ground.

California May Hold Off on Electric Cars

California is wavering over its mandate that would put electric cars on the road in 1998. The California Air Resources Board (CARB) is now questioning whether or not to continue down the road paved in 1990 by a state law that would require 2 percent of all vehicles offered for sale in the state to be electrically powered in 1998. By 2004, the requirement would rise to 10 percent. Now, CARB says, California may back off this mandate because of strident opposition from automobile manufacturers.

The automobile industry accedes that it can produce electric cars, but insists that a "sellable" electric vehicle by 1998 is not in the cards. The current battery technology restricts a vehicle's range to roughly 100 miles between rechargings, and electrics would be very expensive—causing concern that the public would have an irreversible distaste for the vehicles if the program were to continue on schedule. "We want to have a successful introduction to the program," says Dan Pellesier from CARB. "It's in no one's interest to put vehicles on the road that consumers aren't going to want."

But not everyone agrees. Environmental and public health groups point to repeated cries from the auto industry that they could not build a long list of environmental and safety components into cars—such as catalytic converters, air bags and ABS brakes—that are now standard features on new cars. Gladys Mead from the American Lung Association in California says, "Frankly, I don't believe the automotive manufacturers anymore. Battery technology is with us now. Yes, it will improve, but it will only improve if California holds to the mandate, and we get those zero-emission vehicles in 1998 or sooner."

California's debate will have implications for New York and Massachusetts, which have adopted the California mandate and want to see the vehicles introduced in 1998. Other states in the Northeast may be affected by any decision that California makes, ensuring a long and serious debate.

HB30

Reno lauds school uniform policy

Associated Press

LONG BEACH – Attorney General Janet Reno brought White House encouragement Wednesday to the first U.S. public school district in modern times to make its students wear uniforms.

Reno and local officials cited a sharp drop in schoolyard fighting and crime, but some low-income parents have complained the uniform policy isn't uniform enough.

"You set a wonderful example for this country," Reno told students at Will Rogers Middle School. She promised to tell President Clinton what the school had accomplished.

"He is so proud of what you've done," she said.

The Long Beach Unified School District in 1994 began a mandatory uniform policy for its nearly 90,000 students in 56 elementary and 14 middle schools.

Fighting dropped by more than half last year from the year before, according to district figures. Suspension went down 32 percent, while crime and fighting generally were down 36 percent.

"I am convinced that uniforms can make a big difference," Reno said.

"It's a diverse nation," she told students. "But I think you're going to be seeing uniforms in more and more schools across the country."

The uniform issue is one topic where the White House can find common cause with conservative Christian and other organizations pushing for school changes that include mandatory prayer and a sex education ban.

A dozen children who took part in Wednesday's program told Reno they liked their uniforms.

"I feel like I'm going to work, not hanging out with my friends," said one youngster who stepped up to the microphone.

"Do you have to wear a uniform at work?" asked student Laura Perry.

"I think I would enjoy it," the attorney general replied, explaining that she wouldn't have to worry every morning about what to wear.

Associated Press

Attorney General Janet Reno applauds the comments of a student during a visit Wednesday to a Long Beach middle school, where she praised the district's mandatory uniform policy.

Children out on the playground were just as candid.

Gang symbols, particularly Raider football logos, were popular before last year, said Michael Rausch, 12. "At lunch there's no more fights," he said.

Not all the students were so positive.

"I feel that uniforms are kinda stupid, 'cause the school shouldn't make us wear what we don't want to," said Danielle Bent, 14.

Others have objected to the policy, too.

About 50 parents and students sued the district Sept. 12, claiming students who couldn't afford uniforms were being harassed by teachers and administrators.

"The policy is not standard throughout the schools in the district," said Ann Bradley, a American Civil Liberties Union spokeswoman.

The district needs to make it clear to parents that they don't have to buy uniforms if they can't afford them, she said, and children who can't must be left alone.

"A lot of these kids – little kids – have been harassed by teachers who pull them out of lunch lines or stop them in the halls," Bradley said. "How come we're not sitting down at the table and finding a way to solve this problem? We didn't want to file this suit."

The ACLU and Long Beach Legal Aid were handling the plaintiffs' case.

"We don't disagree that the policy is fantastic," Bradley said. "We're saying we have to rectify this problem."

"We have numerous other ways to provide uniforms for students," countered Linda Moore, principal at Rogers. Those include the Parent Teacher Organization, a special foundation and private donors, she said.

"No student goes without one," Moore said.

"Moms tell us they can buy three uniforms for the price of one pair of designer jeans (costing $50 to $60)," said district spokesman Richard Van Der Laan.

NEWSPAPER ARTICLE

Display 1993-1994 Bill Text - INFORMATION
BILL NUMBER: AB 980

BILL TEXT

CHAPTER	435 ✓
FILED WITH SECRETARY OF STATE	SEPTEMBER 24, 1993
APPROVED BY GOVERNOR	SEPTEMBER 23, 1993
PASSED THE ASSEMBLY	AUGUST 31, 1993
PASSED THE SENATE	AUGUST 26, 1993
AMENDED IN SENATE	JULY 8, 1993
AMENDED IN SENATE	JUNE 23, 1993
AMENDED IN ASSEMBLY	JUNE 7, 1993
AMENDED IN ASSEMBLY	APRIL 20, 1993

INTRODUCED BY Assembly Member Allen

MARCH 1, 1993

An act to amend Section 35294.1 of, and to add Section 35183 to the Education Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 980, Allen. School districts: dress codes.

Existing law has no specific provision authorizing school districts to require adherence to a dress code.

This bill would declare that gang-related apparel is hazardous to the health and safety of the school environment and that the governing board of any school district may adopt reasonable dress code regulations prohibiting pupils from wearing "gang-related apparel" if the board has determined that the regulations are necessary for health and safety purposes.

This bill would declare that school safety planning may include the establishment of a schoolwide dress code that would prohibit pupils from wearing "gang-related apparel" which could reasonably be determined to threaten the health and safety of the school environment, as specified, and would require that the dress code be enforced.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 35183 is added to the Education Code, to read:

35183. The Legislature declares that "gang-related apparel" is hazardous to the health and safety of the school environment. The governing board of any school district may adopt reasonable dress code regulations that prohibit pupils from wearing "gang-related apparel" if the governing board has determined that the regulations are necessary for the health and safety of the school environment. Upon approval of the dress code regulations by the governing board of the school district, individual schools in the school district may adopt reasonable dress code regulations as part of its school

Display 1993-1994 Bill Text - INFORMATION
BILL NUMBER: AB 980

BILL TEXT

safety plan, pursuant to Section 35294.1.

SEC. 2. Section 35294.1 of the Education Code is amended to read:

35294.1. (a) School safety planning may include, but not be limited to:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety.

(3) Developing an action plan, in conjunction with local law enforcement agencies, for implementing appropriate safety strategies and programs and determining the fiscal impact of executing the strategies and programs. The action plan may identify available resources which will provide for implementation of the plan.

(4) Establishing a schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel." For those purposes, the parties participating in the development of the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For the purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(b) Existing schoolsite councils may be responsible for developing a safety plan. In any event, the plan may be developed with the participation of teachers, classified employees, parents, law enforcement, school administrators, and, if deemed appropriate, students.

(c) It is the intent of the Legislature that schools develop school safety plans using existing resources, including the materials and services of the School Safety Partnership, pursuant to Chapter 2.5 (commencing with Section 32260) of Part 19. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

(d) It is the intent of the Legislature that schools shall not contract with private consultants to develop school safety plans.

(e) Grants to assist schools in implementing their school safety plan shall be made available through the School Safety Partnership as authorized by Section 32262 of the Education Code.

Discard Earlier Pocket Supplement

1994 POCKET SUPPLEMENT

ISSUED IN DECEMBER, 1993

COVERING LEGISLATION THROUGH
THE 1993 SESSION OF THE 1993–94 LEGISLATURE

DEERING'S EDUCATION CODE

ANNOTATED

OF THE STATE OF CALIFORNIA

§§ 18000–38999

Annotated and Indexed by the Publisher's Editorial Staff

Note—An updated analysis of the Education Code appears at the beginning of the supplement to the first volume.

BANCROFT-WHITNEY
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participation in extracurricular and cocurricular
which shall be applied to extracurricular and
s conditioned upon satisfactory educational
e ...gible for differential standards of proficiency
by this section consistent with that subdivision.
standards of proficiency pursuant to subdivision
intent of this subdivision

activity" means a program that has all of the

district.

ol district.

election, planning, or control of the program.

mance and performance before an audience or

ar activity" is not part of the regular school
not take place during classroom time.

" is defined as a program that may be associated

ity for a course which satisfies the entrance
rsity or the University of California, is not an
ception.

onal progress" shall include, but not be limited

ned as at least a 2.0 grade point average in all

igh school graduation requirements prescribed

riod" does not include any grading period in
of, the grading period due to absences excused
roved travel, or work. In that event, "previous
diately prior to the grading period or periods

nt of academic or educational achievements of
efined by this section.

part of its policy established pursuant to
achieve satisfactory educational progress,
to remain eligible to participate in extracurric-
The probationary period shall not exceed one
as determined by the governing board of the
ucational progress, as defined in paragraph (4),
articipate in extracurricular and cocurricular

g board of a school district from imposing a
subdivision. If the governing board of a school
overning board shall establish the criteria for
at a meeting open to the public pursuant to

review the school district policies adopted

ch school district shall, as a condition for the
, adopt rules and regulations establishing a
he district. This requirement does not apply to
trict with schools that do not serve any of the

hoolage child who is a resident in the district
he particular locations of his or her residence
authority to maintain appropriate racial and
istricts' discretion or as specified in applicable

ceives requests for admission in excess of the
nroll in the school is made through a random,
pupil should be enrolled based upon his or
bdivision, the governing board of the school
rict. However, school districts of choice may
rams if the criteria are uniformly applied to

* ...rate omissions.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

Amended Stats 1990 ch 671 § 1, (SB 1029), Stats 1993 ch 161 § 1 (AB 1114), ch 915 § 1 (AB 1310).

Amendments:
1990 Amendment: (1) Added subd (b)(4), and (2) redesignated former subds (b)(4)-(b)(8) to be subds (b)(5)-(b)(9)
1993 Amendment: Added subd (c)

§ 35179. (Operative until July 1, 1997) Interscholastic athletics

(a) Each school district governing board shall have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities in its district, including, but not limited to, eligibility, season of sport, number of sports, personnel, and sports facilities. In addition, the board shall assure that all interscholastic policies, programs, and activities in its district are in compliance with state and federal law.

(b) Governing boards may enter into associations or consortia with other boards for the purpose of governing regional or statewide interscholastic athletic programs by permitting the public schools under their jurisdictions to enter into a voluntary association with other schools for the purpose of enacting and enforcing rules relating to eligibility for, and participation in, interscholastic athletic programs among and between schools.

(c) Each governing board, or its designee, shall represent the individual schools located within its jurisdiction in any voluntary association of schools formed or maintained pursuant to this section.

(d) No voluntary interscholastic athletic association, of which any public school is a member, shall discriminate against, or deny the benefits of any program to, any person on the basis of race, sex, or ethnic origin.

(e) Interscholastic athletics is defined as those policies, programs, and activities that are formulated or executed in conjunction with, or in contemplation of, athletic contests between two or more schools, either public or private.

(f) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

Amended Stats 1991 ch 617 § 5 (AB 273), operative until July 1, 1994; Stats 1993 ch 487 § 6 (AB 1375), operative until July 1, 1997.

Amendments:
1991 Amendment: Substituted subd (f) for the former last paragraph which read: "This section shall remain in effect only until June 30, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1992, deletes or extends such date."
1993 Amendment: Substituted subd (f) for former subd (f) which read: "(f) This section shall remain in effect only until July 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1994, deletes or extends that date."

Note—Stats 1993 ch 487 provides:

SECTION 1. This act shall be known and may be cited as the "B.T. Collins Interscholastic Athletic Act of 1993."

SEC. 7. (a) Not later than January 1, 1995, the California Interscholastic Federation shall complete a strategic long-range plan, which shall address the manner in which the federation has implemented interscholastic athletic policies and procedures including, but not limited to, governance and gender equity.

(b) On or before January 1, 1996, the State Department of Education shall report to the Legislature on the methodology, process, and participation of parties in interest relative to the California Interscholastic Federation, which shall include a review of the definition of interscholastic athletics and a critique of the recommendations made in the plan required in subdivision (a).

§§ 35179.5. [Section repealed 1994.]

Amended Stats 1990 ch 1212 § 1 (AB 2063), operative until January 1, 1994. Repealed, operative January 1, 1994, by its own terms. The repealed section related to establishment of qualifications for persons supervising athletic activities on limited assignment.

NOTES OF DECISIONS

The state Department of Education regulation requiring school districts to conduct annual searches among certificated employees to fulfill district's athletic coaching needs, which was otherwise unauthorized, was not authorized under Ed. Code, § 35179.5, applicable to minimum qualifications of temporary employees. Other aspects of employment not embraced within the meaning of "qualifications," such as duration of employment, selection process, and terms and conditions of employment, are, therefore, outside the statute's scope. The statute cannot be read without reference to Ed. Code, § 35179, which vests control over interscholastic athletics in the school district. Because Ed. Code, § 35179.5, is the exception to the general rule stated in Ed. Code, § 35179, it should be strictly and narrowly construed, under the rule that a proviso or exception carved out of a general enactment must be construed strictly, and one who relies on the exception must establish it within the words as well as the reason. Therefore, to the extent that the regulation required an annual search by school districts, it was beyond the scope of Ed. Code, § 35179.5, and thus void. San Jose Teachers Assn. v Barozzi (1991, 6th Dist) 230 Cal App 3d 1376, 281 Cal Rptr 724.

§ 35183. Legislative declaration regarding "gang-related apparel"

The Legislature declares that "gang-related apparel" is hazardous to the health and safety of the school environment. The governing board of any school district may adopt reasonable dress code regulations that

prohibit pupils from wearing "gang-related apparel" if the governing board has determined that the regulations are necessary for the health and safety of the school environment. Upon approval of the dress code regulations by the governing board of the school district, individual schools in the school district may adopt reasonable dress code regulations as part of its school safety plan, pursuant to Section 35294.1.
Added Stats 1993 ch 435 § 1 (AB 980).

§ 35184. Contract with feeder elementary school district to provide instruction at schools of high school district to sixth grade pupils; Reporting of daily average attendance

(a) Notwithstanding any other provision of law, the governing board of a high school district may enter into a contract with the governing board of any of its feeder elementary school districts to provide instruction at the schools of the high school district to all or a portion of the pupils enrolled in the sixth grade at the contracting elementary school district.

(b) For the purpose of computing allowances and apportionments pursuant to Chapter 4 (commencing with Section 41600) and Article 2 (commencing with Section 42230) of Chapter 7 of Part 24, the contracting elementary school shall continue to report average daily attendance for those sixth grade pupils. Upon receipt of any funds allocated to the elementary school district based upon the average daily attendance reported for those sixth grade pupils, the contracting elementary school district shall transfer those moneys to the contracting high school district.
Added Stats 1993 ch 1296 § 3 (AB 369).

§ 35203. [Section repealed 1992.]

Repealed Stats 1992 ch 696 § 6 (AB 1344), effective September 14, 1992. The repealed section related to duty of district attorney to defend certain cases against governing boards of school districts and board members or employees.

§ 35204. Contract with attorney in private practice or use of administrative adviser

The governing board of any school district, may contract for the services of an attorney in private practice, as an employee or independent contractor, or utilize an administrative adviser for whatever purpose the governing board deems appropriate, and compensation of this attorney pursuant to contract shall be a proper use of school district funds • • • . • • • For purposes of this section, "an attorney in private practice" includes a sole practitioner, partnership, or professional corporation.
Amended Stats 1992 ch 696 § 7 (AB 1344), effective September 14, 1992.

Amendments:

1992 Amendment: Deleted (1) ", but the school district shall first obtain the written views of the district attorney or county counsel as to the merits of any litigation and the form of the proposed contract of employment with the private attorney" at the end of the first sentence; and (2) the former second through fourth sentences which read: "The district attorney or the county counsel shall furnish his or her written views within seven days from the time he or she is requested by the governing board of the school district. These written views shall not be binding upon the governing board, but shall be advisory only. The views of the district attorney or county counsel shall not be required for purposes of this section where the district attorney or county counsel represents the opposing party in any action for which an attorney in private practice has been contracted."

§ 35205. Contract for legal services

The governing board of any school district may contract with a qualified attorney in private practice to provide legal services and compensation of this attorney in private practice pursuant to contract under this section shall be a proper use of school district funds • • • . • • •
Amended Stats 1992 ch 696 § 8 (AB 1344), effective September 14, 1992.

Amendments:

1992 Amendment: Deleted (1) ", but the school district shall first obtain the written views of the district attorney or county counsel, which shall be furnished within seven days from the time of the request by the governing board, as to the need for legal services and on the form of the proposed contract with the private attorney" at the end of the first sentence; and (2) the former second and third sentences which read: "These written views shall not be binding upon the governing board, but shall be advisory only. The views of the district attorney or county counsel shall not be required for purposes of this section where the district attorney or county counsel represents the opposing party in any action for which an attorney in private practice has been contracted."

§ 35206. [Section repealed 1992.]

Repealed Stats 1992 ch 696 § 9 (AB 1344), effective September 14, 1992. The repealed section related to additional legal services by county counsel or district attorney.

NOTES OF DECISIONS

The trial court properly concluded that a county counsel's office was required to provide the county school districts with free legal services, even though an ambiguous amendment to Gov. Code, § 26520 (legal services for counties, school districts, and local public entities), made the legislative intent of the statute difficult to ascertain, where such a conclusion was consistent with related legislation. Specifically, Ed. Code, § 35206, enacted after Gov. Code, § 26520, authorized school districts to supplement the legal services that customarily were being rendered by the county counsel by contracting with the county counsel or district attorney for additional services at a fee. By necessary implication, Ed. Code, § 35206, when enacted, indicated that county counsel were customarily rendering basic legal services to school districts without fee, and it did not authorize counties to charge school districts for traditional legal services. Piedmont Unified School Dist. v County of Alameda (1992, 1st Dist) 8 Cal App 4th 401, 10 Cal Rptr 2d 171.

§ 35230. Corrupt practices as misdemeanor

Collateral References:

Witkin & Epstein, Criminal Law (2d ed) §§ 1124, 1147.

Witkin Summary (9th ed) Agency and Employment § 470.

§ 35233. Prohibitions applicable to board meeti

Collateral References

Witkin Summary (9th ed) Contracts § 624.

§ 35256.1. School Accountability Report Card:

In addition to the information required under S include the information required under Section

Added Stats 1989 ch 1463 sec 1.

§ 35271. Power to acquire and construct on sc

(a) The governing board of any school distric purposes outside its boundaries on sites immed boundaries.

(b) This section shall become operative June

Added Stats 1989 ch 135 § 2, effective July 13, 198

Former Sections:

Former § 35271, similar to the present section, was Stats 1969 ch 135 § 1, effective July 13, 1969, and re

S

[Added S

Section
35294. Legislative intent
35294.1. Contents of plans
35294.3. Workshops on development of ;
35294.5. Grant to implement plan; Criter

Collateral References:

Statutory support for use of metal detectors on sc

§ 35294. Legislative intent

It is the intent of the Legislature that all C inclusive, operated by school districts, in c leaders, parents, pupils, teachers, administra of campus crime and violence, develop a concerns identified through a systematic pla agencies include local police departments departments, probation departments, and c plan" means a plan to develop strategies incidents involving crime and violence on t
Added Stats 1989 ch 1253 sec 1.

§ 35294.1. Contents of plans

(a) School safety planning may include, bu

(1) Assessing the current status of schoo functions.

(2) Identifying appropriate strategies and safety.

(3) Developing an action plan, in conjur appropriate safety strategies and programs programs. The action plan may identify s plan.

(4) Establishing a schoolwide dress code "gang-related apparel." For these purposes school safety plan shall define "gang-rela worn or displayed on a school campus rea the school environment. Any schoolwide d the school campus and at any school-spons by the principal. For the purposes of th protected form of speech pursuant to Sect

(b) Existing schoolsite councils may be re be developed with the participation of administrators, and, if deemed appropria

(c) It is the intent of the Legislature th including the materials and services of the with Section 32260) of Part 19. It is a developed and distributed by the School Planning Guide for Action" in conjunctio

(d) It is the intent of the Legislature th school safety plans...

...parel" if the governing board has determined that ...ty of the school environment. Upon approval of the ... school district, individual schools in the school district ... school safety plan, pursuant to Section 35294.1. ...

... district to provide instruction at schools of high sch... average attendance

The governing board of a high school district may ... ...y of its feeder elementary school districts to provi... ...ct to all or a portion of the pupils enrolled in the six...

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...ber 14, 1992. The repealed section related to duty of district ... school districts and board members or employees.

...or use of administrative adviser

...ract for the services of an attorney in private practice, ... an administrative adviser for whatever purpose the ...ion of this attorney pursuant to contract shall be a ...r purposes of this section, "an attorney in private ... professional corporation.

...er 14, 1992.

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... with a qualified attorney in private practice to ... in private practice pursuant to contract under this ... * * * *

... 14, 1992.

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...LSIONS

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... * * indicate omissions.

§ 35233. Prohibitions applicable to board members

Collateral References:
Witkin Summary (9th ed) Contracts § 624.

§ 35256.1. School Accountability Report Card; Required information

In addition to the information required under Section 35256, each School Accountability Report Card shall include the information required under Section 41409.3.

Added Stats 1989 ch 1463 sec 1.

§ 35271. Power to acquire and construct on adjacent property

(a) The governing board of any school district may acquire property, construct buildings, and maintain classes outside its boundaries on sites immediately adjacent to school sites of the district within its boundaries.

(b) This section shall become operative June 30, 1993.

Added Stats 1989 ch 135 § 2, effective July 13, 1989, operative June 30, 1993.

Former Sections:

Former § 35271, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1989 ch 135 § 1, effective July 13, 1989, and repealed, operative June 30, 1993, by its own terms.

ARTICLE 10.3

School Safety Plans

[Added Stats 1989 ch 1253 sec 1.]

Section

35294. Legislative intent
35294.1. Contents of plans
35294.3. Workshops on development of plans
35294.5. Grant to implement plan; Criteria

Collateral References:
Statutory support for use of metal detectors on school grounds. 75 Ops Atty Gen 155.

§ 35294. Legislative intent

It is the intent of the Legislature that all California public schools, in kindergarten, and grades 1 to 1... inclusive, operated by school districts, in cooperation with local law enforcement agencies, communi... leaders, parents, pupils, teachers, administrators, and other persons who may be interested in the prevent... of campus crime and violence, develop a comprehensive school safety plan that addresses the safe... concerns identified through a systematic planning process. For the purposes of this section, law enforcem... agencies include local police departments, county sheriffs' offices, school district police or secur... departments, probation departments, and district attorneys' offices. For purposes of this section a "safe... plan" means a plan to develop strategies aimed at the prevention of, and education about, potent... incidents involving crime and violence on the school campus.

Added Stats 1989 ch 1253 sec 1.

§ 35294.1. Contents of plans

(a) School safety planning may include, but not be limited to:

(1) Assessing the current status of school crime committed on school campuses and at school-rela... functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of scho... safety.

(3) Developing an action plan, in conjunction with local law enforcement agencies, for implement... appropriate safety strategies and programs and determining the fiscal impact of executing the strategies a... programs. The action plan may identify available resources which will provide for implementation of ... plan.

(4) Establishing a schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel." For those purposes, the parties participating in the development of the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, when worn or displayed on a school campus reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For the purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(b) Existing schoolsite councils may be responsible for developing a safety plan. In any event, the plan s... be developed with the participation of teachers, classified employees, parents, law enforcement, scho... administrators, and, if deemed appropriate, students.

(c) It is the intent of the Legislature that schools develop school safety plans using existing resour... including the materials and services of the School Safety Partnership, pursuant to Chapter 2.5 (commenc... with Section 32260) of Part 19. It is also the intent of the Legislature that schools use the handb... developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: Planning Guide for Action" in conjunction with developing their plan for school safety.

(d) It is the intent of the Legislature that schools shall not contract with private consultants to deve... school safety plans.

Beginning in 1992.
italics indicate changes or additions. * * * indicate omissions.

(e) Grants to assist schools in implementing their school safety plan shall be made available through the School Safety Partnership as authorized by Section 32262 of the Education Code

Added Stats 1989 ch 1253 § 1. Amended Stats 1993 ch 435 § 2 (AB 980).

Former Sections:

Former § 35294.1 was added Stats 1989 ch 82 § 3, effective June 30, 1989, ch 83 § 3, effective June 30, 1989, amended Stats 1989 ch 92 § 2, effective July 5, 1989, and renumbered § 35294.5 Stats 1989 ch 1253 § 2.

Amendments:

1993 Amendment: Added subd (a)(4).

§ 35294.3. Workshops on development of plans

The Department of Justice and the State Department of Education, in accordance with Section 32262, shall contract with one professional law enforcement trainer and one professional educator trainer, respectively, to coordinate and present statewide workshops for school districts, county offices of education, and schoolsite personnel, and in particular school principals, to assist them in the development of their respective school safety plans. The Department of Justice and the State Department of Education shall work in cooperation with regard to the workshops coordinated and presented pursuant to these two contracts. The enactment of this section of this act shall be subject to the availability of funds in the Budget Act of 1990.

Added Stats 1989 ch 1253 sec 1.

Note—Stats 1989 ch 1253 provides:

SEC. 4. Section 35294.3 of the Education Code shall be operative only to the extent funds are made available in the annual Budget Act for purposes of that section.

§ 35294.5. Grant to implement plan; Criteria

(a) The governing board of a school district, on behalf of one or more schools within the district that have developed a school safety plan, may apply to the Superintendent of Public Instruction for a grant to implement school safety plans. The School Safety Partnership shall award grants for school safety plans that include, but are not limited to, the following criteria:

(1) Assessment of the recent incidence of crime committed on the school campus.

(2) Identification of appropriate strategies and programs that will provide or maintain a high level of school safety.

(3) Development of an action plan, in conjunction with local law enforcement agencies, for implementing appropriate safety strategies and programs, and determining the fiscal impact of executing the strategies and programs. The action plan shall identify available resources which will provide for implementation of the plan.

(b) In the 1989-90, 1990-91, and 1991-92 fiscal years, the Superintendent of Public Instruction shall award grants pursuant to this section to school districts for the implementation of individual school safety plans in an amount not to exceed five thousand dollars ($5,000) for each school. No grant shall be made unless the school district makes available, for purposes of implementing the school safety plans, an amount of funds equal to the amount of the grant. Grants should be awarded through a competitive process, based upon criteria including, but not limited to, the merit of the proposal and the need for imposing school safety, based on school crime rates.

(c) Any school receiving a grant under this section shall submit to the Superintendent of Public Instruction verified copies of its schoolsite crime report annually for three consecutive years following the receipt of the grant to study the impact of the implementation of the school safety plan on the incidence of crime on the campus of the school.

Added Stats 1989 ch 82 sec 3, effective June 30, 1989, ch 83 sec 3, effective June 30, 1989, as § 35294.1. Amended Stats 1989 ch 92 sec 2, effective July 5, 1989. Renumbered Stats 1989 ch 1253 sec 2.

Amendments:

1989 Amendment (Ch 1253): (1) Substituted the last sentence for the former last sentence which read: "A grant shall be awarded only for school safety plans that include the following criteria:" in the introductory clause of subd (a); (2) added "In the 1989-90, 1990-91, and 1991-92 fiscal years," at the beginning of subd (b); (3) amended the last sentence in subd (b) by deleting (a) "(1)" after "not limited to,"; and (b) "(2)" after "the proposal and"; and (4) amended subd (c) by (a) deleting "district" after "Any school"; (b) substituting "submit" for "report" after "this section shall"; (c) adding "verified copies of its schoolsite crime report" after "Public Instruction"; and (d) substituting "to study" for "concerning" after "of the grant".

Editor's Notes—For application of constitutional provision on school funds, see Note following Ed C § 41200.

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§ 35296. Establishment of earthquake emergency procedure system

The governing board of each school district and the county superintendent of schools of each county shall establish an earthquake emergency procedure system in every public school building under its jurisdiction having an occupant capacity of 50 or more pupils or more than one classroom. The governing board of each private school shall establish an earthquake emergency procedure system in every private school building under its jurisdiction having an occupant capacity of 50 or more pupils or more than one classroom. Governing boards and county superintendents may work with the Office of Emergency Services and the Seismic Safety Commission to develop and establish the earthquake emergency procedure systems.

Amended Stats 1990 ch 1263 § 9 (AB 2875).

Amendments:

1990 Amendment: (1) Amended the first sentence by (a) deleting "private school and" after "board of each" in the first

sentence; (b) deleting "or private" after "every public" and "50 or more"; and (2) added the second sentence.

§ 35314. Deposit of fund money

Money in the fund shall be deposited in a bank and any money so deposited shall be in an account.

The committee shall establish and maintain pr separate and distinct impressed trusts, if any, a disbursed.

Amended Stats 1992 ch 115 § 1 (AB 3038).

Amendments:

1992 Amendment: Substituted (1) "federally insured "that" for "such" near the end of the first paragraph.

§ 35330. Excursions and field trips

Collateral References:

B-W Cal Civ Prac, Torts §§ 29:12, 1:12.

§ 35331. Provision for medical or hospital serv

(a) The governing board of any school district shall provide, or make available, medical or hos participating in any excursion or field trip u district or the authorities of any school of the

(b) (1) The medical or hospital service, or in available, through any of the following:

(A) One or more nonprofit membership corp both.

(B) One or more group, blanket, or individua

(C) A self-insurance program of the school d

(2) The cost incurred by the school district p district, or by the insured pupil or his or her

(3) The membership may be taken in, or the i insurers that are authorized to do business in be provided through a self-insurance progra established for that purpose pursuant to Sect

Amended Stats 1989 ch 25 sec 1.

Amendments:

1989 Amendment: (1) Designated the former first s nonprofit membership corporations defraying the blanket or individual policies of accident insurance "any excursion or field trip" for "such excursions a cost of the insurance or membership may be paid guardian."; and (4) added subd (b).

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[Article 14, consisting of § 35340, was ena article heading wa

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Collateral References:

Witkin Summary (9th ed) Constitutional Law § 6

§ 35500. Utilization of current organization

It is the intent of the Legislature to utilize and the master plan for school district org under the provisions of this chapter as the version of the master plan not inconsist reorganization of districts in each county.

Amended Stats 1990 ch 1263 § 10 (AB 2875).

Amendments:

1990 Amendment: Added "or any approved upda law.".

§ 35501. Applicability of other provisions

On and after January 1, 1981, this chapter and Part 3 (commencing with Section 400 Article 5 (commencing with Section 4310 reorganize school districts.

Amended Stats 1990 ch 1372 § 169 (SB 1854).

LONG BEACH UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

SUBJECT: Mandatory Uniforms for All Elementary and Middle Schools Beginning with the 1994-95 School Year, and Action to Obtain Legislative Authority for Such Requirement.

Enclosures: None

CATEGORY: New Business

Reason for Board Consideration: Information/Action

Date: January 18, 1994

Background

The Board is taking a courageous and site-supported step in its policy making power. Together, we must do whatever it takes to help restore order in all schools. Obviously, the policies must be both wise and legal. The school choice initiative will not go away until we have safe schools and quality education. In spite of the recent positive results of our survey, a significant number of parents remain concerned and dissatisfiad.

Individual schools cannot do the job alone. The policies of the Board can make their tasks easier. They have the fundamental responsibility of teaching and acquiring academic achievement of all their students, not that of solving all of the other ills of our society and communities. With the stated goals of our Superintendent, schools can be held accountable for this basic responsibility.

In addition, all of our students must learn the difference between right and wrong. They aren't born with this ability; neither do they gain it through osmosis. In our time, the difference becomes both sophisticated and complicated, especially in the area of human relations.

We Board Members believe school uniforms at the elementary and middle school level will simplify proper dress for school business, which is, indeed, very serious business. We know that dress significantly influences behavior. In education we have seen its influence on dress-up days and color days. We have also seen in the schools that have adopted school uniforms a "coming together," greater school pride, and better behavior in and out of the classroom. Moreover, with the complete elimination of gang attire, all of the students at those sites are safer, less intimidated or threatened. Finally, the students look great.

Enforcement of a dress code and the adoption of school uniforms have their opponents -- students, parents, teachers, and special interest groups. However, they are few. We, the Board, are willing "to take the heat." This Board makes policies; staff implements them on the important issue of dress and decorum in our public schools. It is time we act on dress regulations.

SUBJECT (CONTINUED): PAGE NUMBER 2

Mandatory Uniforms for All Elementary and Middle Schools Beginning with the 1994-95 School Year, and Action to Obtain Legislative Authority for Such Requirement.

Recommendation

I move to require school uniforms of all elementary and middle schools by September, 1994. This will give each site time to decide on colors, et cetera. We strongly recommend the inclusion of parents, teachers, and staff in these deliberations. However, anything less than a proper and rational uniform is unacceptable.

The Superintendent has directed our lobbyist to seek legislative support for this initiative so that our efforts to make our schools safer will have the full backing of State law.

Prepared by:

Edward Eveland, Member
Board of Education

bl

long beach unified school district

OFFICE OF THE SUPERINTENDENT

GUIDELINES AND REGULATIONS FOR IMPLEMENTING THE MANDATORY UNIFORM POLICY IN GRADES KINDERGARTEN THROUGH EIGHT

I. BACKGROUND

Over the past several years, many parents and community members have urged the District to adopt a uniform policy as a means of countering the influence of gangs, minimizing disruption and improving the learning environment. During the 1993-94 school year, the District tested student uniforms in eleven elementary and middle schools by implementing a "pilot" uniform policy at these schools. The pilot schools thus joined three other schools that had adopted uniform policies approximately three years ago. In evaluating these pilot programs, the District found that use of school uniforms enhanced school safety, improved the learning environment, reduced ethnic and racial tensions, bridged socio-economic differences between children, promoted good behavior, improved children's self-respect and self-esteem, and produced cost savings for participating families. Schools with greater compliance levels tended to enjoy commensurately better results. Accordingly, as announced in January 1994, the District determined to extend the benefits of the program throughout the District by implementing a mandatory uniform policy for all elementary and middle schools for the 1994-95 school year. For each of the first three years of the mandatory uniform program, the District will comprehensively assess the policy, modifying it as appropriate.

All participating schools will separately determine the appropriate uniform, programs for financial assistance, incentives and compliance measures. In implementing the mandatory uniform policy, it is the expectation of the District that each school will work closely with members of its local community to structure site-based procedures responsive to the community's specific needs.

II. STATEMENT OF POLICY

All elementary and middle schools in the Long Beach Unified School District shall implement, within the parameters set forth below, the mandatory uniform policy beginning with the 1994-95 school year. (The term "school" herein shall mean all elementary and middle schools.)

III. COMMENCEMENT OF UNIFORM POLICY

The mandatory uniform policy shall be effective in September of the 1994-95 school year.

IV. INFORMATION DISSEMINATION

A. It is the responsibility of district and school support staffs to adequately communicate to parents information common to all school sites, including general guidelines for enforcement of the uniform policy. District administrators shall also work with schools to facilitate implementation of financial assistance programs (see Section V below).

B. Each school shall communicate to parents information specific to the individual school sites, including:

1. types and colors of uniform;
2. requirements for jackets/outer garments;
3. optional articles of attire, if any;
4. compliance measures to be employed;
5. the availability of financial support and the procedures for applying for assistance;
6. methods to facilitate recycling of uniforms within the school community;
7. notice of uniform sales and lists of competitive prices from vendors of uniform articles.

C. The means by which this information is communicated shall include one or more of the following:

1. District newsletters;
2. school newsletters;
3. parent forums;
4. telephonic notification or through use of a telephone hotline;
5. PTA meetings and newsletters;
6. parent advisory meetings;
7. television, radio, and/or newspaper announcements;
8. posters displayed at school and in the community;
9. registration materials.

V. FINANCIAL CONSIDERATIONS

A. No student shall be denied attendance at school, penalized, or otherwise subject to compliance measures for failing to wear a uniform by reason of financial hardship.

B. With the commencement of the 1994-95 school year, each school shall:

1. develop a procedure and criteria to identify families in need of financial assistance;

2. determine the form and type of financial assistance appropriate for the individual school community;

3. designate a specific staff member or school volunteer to assist those families in need of assistance; and

4. prepare a flyer describing in detail the uniform and listing the range of costs for each competitively priced item of clothing as provided by a variety of vendors. The flyer shall state that in cases of severe financial hardship, parents may contact their child's school by phone, mail or in person to request assistance.

C. Each school shall work with staff, the local school community and business partners to identify resources for assisting families.

D. The District shall compile and maintain a list of community agencies, uniform retailers, organizations and individuals willing to assist families in need. The District shall also promulgate procedures to link identified resources with participating schools.

VI. COMPLIANCE MEASURES

A. If necessary, disciplinary action may be taken to encourage compliance with the policy. Since the intent of the policy is not to inhibit or prohibit any student who is not in uniform from receiving the education to which he/she is entitled, no student shall be suspended from class or from school, expelled from school, or receive a lowered academic grade as a result of not complying with the policy.

B. Each school shall develop incentives and positive reinforcement measures to encourage full compliance with the uniform policy. Each school should strive to achieve full compliance through use of incentives and positive reinforcement measures, and should resort to disciplinary action only when positive measures fail to ensure compliance. In addition, schools shall communicate with parents so that expectations, rationale and benefits are fully understood by the student and his/her family.

C. Prior to initiating any disciplinary action against a student not complying with the policy, a conference with the parent must be held with a school administrator or counselor to solicit parental cooperation and support.

D. Disciplinary action is to be initiated only after all other means to secure support and cooperation as mentioned above have not succeeded. A "progressive discipline" approach is to be employed by the school support staff so as to encourage full and consistent compliance with the least amount of disciplinary action. The same disciplinary actions applied to enforce other school and district rules may be utilized, with the exceptions noted in Section VI. A. and F.

E. In order to ensure a smooth transition to the mandatory uniform policy, and in order to ensure that incentives and positive reinforcement measures are employed before resorting to disciplinary action, no school shall take disciplinary action until after October 14, 1994 unless those not in compliance materially or substantially interfere with the requirements of appropriate discipline.

F. No student shall be considered noncompliant with the policy in the following instances:

1. When noncompliance derives from financial hardship.

2. When a student wears a button, armband or other accouterment to exercise the right to freedom of expression as provided by Education Code 48907, unless the button, armband or other accouterment signifies or is related to gangs, gang membership or gang activity as provided by Education Code 35183.

3. When a student wears the uniform of a nationally recognized youth organization such as the Boy Scouts or the Girl Scouts on regular meeting days.

4. When wearing a school uniform violates a student's sincerely held religious belief.

5. When a student's parent or guardian has secured an exemption from the uniform policy by following the procedures set forth in Section VI. G.

G. If the parent(s) or guardian desires to exempt his or her child from the uniform policy, the parent(s) or guardian must observe the following procedure:

1. Request by mail or in person an Application for Exemption from Uniform Program ("Application"). The parent(s) or guardian may obtain an Application at the student's school site.

2. Complete the Application in full and submit it to the designated administrator for uniform program exemptions at the student's school.

3. Meet with the designated administrator to discuss the uniform policy and the nature of the parent(s) or guardian's objections to the policy. The purposes of this meeting include (1) ensuring that the parent(s) or guardian understands the reasons for, and goals of the uniform policy; (2) verifying the accuracy of the information on the Application; (3) preventing fraud or misrepresentation.

4. For purposes of consistent administration of the uniform policy, meet with a designated district administrator to discuss the nature of the parent(s) or guardian's objections to the policy.

VII. ANNUAL EVALUATION

A. All schools will participate in an evaluation at the end of each school year for the first three years of the mandatory uniform program. Thereafter, the evaluation of the uniform program may be included in the school's regular review process.

B. The District shall design an evaluation for districtwide use. Each school shall complete its respective evaluation by May 1 of each year. The schools and the District shall review the results of the evaluations and the District shall consider proposed modifications to the uniform policy as appropriate.

These guidelines and regulations may be amended or modified as a result of the final version of SB 1269 as signed by the Governor of the State of California.

Effective: July 12, 1994

8/11/94 - MJD:a/b

principal, staff, and parents of the individual school.

(d) A dress code policy that requires pupils to wear a schoolwide uniform shall not be implemented with less than six months' notice to parents and the availability of resources to assist economically disadvantaged pupils.

(e) *The governing board shall provide a method whereby parents may choose not to have their children comply with an adopted school uniform policy.*

(f) If a governing board chooses to adopt a policy pursuant to this section, the policy shall include a provision that no pupil shall be ~~academically penalized nor denied attendance to school if the governing board determines that the pupil's family refuses to comply with the adopted dress code. In these cases, notwithstanding any interdistrict attendance agreement as required by subdivision (f),~~ *the district governing penalized academically or otherwise discriminated against nor denied attendance to school if the pupil's parents chose not to have the pupil comply with the school uniform policy. The governing* board shall continue to have responsibility for the appropriate education of those pupils.

~~(f) If a governing board chooses to adopt a policy pursuant to this section that results in a districtwide school uniform policy for all children in a school or grade level, the district shall also adopt a policy to implement an interdistrict attendance agreement with a neighboring district or districts to ensure that a pupil's parent or guardian has the option to have their child attend a school that does not mandate a school uniform.~~

(g) A policy adopted pursuant to this section shall not preclude pupils that participate in a nationally recognized youth organization from wearing organization uniforms on days that the organization has a ~~scheduled~~ meeting.

O

AMENDED IN ASSEMBLY JUNE 30, 1994

AMENDED IN SENATE APRIL 14, 1994

AMENDED IN SENATE APRIL 4, 1994

AMENDED IN SENATE MARCH 8, 1994

SENATE BILL No. 1269

Introduced by Senator Wyman

(Principal coauthor: Assembly Member Karnette)

(Coauthors: Senators Campbell, Hughes, Kopp, Peace, and Presley)

(Coauthors: Assembly Members Andal, Ferguson, Harvey, Murray, and Richter)

January 3, 1994

An act to amend Section 35183 of the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1269, as amended, Wyman, Schools: dress codes: uniforms.

Existing law authorizes the governing board of a school district to adopt reasonable dress code regulations that prohibit pupils from wearing "gang-related apparel" if the board determines that the regulations are necessary for the health and safety of the school environment. Under existing law, individual schools in a district that have approved a dress code regulation may adopt a reasonable dress code as part of its school safety plan.

This bill would authorize the governing board of a school district to adopt or rescind a reasonable dress code policy that requires pupils to wear a schoolwide uniform or prohibits pupils from wearing "gang-related apparel" if the governing board of the school district approves a plan that may be

initiated by the principal, staff, and parents of an individual school within the district and the governing board determines that the policy is necessary for the health and safety of the school environment. If a schoolwide uniform is required, the bill provides that the specific uniform would be selected by the principal, staff, and parents of the individual school.

The bill would also require a school district that adopts a districtwide school uniform policy to adopt a policy to implement an interdistrict attendance agreement with a neighboring school district.

The bill would require the school district to provide a method whereby parents may choose not to have their children comply with an adopted school uniform policy.

This bill would contain a declaration of legislative declarations and findings.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 35183 of the Education Code is amended to read:

35183. (a) The Legislature finds and declares each of the following:

(1) The children of this state have the right to an effective public school education. Both students and staff of the primary, elementary, junior and senior high school campuses have the constitutional right to be safe and secure in their persons at school. However, children in many of our public schools are forced to focus on the threat of violence and the messages of violence contained in many aspects of our society, particularly reflected in gang regalia that disrupts the learning environment.

(2) "Gang-related apparel" is hazardous to the health and safety of the school environment.

(3) Instructing teachers and administrators on the subtleties of identifying constantly changing gang regalia and gang affiliation takes an increasing amount of time away from educating our children.

(4) Weapons, including firearms and knives, have become common place upon even our elementary school campuses. Students often conceal weapons by wearing clothing, such as jumpsuits and overcoats, and by carrying large bags.

(5) The adoption of a schoolwide uniform policy is a reasonable way to provide some protection for students. A required uniform may protect students from being associated with any particular gang. Moreover, by requiring schoolwide uniforms, teachers and administrators may not need to occupy as much of their time learning the subtleties of gang regalia.

(6) To control the environment in public schools to facilitate and maintain an effective learning environment and to keep the focus of the classroom on learning and not personal safety, schools need the authorization to implement uniform clothing requirements for our public school children.

(7) Many educators believe that school dress significantly influences pupil behavior. This influence is evident on school dressup days and color days. Schools that have adopted school uniforms experience a "coming together feeling," greater school pride, and better behavior in and out of the classroom.

(b) The governing board of any school district may adopt or rescind a reasonable dress code policy that requires pupils to wear a schoolwide uniform or prohibits pupils from wearing "gang-related apparel" if the governing board of the school district approves a plan that may be initiated by an individual school's principal, staff, and parents and determines that the policy is necessary for the health and safety of the school environment. Individual schools may include the reasonable dress code policy as part of its school safety plan, pursuant to Section 35294.1.

(c) Adoption and enforcement of a reasonable dress code policy pursuant to subdivision (b) is not a violation of Section 48950. For purposes of this section, Section 48950 shall apply to elementary, high school, and unified school districts. If a schoolwide uniform is required, the specific uniform selected shall be determined by the

1995 SESSION

New Hampshire

0120L
95-0114
04/08

HOUSE BILL **206-LOCAL**

AN ACT allowing local school districts to implement dress codes and uniform requirements.

SPONSORS: Rep. Vaughn, Rock 35; Rep. Syracusa, Rock 33

COMMITTEE: Education

ANALYSIS

Section 1 of this bill sets forth its purpose and intent and section 5 of this bill allows local school districts to implement dress codes and uniform requirements.

The remainder of this bill amends certain RSA provisions making them gender neutral and consistent with other sections amended by the bill in accordance with RSA 17-A:6 relative to gender neutral drafting.

- -

EXPLANATION: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears in [brackets].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

NEW HAMPSHIRE - DRESS CODES

0120L
95-0114
04/08

HB 206-LOCAL

STATE OF NEW HAMPSHIRE

In the year of Our Lord
One Thousand Nine Hundred and Ninety-Five

AN ACT

allowing local school districts to implement dress codes
and uniform requirements.

Be it Enacted by the Senate and House of Representatives
in General Court convened:

1 Purpose; Intent.

I. The children of this state have the right to an effective public school education and both students and staff of the elementary, junior and senior high school schools have the right to be secure in their persons while at school. However, children in many of our public schools are being forced to focus on the threat of violence and the messages of violence contained in many aspects of our society, particularly reflected in violence-depicting apparel which disrupts the learning environment.

II. Violence-depicting apparel is hazardous to the health and safety of the students and the school environment. Weapons, including firearms and knives, have become commonplace on even elementary school grounds. Students often conceal weapons by wearing certain clothing, such as jumpsuits and overcoats, and by carrying large bags.

III. The adoption of a schoolwide dress code or uniform requirement is a reasonable way to provide some protection for students. A dress code or uniform requirement may protect students from being associated with a particular anti-social group. Moreover, by requiring schoolwide dress codes or uniforms, teachers and administrators may not need to occupy as much of their time dealing with violence-depicting apparel.

IV. Many educators believe that school dress significantly influences student behavior. This influence is evident on school dress-up days and color days. Schools that have adopted dress codes and uniform requirements experience greater school pride and better student behavior in and out of the classroom.

V. To facilitate and maintain an effective learning environment and to keep the focus of the classroom on learning instead of personal safety, schools need the authorization to implement dress codes and uniform requirements for public school children.

2 Gender Neutral Language Substitution. Amend RSA 194:5 to read as follows:

194:5 Taxation. In the assessment of school district taxes [every person] ***all persons*** shall be taxed in the district in which [he lives] ***they live*** for [his] ***their*** personal estate subject to taxation in town. Real estate shall be taxed in the district in which it is situated.

3 Gender Neutral Language Substitution. Amend RSA 194:8 to read as follows:

194:8 Collection. If such taxes are assessed after July 1 in any year upon the property of nonresidents, the collector shall send to the owners of [said] *the* property, or to their agents, if known, a bill of their taxes within 2 months after the delivery of the list to [him] *the collector*, and shall, at the expiration of 4 months after such delivery, advertise and sell the property on which the taxes have not
been paid in the same manner as if such taxes had been assessed in April preceding.

4 Gender Neutral Language Substitution. Amend RSA 194:11 to read as follows:

194:11 Payment. The district treasurer shall pay to the school board and other district officers their salaries granted by the district, and [he] shall likewise pay the truant officer upon the order of the school board, they certifying that [he] *the district treasurer* has performed the duties required [of him] by law.

5 New Section; Dress Codes; Uniform Requirements. Amend RSA 194 by inserting after section 15-b the following new section:

194:15-c Dress Codes; Uniforms.

I. A school district may adopt or rescind a reasonable dress code or policy which prohibits pupils from wearing violence-depicting apparel or requires pupils to wear schoolwide uniforms if the district approves a plan that may be initiated by an individual school's principal, staff, and parents and determines that the policy is necessary for the health and safety of the school environment. Individual schools may include the reasonable dress code policy as a part of its school safety plan.

II. If a district implements a schoolwide uniform requirement, the specific uniform selected shall be determined by the principal, staff, and parents of the individual school.

III. A schoolwide uniform requirement shall not be implemented with less than a 6-month notice to parents and the availability of resources to assist economically disadvantaged pupils.

IV. The district shall provide a method whereby parents may choose not to have their children comply with an adopted dress code or uniform policy.

V. If the district chooses to adopt a policy under this paragraph, the policy shall include a provision that no pupil shall be penalized academically, denied attendance to school, or otherwise discriminated against if the pupil's parents choose to not have the pupil comply with the dress code or uniform policy. The district shall continue to have responsibility for the appropriate education of such pupils.

VI. A policy adopted under this section shall not preclude pupils who participate in a nationally-recognized youth organization from wearing organization uniforms on days that the organization has a scheduled meeting.

6 Gender Neutral Language Substitution. Amend RSA 194:24 to read as follows:

194:24 Transfer of Scholar. Whenever it shall appear that the attendance of a pupil at the school with which the contract is made will work a manifest hardship, which may be avoided by permitting the child to attend another approved school, the pupil through [his] ***the*** parents, guardian or some other responsible person may apply to the school board for an order transferring the pupil to the more accessible school.

7 Gender Neutral Language Substitution. Amend RSA 194:27 to read as follows:

194:27 Tuition. Any district not maintaining a high school or school of corresponding grade shall pay for the tuition of any pupil who with parents or guardian resides in [said] ***the*** district or who, as a resident of [said] ***the*** district, after full investigation by the state board of education is determined to be entitled to have [his] ***the*** tuition paid by the district where [he] ***the pupil*** resides, and who attends an approved public high school or public school of corresponding grade in another district or an approved public academy. Except under contract as provided in RSA 194:22, the liability of any school district hereunder for the tuition of any pupil shall be the current expenses of operation of the receiving district for its high school, as estimated by the state board of education for the preceding school year. This current expense of operation shall include all costs except costs of transportation of pupils and except capital outlay and debt obligations, provided that to the above may be added a rental charge of 2 percent of the capital cost of such secondary school facilities as may be defined by the state board of education.

8 Gender Neutral Language Substitution. Amend RSA 194:27-a to read as follows:

194:27-a Tuition Liability for Nongraduating Pupils. A pupil who has attended a high school, or schools of corresponding grades, for such time as is usually required and who has not been graduated may be required to certify to the school board of the district liable for the pupil's tuition that [he] ***such pupil*** will make the effort required to profit from [his] attendance before [he is] ***being*** entitled to ***have*** any further tuition payments [on his behalf] ***made***. The school board of the district liable for tuition for any such pupil may refuse tuition for such pupil when it has been determined that such [pupil is grossly neglecting his school work] ***pupil's school work is being grossly neglected***. A decision of the board to refuse tuition under such circumstances stands, subject only to review by the state board of education. The decision of the state board of education is binding and final on both the district and the pupil. Nothing in this section shall be construed to prevent a school board from making tuition payments beyond the time usually required for the completion of a high school program if in the board's judgment it is desirable to extend the educational opportunity for a pupil.

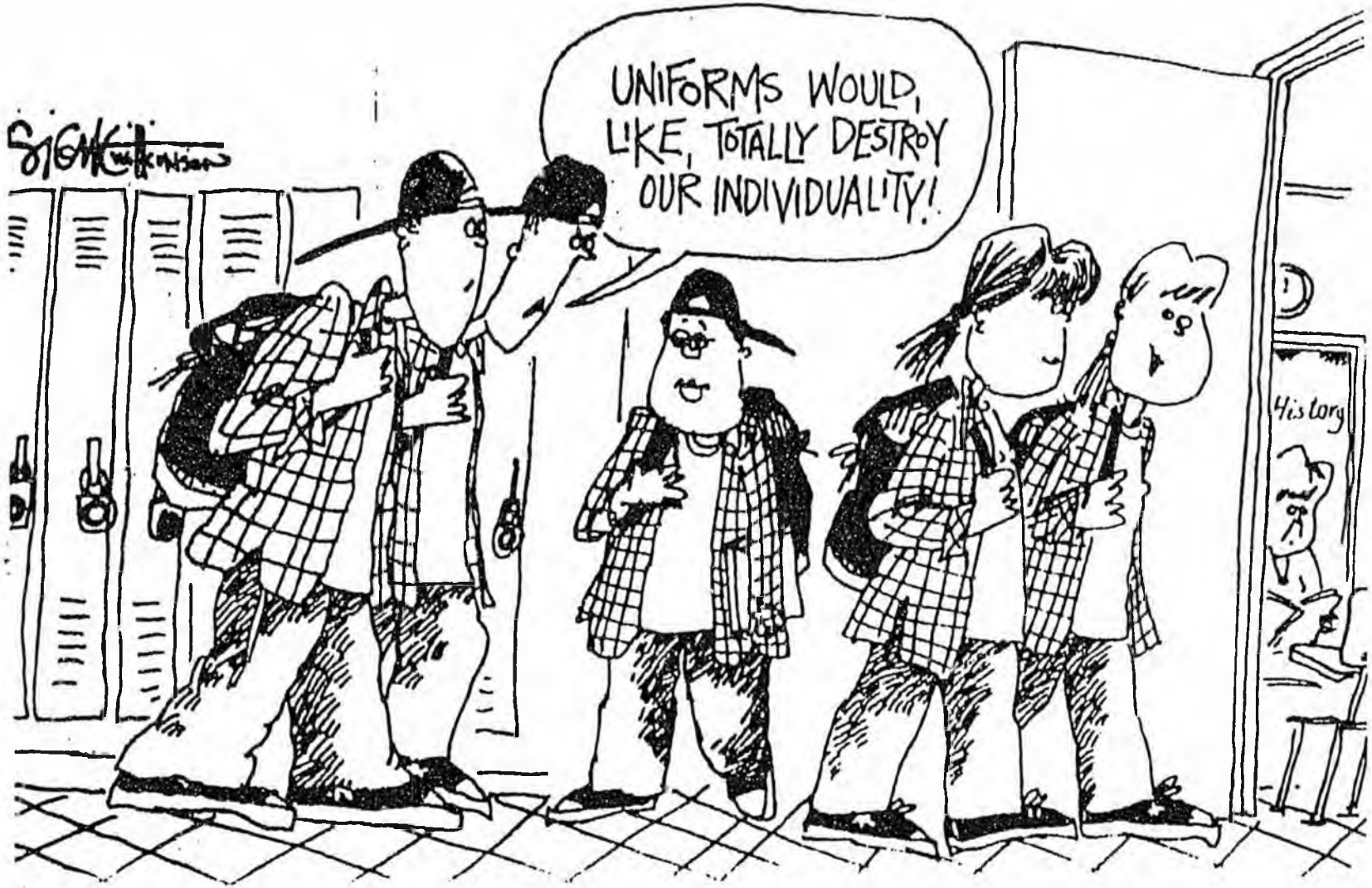
9 Gender Neutral Language Substitution. Amend RSA 194:47 to read as follows:

194:47 Hearing. The justice shall appoint a time and place of hearing upon the petition, and order notice [thereof] ***of the hearing*** to be given to all parties interested, and after hearing [he] ***the justice*** shall appoint a referee.

10 Gender Neutral Language Substitution. Amend RSA 194:49 to read as follows:

194:49 Referee's Procedure. The referee shall cause notice of [his] *the* hearing to be given to all parties interested, in the same manner as is provided in RSA 194:48. [He] *The referee* shall hear the parties, make [his] *a* report in writing, and file a copy [thereof] *the report* with the clerk of the dissolved district and the clerk of each town interested; and the report, so made and filed, shall be final.

11 Effective Date. This act shall take effect 60 days after its passage.



Anchorage Daily News
1/31/96

HB 30

Lawrence A. Wiget, Ed.D.
Director, Government Relations/Legislative Liaison
Anchorage School District
4600 Debarr Road
Anchorage, Alaska 99519-6614
(W) 907 269-2255 (FAX) 907 269-2107

TO: REPRESENTATIVE BETTYE DAVIS

SUBJECT: ASD POSITION PAPER: HOUSE BILL 30, "AN ACT RELATING TO A DRESS CODE FOR PUBLIC SCHOOLS."

DATE: JANUARY 25, 1995

For students in the Anchorage School District, the issue of student dress is covered under the ASD Statement of Student Rights and Responsibilities, Section 10, Freedom of Symbolic Expression, Student Dress Code. The Section states:

> STUDENT DRESS CODE: Each student shall attend school clothed in a manner which is clean, not hazardous to the safety of him/herself or others, and which does not detract from the required educational environment. Students may not wear clothing or items that are associated with gangs. Students who do will be excluded from school until such time that they cease wearing the clothing or items to school or school events.

At the present time the Anchorage School District does not have a dress code requiring students to wear or a uniform, nor is one under consideration. However, the District would support legislation which would allow a public school district to adopt a reasonable dress code that requires a student attending public school in the district to wear a uniform if the local school board determines that the policy is necessary for the health and safety of the students or teachers of the district.

HB

35

FISCAL NOTE

STATE OF ALASKA **BILL NO. HB 35**

1995 LEGISLATIVE SESSION

Revision Date: February 6, 1995 Department: Commerce and Economic Development

Title: An Act relating to the grounds for imposing disciplinary sanctions....by the State Medical Board. BRU: Occupational Licensing

Component: Operations

Sponsor: Representative Parnell

Requestor: Representative Parnell COMPONENT SERIAL #: 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: $ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 35 amends the grounds for imposing disciplinary sanctions on medical licensees if the licensee engages in sexual misconduct with a patient. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144

Division: Occupational Licensing Date: 2/6/95

Approved by Commissioner: William L. Hensley Date: 2/6/95

Agency: Commerce and Economic Development

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ZERO FISCAL NOTE - CED

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 16, 1995 FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 4/13/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 35

HOUSE BILL NO. 35 SEXUAL MISCONDUCT BY MEDICAL PROFESSIONAL

"An Act relating to the grounds for imposing disciplinary sanctions on persons licensed by the State Medical Board."

recommends it be replaced with the following committee substitute CS HB 35(HES) [ ] the same title [X] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) CED [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Lonny L. Davis	✓			
Con Bunde	✓			
[illegible]	✓			
Caren Robinson	✓			

CHAIR'S SIGNATURE Con Bunde

Alaska State Legislature
HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

Sponsor Statement

House Bill 35

Sexual Misconduct by Medical Professionals

This legislation provides the State Medical Board with the authority to sanction doctors who make sexual contact with their patients. Current statutory language governing such conduct is vague, sanctioning doctors for "unprofessional conduct, or in lewd or immoral conduct in connection with the delivery of professional services to patients."

Granting the Medical Board authority to sanction doctors in this case is critical for several reasons:

*the degree of patient emotional and physical vulnerability which is inherent in virtually every doctor/patient relationship.

*the extent to which a doctor may use his or her status in the professional relationship to induce the patient's consent to sexual activity.

*the doctor's medical judgment is compromised by his or her sexual interest in the patient.

HB 35 brings specificity to the existing statute, giving the Medical Board and its examiners a viable mechanism to address this area of concern.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM March 21, 1995

SUBJECT: Sectional Analysis of HB 35 (Work Order No. 9-LS0170\A)

TO: Representative Sean Parnell
Attn: Michael Morter

FROM: Terri Lauterbach
Legislative Counsel

This memorandum is a sectional analysis of HB 35. Since you have asked no particular questions about the bill, this memorandum is brief. Please let me know if you need additional assistance.

Section 1.
Clarifies that "sexual misconduct" is a ground for imposing disciplinary sanctions on a physician. Defines some of the conduct included in "sexual misconduct."

Section 2.
Limits the applicability of the bill to conduct occurring after the effective date, thereby avoiding an ex post facto problem.

TML:lmb
95-149.lmb

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

3601 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503-5986
PHONE: (907) 561-2878
FAX: (907) 562-5781

February 8, 1995

Representative Sean Parnell
State Capitol - Room 515
Juneau AK 99801-1182

Dear Representative Parnell:

At the February 2-3, 1995, meeting of the Alaska State Medical Board, House Bill 35 adding sexual misconduct language to AS 08.64.326, which you sponsored, was reviewed and discussed by the board.

The board wishes to advise you of their support of your efforts with this bill and to express appreciation for your advocacy on this important issue. As we have discussed, all parties agree such behavior is unacceptable by any health care provider under any circumstance. We are concerned that the words "... generally accepted methods of examination or treatment..." in the proposed bill may prove exceedingly difficult to define, and indirectly provide an ambiguity through which the intent of this law may be evaded by the unscrupulous practitioner whom this law seeks to address.

We are working on regulatory language to define "sexual misconduct"; if you think it beneficial, perhaps this proposed regulatory definition may accompany your bill. Certainly the passage of your bill will give our effort a great measure of support.

We know that it is through the endeavors of legislators such as yourself and Representative Cynthia Toohey who recognize the magnitude and significance of such legislation that the people of Alaska will be protected and we, as a board, support those endeavors.

Sincerely,

David A. McGuire, M.D.
Chairman, State Medical Board

LGH:l
xc: Representative Cynthia Toohey
Board Members

parnell.doc.4100

08-H13LH

SUPPORT

ALASKA NETWORK
ON
DOMESTIC VIOLENCE
AND
SEXUAL ASSAULT
130 Seward Street, No. 501 • Juneau, Alaska 99801 • (907) 586-3650

HOUSE BILL 35
SEXUAL MISCONDUCT BY MEDICAL PROFESSIONALS

The Alaska Network on Domestic Violence and Sexual Assault (Network) is a statewide coalition of 22 nonprofit programs. Shelter, advocacy, crisis intervention and counseling, and referral services are offered by member programs to victims of domestic violence and sexual assault. During FY94, over 9,500 victims and minor children sought and received services from member programs.

The Network supports passage of HB35. The American Medical Association and most state boards have condemned sexual relationships concurrent with the physician/patient relationship, and have established standards and grounds for sanctions for those physicians who choose to engage in sexual misconduct. It is the physician's responsibility to establish and maintain professional boundaries. Consequences should be imposed when he or she crosses the line.

Self-reporting survey statistics are revealing. Nationwide some 7.1% of the male psychiatrists and 3.1 % of the female psychiatrists admitted to sexual involvement with patients. Overall, physician figures are estimated to be about 10%. The typical offender is between the ages of 40-50, has been practicing over 10 years, and is married with children.[1]

Most sexual abuse involves a perpetrator exploiting a position of trust. Physicians have a unique position of trust with patients. In addition, they:

1) Have access to private information about patients.

---

[1]Rhode Island Department of Health Bulletin, Summer 1993

2) Are in a physically intrusive position.
3) Can feel invisible and invincible because of their status and special relationship with patients.
4) Can rationalize that the patient's interest in them is personal rather than a by-product of the unique doctor-patient relationship.[2]

When health care providers are faced with their behavior, many try to say that particular act was the only one. Unfortunately, statistics and experience do not concur with their assertion. Dr. Gene Abel studied a group of 567 men who had engaged in sexual misconduct. Those 567 men accounted for 294,000 separate acts of legal sexual misconduct, and 195,000 victims. Over time, sexual misconduct tends to escalate; we see increased rates of offending and more intrusive behavior. Perpetrators are unlikely to stop the misconduct without intervention.[3]

HB35 gives notice to medical professionals of Alaska's commitment to ending sexual violence. It provides a mechanism for holding accountable those who choose to disregard a person's right to consent to sexual contact.

---

[2] Health Care Providers and Sexual Misconduct Irwin S. Dreiblatt, Ph.D., p.8.
[3] Supra, p.10.

USA Today 4.6.95

More doctors disciplined in '94

By Elizabeth Neus
Gannett News Service

WASHINGTON — Medical boards disciplined 3,685 doctors in 1994, an 11.8% increase over 1993 — but it's a sign of more aggressive policing, not necessarily more bad doctors, say authors of a new report.

The public "should be reassured that we're doing a better job of finding those (cases) that need action," says Dr. Gerald Bechamps of the Federation of State Medical Boards.

Doctors disciplined make up less than 1% of the nation's 615,854 licensed, practicing doctors. Based on reports from 64 of the nation's 68 medical boards, the federation found:

▶ 86% of the 4,155 actions were "prejudicial" — the doctors lost their licenses or had their practices restricted.

▶ The number of such actions rose 16.5% over 1993.

"In general, they are doing a better job," says Dr. Sidney Wolfe of Public Citizen's Health Research Group, which re-analyzes the federation's numbers for its own report on doctors. "But when you look at how poorly some of these huge states are doing, the people there shouldn't be reassured."

Most common offense, says the report, is improper prescription of drugs. Other infractions: substance abuse, Medicare or Medicaid fraud, sexual misconduct with patients.

The federation scores each state on how aggressive it has been in chasing down bad doctors. States are not ranked by number of doctors punished or by their scores. But the most recent report by Wolfe's group says the worst at disciplining doctors are the District of Columbia, Hawaii, New Hampshire, Delaware, Pennsylvania, Utah, Minnesota, Alabama, New Mexico and Connecticut. The best: Wyoming, Alaska, Montana, Kentucky, Oklahoma, West Virginia, Iowa, Georgia, Mississippi, North Dakota.

People can call their state medical boards to find out if a doctor has been disciplined.

#1

AMENDMENT
TO HB 35

TITLE AMENDMENT

"An Act relating to [the] sexual misconduct as grounds for imposing disciplinary sanctions on persons licensed by the State Medical Board."

adopted

#2

AMENDMENT
TO HB 35

p. 2, ln. 23	delete "(A)"
p. 2, ln. 28	delete " and"
p. 2, ln. 29 through p. 3, ln. 1	delete all material

adopted

Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES

PLEASE FILL IN ALL PARTS of WITNESS SHEET

DATE: APRIL 13 1995

PLACE: Capitol Room 106

SUBJECT OF MEETING:
HB 35: Sexual misconduct by a Medical Professional.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Catherine Reardon	Occupational Licensing	Dept of Commerce			2538	(Y)	N	HB 35
Jayne Andreen	CDVSA	Box 111200 Juneau, AK	99811		4356	(Y)	N	✓
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

НВ

39

CS FOR HOUSE BILL NO. 39(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES THERRIAULT, B.Davis, Bunde

A BILL

FOR AN ACT ENTITLED

"An Act relating to the authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 09.68.120 is amended to read:

Sec. 09.68.120. DEFINITION OF DEATH. An individual is considered dead if, in the opinion of a physician licensed or exempt from licensing under AS 08.64 or a registered nurse authorized to pronounce death under AS 08.68.395, based on acceptable medical standards, or in the opinion of a mobile intensive care paramedic, physician assistant, or emergency medical technician authorized to pronounce death based on the medical standards in AS 18.08.089, the individual has sustained irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entire brain, including the brain stem. Death may be pronounced in this

circumstance before artificial means of maintaining respiratory and cardiac function are terminated.

* Sec. 2. AS 18.08 is amended by adding a new section to read:

Sec. 18.08.089. AUTHORITY TO PRONOUNCE DEATH. (a) A mobile intensive care paramedic or physician assistant registered under AS 08.64.107 or an emergency medical technician certified under this chapter may make a determination and pronouncement of death of a person under the following circumstances:

(1) the paramedic or emergency medical technician is an active member of an emergency medical service certified under this chapter;

(2) neither a physician licensed under AS 08.64 nor a physician exempt from licensure under AS 08.64 is immediately available for consultation by radio or telephone communications;

(3) the paramedic, physician assistant, or emergency medical technician has determined, based on acceptable medical standards, that the person has sustained irreversible cessation of circulatory and respiratory functions.

(b) A mobile intensive care paramedic, physician assistant, or emergency medical technician who has determined and pronounced death under this section shall document the clinical criteria for the determination and pronouncement on the person's emergency medical service report form and notify the appropriate medical director or collaborative physician as soon as communication can be established. The paramedic, physician assistant, or emergency medical technician shall provide to the person who signs the death certificate the

(1) name of the deceased;

(2) presence of a contagious disease, if known; and

(3) date and time of death.

(c) Except as otherwise provided under AS 18.50.230, a physician licensed under AS 08.64 shall certify a death determined under (b) of this section within 24 hours after the pronouncement by the mobile intensive care paramedic, physician assistant, or emergency medical technician.

(d) In this section,

(1) "acceptable medical standards" means

(A) the presence of injuries incompatible with life, including cardiac arrest accompanied by incineration, decapitation, open head injury with loss of brain matter, or detruncation;

(B) the presence of rigor mortis;

(C) the presence of post mortem lividity; or

(D) failure of the patient to respond to properly administered resuscitation efforts;

(2) "failure of the patient to respond" means without restoration of spontaneous pulse or respiratory effort by the patient;

(3) "properly administered resuscitation efforts" means

(A) when a person authorized to perform advanced cardiac life support techniques is not available and the patient is not hypothermic, at least 30 minutes of properly performed cardiopulmonary resuscitation;

(B) when a person authorized to perform advanced cardiac life support techniques is not available and the patient is hypothermic, at least 60 minutes of cardiopulmonary resuscitation properly performed by an emergency medical technician in conjunction with rewarming techniques as described in the current State of Alaska Hypothermia and Cold Water Near-Drowning Guidelines published by the division of public health, Department of Health and Social Services; or

(C) at least 30 minutes of cardiopulmonary resuscitation and advanced cardiac life support techniques properly performed by a person authorized to perform advanced life support services.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 39

Revision Date:
Title: An Act relating to the authority of mobile intensive care paramedics, PAs, and EMTs to pronounce death.
Sponsor: Reps. Therriault, B. Davis
Requestor: House HESS

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: State Medical Examiner
COMPONENT SERIAL NO. 293
See also (SN#):

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGES IN REVENUES (	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: $0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact.

Prepared by: Peter M. Nakamura, MD,MPH
Division: Public Health
Phone: (907) 465-3090
Date: 01/24/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 1/25/95

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HOUSE COMMITTEE REPORT

(9)

Date Referred: January 16, 1995 FURTHER REFERRALS: Judiciary

Date of Committee Action: 1/26/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 39

HOUSE BILL NO. 39 AUTHORITY TO PRONOUNCE DEATH

"An Act relating to the authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances."

recommends it be replaced with the following committee substitute CS HB 39 (HES) [X] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) H+SS [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	✓			
	✓			
	✓			
	✓			
	✓			
	✓			
	✓			

CHAIR'S SIGNATURE _____

REPRESENTATIVE
GENE THERRIAULT
Mailing Address
1101 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0862
Fax (907) 488-4271

Alaska State Legislature

House Of Representatives

Write to Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3884

House District 32

SPONSOR STATEMENT

HB 39

HB 39 The authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances.

SPONSOR: Rep. Gene Therriault

SPONSOR STATEMENT:

House Bill 39 proposes to allow mobile intensive care paramedics, physician assistants, and Emergency Medical Technicians (EMT) to determine and pronounce death under certain circumstances. Registered physician assistants, registered paramedics, and certified emergency medical service may make a determination and pronouncement of death upon determining that a person has suffered irreversible cessation of circulatory and respiratory functions while a physician is not immediately available for consultation by radio or telephone.

Currently, when a member of an emergency medical service begins CPR they are required to continue resuscitation until: the person recovers; the EMT, physician assistant, or paramedic is relieved by either a medical facility or physician; the responding parties become physically exhausted and no longer able to continue; their physical safety is seriously threatened; or a physician pronounces the person dead.

Many times, particularly in rural Alaska, physicians and medical facilities are not immediately available, and emergency medical response members are required to continue unproductive resuscitation for several hours.

HB 39 would allow an EMT, physician assistant, or paramedic to declare death in situations where a physician is not available. This will help emergency response teams to better attend to the emergency medical needs of Alaska.

REPRESENTATIVE
GENE THERRIAULT
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Alaska State Legislature

House Of Representatives

While in Juneau
State Capitol
Juneau, Alaska
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House District 33

SECTIONAL ANALYSIS

HB 39

HB 39 The authority of mobile intensive care paramedics, physician assistants, and emergency medical technicians to pronounce death under certain circumstances.

SPONSOR: Rep. Gene Therriault

SECTION 1:

This section makes a technical amendment to AS 09.65.120 DEFINITION OF DEATH, to add mobile intensive care paramedics, physician assistants, and emergency medical technicians to the list of individuals who may pronounce death.

SECTION 2:

Section 2 of HB 39 proposes new language, AS 18.08.089 AUTHORITY TO PRONOUNCE DEATH, which introduces detailed circumstances in which a registered mobile intensive care paramedic, registered physician assistant, or a certified emergency medical technician may determine and pronounce the death of a person.

The paramedic, physician assistant, or EMT may pronounce a person dead when a physician is not immediately available for consultation by radio or telephone and they have determined, by "acceptable medical standards," that the person has suffered irreversible cessation of circulatory and respiratory functions. The EMT or paramedic who determines and pronounces death must be an active member of a certified emergency medical service.

The paramedic, physician assistant, or EMT who determines the death shall document the clinical criteria for the determination and pronouncement of death and notify the appropriate medical director as soon as communications can be established.

Proposed AS 18.08.089 (d) (1) gives the definition of "acceptable medical

Sectional Analysis

standards" as injuries incompatible with life, the presence of rigor mortis, the presence of post mortem lividity, or a failure to show signs of spontaneous pulse or respiratory functions in response to "properly administered resuscitation efforts." Injuries incompatible with life are defined in this section as cardiac arrest accompanied by incineration, decapitation, open head injury with loss of brain matter, or detruncation.

Proposed AS 18.08.089(d) (3) defines "properly administered resuscitation efforts" as at least 30 minutes of CPR on a non-hypothermic patient when a person authorized to perform advanced cardiac life support techniques is not available. When a patient is hypothermic at least 60 minutes of CPR in conjunction with rewarming techniques is required as described in the current State of Alaska Hypothermia and Cold Water Near-Drowning Guidelines published by the Division of Public Health. A minimum of 30 minutes of CPR combined with properly performed advanced life support techniques would be required when a person authorized to provide such services is present.

Making the call

Bill would let rescue workers declare death

By ED SCHOENFELD
THE JUNEAU EMPIRE

Joey Peyton still remembers the day he tried to resuscitate the victim of a plane crash near the Bethel Airport.

The emergency medical technician arrived to find a man mangled beyond recognition, bleeding profusely, with bone fragments jutting from his body.

But since there was a heartbeat, Peyton had to try to get air into his lungs and intravenous fluid into his bloodstream.

It didn't work.

"Air was blowing out holes in his chest and holes in his head and holes in his throat," said Peyton, an emergency medical trainer now based in Delta Junction. "The guy was obviously, hopelessly dead. In fact, he was bleeding IV fluid by the time the rescue helicopter got there."

Resuscitation, however, had to continue since there was no one present with sufficient medical authority to declare the man dead.

That would change under a bill that proposes giving some rescue crew workers the power to pronounce death.

House Bill 478 would end the obligation to continue fruitless resuscitation efforts when a doctor or other authority could not be reached to verify death, said sponsor Rep. Gene Therriault, a North Pole Republican.

Giving paramedics and emergency medical technicians the

Please see Bill, back page

Bill...

Continued from Page 1

power to declare death would lessen trauma to loved ones as well as rescue workers, said Janet North, a Galena EMS coordinator who was involved in an unsuccessful five-hour resuscitation effort last weekend in the community.

"It was pretty distressful to the family and to us," North told a House Health, Education and Social Services Committee hearing this week.

At the hearing, rescue workers from Ketchikan to Fort Yukon told lawmakers of dozens of hours-long resuscitation efforts that should have never taken place.

"Prolonged resuscitation is a mindless and barbaric tradition that will be broken by passing this bill," said Peyton, who now works with a rescue team that responds to accidents along the Alaska Highway. The incident in Bethel occurred about five years ago.

The bill does not give rescue workers permission to declare death in any situation.

It defines conditions, such as rigor mortis, that can be used to proclaim death. It also takes into account cases of drowning and hypothermia, where extended medical attention can revive a seemingly dead victim.

If the bill passes, additional details would also be added, Therriault said.

"I envision there would be some regulatory fleshing out of this so it became real clear to the EMS provider when they did have this authority and when they didn't," he told the committee before it passed out the bill.

Intent language attached to the bill also calls for emergency medical technicians and paramedics to receive additional training in recognizing signs of death.

The bill, recently endorsed by an Alaska State Medical Association's panel, would mostly affect rescue workers in rural areas where it can be hard to reach or locate a person with the authority to proclaim death.

But it would also be practical in Juneau and other cities, where air ambulance workers are sometimes required to continue resuscitation after a patient is beyond any chance of recovery, said Steve Iha, Capital City Fire-Rescue EMS captain.

"Significant amounts of money could be saved by allowing the prehospital advisers to stop a resuscitation in the field," Iha said.

EMS
An Alaskan tradition:
Neighbor helping neighbor

INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.

1881 MARIKA ST. • FAIRBANKS, ALASKA 99709
PHONE (907) 456-3978 • FAX 456-3970

January 23, 1995

Representative Gene Therriault
ATTN: FRANK SPAULDING
Alaska State Legislature
State Capitol (MS3100)
Juneau, Alaska 99801-1182

Dear Frank:

Interior Region Emergency Medical Services strongly endorses HB 39 as critically legislation for the pre-hospital emergency medical care providers of Alaska.

In many areas of Alaska, no physician or coroner is immediately available to determine and pronounce the death of a patient. Meanwhile, significant effort and resources are expended on resuscitation efforts that are clearly futile - this fact frequently precipitates unrealistic expectations on the part of the pre-hospital provider as well as the family of the patient. It is especially true in isolated, rural settings where the combination of inadequate transportation and/or communication make it impossible to gain access to a higher level of medical care.

The objective of the proposed legislation (HB 39), is to ensure that all patients receive appropriate emergency care, including resuscitation efforts, while at the same time allowing EMT's and paramedics to determine and pronounce death in circumstances where either starting or continuing a resuscitation effort are likely to be futile. Although EMT's and paramedics will need limited additional training, the bill clearly defines the setting under which resuscitation may stop as well as the records that are required to document the death. This bill will remove the mandate for EMT's and paramedic to initiate and continue extensive resuscitation efforts (over periods of hours) on a dead patient or a patient who may have been dead, by giving the decision to pronounce death to the medical care provider (EMT or paramedic) on the scene. It will also alleviate the personal anguish and physically taxing responsibility of the medical provider who provides definitive patient care on a person that the provider knows has expired, but who may not stop for fear of litigation.

HB 39 is good legislation and excellent public policy.

Sincerely,

Craig R. Lewis
Executive Director

SUPPORT

TO: HOUSE H.E.S.S. COMMITTEE

FROM: DONALD R. LEHMANN,MD
PRESIDENT, ALASKA STATE MEDICAL ASSOCIATION

RE: HOUSE BILL NO. 39. January 26, 1995

I apologize for not being able to testify in person on this bill.

The Alaska State Medical Association has in general been supportive of the intent of HB 39. We recognize the value of appropriately trainded paramedics and EMTs. Having such personel being able to legally pronounce death under appropriate guidelines will be of benefit to Alaskans, primarily in rural areas, as well as a benefit to these paraprfessionals who would otherwise be forced to continue futile resuscitative efforts.

We would oppose any dilution of the clear guidelines listed under Section 2. Some of our members expressed concern and have requested that line 3, page 3 item

[(C) the presence of post mortem lividity;]

be deleted. It was the feeling by a pathologist that this can be problematic and should not be used by EMTs in the field as a criteria for death.

I would be happy to answer any questions of the committee prior to any additional hearings that might be required.

Donald R. Lehmann, MD
700 Katlian St.
Sitka, AK 99835
907-747-5861

HB

60

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 60

Revision Date:
Title: "An Act relating to impairment rating guides used in evaluation of certain workers' compensation claims."
Sponsor: B. Davis
Requestor: (H) HES

Department Affected: Administration
BRU: Risk Management
Component: Risk Management

COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: $ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill requires the use of the most recently published edition (including supplements) of the American Medical Association Guides to the Evaluation of Permanent Impairment — when determining the existence and degree of permanent impairment compensable under the workers' compensation act. The newer editions now consider "pain" as an additional rating consideration.

Agency "Cost of Risk " premium allocations — inter-agency receipts collected by Risk Management — reflect average of 5 prior years of actual claims costs incurred. Any cost increases incurred applying newer rating guideline will be added into this claims experience - and considered in future workers' compensation premium allocations to each agency.

There is no direct fiscal impact to the Division of Risk Management.

Prepared by: J. Brad Thompson, Director
Division: Risk Management
Phone: 465-5723
Date:

Approved by Commissioner: Mark Boyer
Agency: Department of Administration
Date: 1/21/96

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Rev 01/95

LEG\96\FN\96HB 60 ZERO FISCAL NOTE - ADMINSTRATION

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 60

Revision Date:
Title: Impairment rating guides for Workers' Comp
Sponsor: Representative B. Davis
Requestor: House HESS

Department Affected: Labor
BRU: Workers' Compensation
Component: Workers' Compensation

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE FUND SOURCE #						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: $ None

ANALYSIS: (Attach a separate page if necessary)

This bill proposes amending AS 23.30.190(b) to use the most recent published editions of the American Medical Association Guides, including supplementary materials, for the Evaluation of Permanent Impairment.

Prepared by: Paul Grossi, Director — Phone: 465-2790
Division: Workers' Compensation — Date: 1/19/96

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor — Date: 1/19/96

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ZERO FISCAL NOTE - DEPARTMENT OF LABOR

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 24, 1995 FURTHER REFERRALS: Finance

Date of Committee Action: 2/15/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 60

HOUSE BILL NO. 60 IMPAIRMENT RATING GUIDES FOR WORKERS COMP

"An Act relating to impairment rating guides used in evaluation of certain workers' compensation claims."

recommends it be replaced with the following committee substitute CS HB 60 (HES) [X] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

_____ _____

2 [X] zero fiscal note(s) Labor, Admin [ ] zero fiscal note(s) _____

_____ _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Norm Rokeby	✓			
Con Bunde			✓	
Richard Foster	✓			
Loren Robinson	✓			
Tom Brice			~~✓~~	

CHAIR'S SIGNATURE Con Bunde _____

(7)

Date Referred: January 16, 1995 FURTHER REFERRALS: HES, Finance

Date of Committee Action: 3-22-95

The LABOR AND COMMERCE Committee considered: HB 60

HOUSE BILL NO. 60 IMPAIRMENT RATING GUIDES FOR WORKERS COMP

"An Act relating to impairment rating guides used in evaluation of certain workers' compensation claims."

recommends it be replaced with the following committee substitute _____ [ ] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____ [ ] fiscal note(s) _____

[X] zero fiscal note(s) Labor; Admin [ ] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Kott			✓	
	Roxeberg	✓			
	Elton	✓			
	Kubina	✓			
	Porter	✓			
	Masek			✓	
	Sanders			✓	
		(4)		(3)	

CHAIR'S SIGNATURE _____

Vote

HOUSE LABOR AND COMMERCE COMMITTEE REPORT

9-LS0293\C
Ford
1/25/96

CS FOR HOUSE BILL NO. 60( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE B.DAVIS

A BILL

FOR AN ACT ENTITLED

"An Act relating to impairment rating guides used in evaluation of certain workers' compensation claims."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.30.190(b) is amended to read:

(b) All determinations of the existence and degree of permanent impairment shall be made strictly and solely under the whole person determination as set out in the most recently published edition of the American Medical Association Guides to the Evaluation of Permanent Impairment, except that an impairment rating may not be rounded to the next five percent. When a new edition of the American Medical Association Guides is published, the board shall begin using the new edition not later than ~~60~~ 90 days after the date of publication. The board shall adopt a supplementary recognized schedule for injuries that cannot be rated by use of the American Medical Association Guides.

ALASKA STATE LEGISLATURE

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JUDICIARY

OIL & GAS

LEGISLATIVE COUNCIL

REPRESENTATIVE BETTYE DAVIS
DISTRICT 21

SPONSOR STATEMENT

HB60: " An Act relating to impairment rating guides used in evaluation of certain workers' compensation claims."

The Division of Workman's Compensation is using an outdated 1988 American Medical Association impairment guide to rate injuries suffered in the workplace as set out in AS23.30.190.

The American Medical Association has not only published a fourth edition of the guide, but recommends the use of a supplement, " Understanding the A.M.A. Guides." These two publications point out the many weaknesses and omissions in the 1988 version.

There have been significant changes in diagnostic and evaluation procedures over the last six years. One of the most important, that the Alaska Guide does not address, is how the injury affects the patient's daily activity. "One's occupation is a part of his or her daily activity. ' We are doing an injustice to our workforce by not recognizing this fact in our current evaluation.

The American Medical association realizes the shortcomings of even the new fourth edition and recommends that the supplement, " Understanding the A.M.A. Guides " be used in conjunction with it.

This Bill would amend the current Statute by substituting " most recent version and any supplementary materials."

M. Roy Schwarz, MD
Senior Vice President
Medical Education & Science

515 North State Street
Chicago, Illinois 60610

312 464-[illegible]
312 464-[illegible] Fax

February 14, 1995

Mr.L. E. Brueggemann
Attorney at Law
2817 2nd Avenue North
Suite 346-347, Pratt Building
Billings, Montana 59101

Dear Mr. Brueggemann:

Doctor Todd asked that I respond to your letter of January 10, 1995, which inquired about the position of the American Medical Association (AMA) regarding use of the AMA book, *Guides to the Evaluation of Permanent Impairment (Guides)*.

The AMA's position is clearly stated on page 5 of the *Guides* 4th edition (enclosed), which was published in June, 1993. You quoted the official position in your January 10th letter. The position is: "The American Medical Association strongly discourages the use of any but the most recent edition of the *Guides*, because the information in it would not be based on the most recent and up-to-date material".

The position of the AMA quoted above reflects advice that the AMA's staff provided in May, 1992, to the staff of each state medical society.

It is AMA practice to sell or provide only the most recent *Guides* edition. Any state law mandating the use of a specific *Guides* edition gives rise to the serious hazard that the state's citizens eventually may not be able to obtain a copy of the book to which the law refers.

I commend the Acting Commissioner of the Department of Labor, State of Alaska, for her efforts to change the laws of Alaska, so that they will refer to using the most recent *Guides* edition in Alaska's workers' compensation cases.

I trust this letter will help.

Sincerely yours,

M. Roy Schwarz, MD

enc

BACKGROUND

ALASKA

Alaska Statutes § 23.30.190
Compensation for Permanent Partial Impairment

(b) All determinations of the existence and degree of permanent impairment shall be made strictly and solely under the whole person determination as set out in the American Medical Association *Guides to the Evaluation of Permanent Impairment*, except that an impairment rating may not be rounded to the next five percent. The board shall adopt a supplementary recognized schedule for injuries that cannot be rated by use of the American Medical Association *Guides*.

Alaska Administrative Code tit. 8 § 45.122.
Rating Permanent Impairment.

(a) Permanent impairment ratings must be based upon the American Medical Association *Guides to the Evaluation of Permanent Impairment*, third edition (1988), and it is presumed that the AMA guides address the injury. If the board finds the presumption is overcome by clear and convincing evidence and if the permanent impairment cannot, in the board's opinion be determined under the AMA guides, then the impairment rating must be based on American Academy of Orthopedic Surgeons *Manual for Evaluating Permanent Physical Impairments*, first edition (1965). If a rating under the AAOS is not of the whole person, the rating must be converted to a whole person rating under the AMA guides.

(b) A rating of zero impairment under AMA guides is a permanent impairment determination and no determination may be made under the AAOS manual.

AMA SUPPLEMENT PAGES

medicine.

A detailed explanation sets forth, for the first time, the process by which the book was written. The editors explain how the chairpersons and committee members for the various chapters were selected, how the new edition underwent peer review, and how 11 medical societies, the Social Security Administration, the Department of Veterans Affairs, the Oklahoma State Workers' Compensation Agency, and the American Bar Association were permitted to review a draft of the fourth edition and suggest changes. This explanation helps to answer many of the questions previously raised by commentators concerning how the *Guides* were written and how the impairment percentages were determined.

The foreword to the fourth edition emphasizes that the book itself applies only to *permanent* impairments, which are defined as "adverse conditions that are stable and unlikely to change."[1] This is a significant change from the third edition revised, which provided a more restrictive definition of permanent impairment, *i.e.*, "Impairment should not be considered 'permanent' until the clinical findings determined over a period of time, usually 12 months, indicate that the condition is static and well stabilized."[2] Physicians no longer have to wait a set amount of time before rating permanent impairment.[3]

The modified definition of permanent impairment is the first example of the more flexible approach to rating permanent impairment taken by the editors of the fourth edition. Additional examples of the flexibility and the reliance on the experience and training of physicians are set forth throughout this book.

The editors of the fourth edition, again for the first time, state in the foreword that "impairment percentages derived by using *Guides* criteria represent estimates rather than precise determinations."[4] This simple statement is a significant change from the prior edition of

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The fourth edition of American Medical Association *Guides to the Evaluation of Permanent Impairment* (*Guides*) is a remarkable improvement over the previous edition (third edition revised). The American Medical Association has listened to and incorporated the suggestions of occupational physicians, attorneys, judges, legislators, and others involved in workers' compensation and occupational medicine. The result is a much improved edition—one which, when used correctly, can objectively guide physicians, attorneys, judges, and others in arriving at estimates of permanent impairment.

This new edition of *Understanding the AMA Guides* discusses the key legal issues raised by the fourth edition and compares the third edition revised with the current fourth edition. Those persons interested in the historical development of the *Guides*, the validity and reliability of the third edition revised, sample proofs, and prior judicial interpretations of the *Guides*, should consult the first edition of *Understanding the AMA Guides* and its 1993 supplement.

The chapters and sections of this book correspond to those of the fourth edition of the *Guides*. It must be understood, however, that this book is not a substitute for the *Guides*, nor can it be used as one. This book has three purposes:

1. to highlight the areas of key legal interest in the fourth edition;
2. to identify and analyze the significant changes in the fourth edition from the third edition revised; and
3. to update the cases, statutes, and regulations found in the first edition of *Understanding the AMA Guides*.

We hope that counsel will find this book a valuable resource.

Expanded Use of *Guides*

It is important to note that courts have started to use the *Guides* in tort cases as well as in workers' compensation cases.

For example, in the case of *Michels v. U.S.*,[1] the U.S. District Court for the Southern District of Iowa dealt with a motorcyclist, Michels, who filed a federal tort claim Act (FTCA) action against the United States.

The government's independent medical exam, done by Dr. Virgil Balint, utilized the *Guides* and was adopted by the court regarding physical impairment.

Dr. Balint also calculated an impairment rating for Michels. He concluded as follows:

> I have used the *Guides for the Evaluation of Permanent Impairment*, Third Edition, in order to compute his impairment rating. Basically I have gotten an 18 percent impairment rating of the lower extremity from his ankle, a 15 percent impairment of the lower extremity from his knee injury and a 45 percent lower extremity impairment from his left hip. By combining these values, I have gotten a 62 percent lower extremity impairment. This 62 percent impairment represents a 25 percent impairment of the whole person.[2]

The court awarded the plaintiff damages in the amount of $710,000.

In the case of *Ross v. Black & Decker, Inc.*,[3] the U.S. Court of Appeals for the 7th Circuit dealt with a products liability action filed by the plaintiff Ross, whose left hand was severed while using a Black & Decker 10-inch power saw. In the products liability suit, an expert used by the plaintiff testified using the *Guides* as follows:

> As expert witness for the plaintiff, Dr. Hatem Galal, a plastic surgeon who examined Ross' injured hand and conducted an occupational therapy evaluation of Ross' hand function for employment purposes, testified that Ross lost about 60 percent of the functioning of his left hand because of the saw accident and stated that a human hand accounts for about 90 percent of the function of an arm. An arm accounts for about 60 percent of the body's total function. Therefore, Dr. Galal estimated that Ross' hand injury deprived him of about 30 percent of total body functioning.

BILL NO: Senate Bill No. 365 am **DATE:** April 25, 1994

TITLE: Governor's Omnibus Bill **CONTACT:** Arbe Williams
465-2700

Senate Bill No. 365 as amended incorporates three changes to the Alaska Workers Compensation Act. The amendments are part of the solution to what the department views as a critical problem in meeting the time frame for processing Decisions & Orders that are mandated in statute.

Section 4 proposes to amend AS 23.30.041(e) to adopt the latest federal publication of "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" (SCODDOT). This publication reflects current training and physical requirements of jobs and is the basis for determining eligibility for reemployment benefits under standards established in the 1988 amendments to the Alaska Workers' Compensation Act. The latest publication recognizes changes in the physical capacity or demands of specific jobs, and includes job titles previously not identified. Adopting the revised publication will reduce the need for administrative hearings since injured workers will not need to challenge the use of an outdated version of SCODDOT and will ensure that those applicants who meet current requirements of jobs will qualify for benefits.

Section 5 proposes to amend AS 23.30.095(k) to clarify the authority of the Alaska Workers' Compensation Board to delegate its authority to division staff to arrange necessary independent medical evaluations (IME's). Division staff have for many years regularly arranged IME's; however, recently the Assistant Attorney General assigned to the Board questioned the regulation giving staff authority to arrange such evaluations. Clarifying the Board's authority to delegate this administrative function will reduce the need to convene the Board to approve such arrangements. This will allow the Board to concentrate their effort on the adjudication of claims, rather than on administrative procedures. In addition, timely medical evaluations will contribute to the timely finalization of worker's compensation claims.

Section 6 proposes to amend AS 23.30.190(b) to allow the use of the edition of the American Medical Association Guides to the Evaluation of Permanent Impairment in effect at the time of the impairment rating. This publication is the basis for determining eligibility for permanent partial impairment compensation and reemployment benefits adopted in the 1988 amendments to the Alaska Workers' Compensation Act. Allowing the use of the current edition of the publication in effect at the time of the impairment rating will reduce the need for Board hearings and ensure that those applicants who meet current requirements will qualify for benefits. The older version of the AMA guides do not include some injury types and do not reflect current thinking on degrees of injury given new medical technology and prognosis for recovery.

POSITION PAPER/Department of Labor

April 25, 1994

The adoption of the latest publications and the clarification of the Board's authority is supported by the Alaska Workers' Compensation Board, the medical community, private rehabilitation specialists, employers and injured workers. The Department of Labor supports Senate Bill No. 365 as amended and would urge passage this legislative session.

APPROVED:

John A. Abshire

Charles W. Mahlen, Commissioner

POSITION PAPER/Department of Labor