

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8541 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 26, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/16/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 125

HOUSE BILL NO. 125

JUVENILE CRIMINAL RECORDS TO SCHOOLS

"An Act relating to disclosures to school officials of information about certain minors."

recommends it be replaced with the following committee substitute CS HB 125 (HESS) 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) AK Court System fiscal note(s) _____

zero fiscal note(s) Education zero fiscal note(s) _____
H+SS

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>				<input checked="" type="checkbox"/>
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<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>				<input checked="" type="checkbox"/>

CHAIR'S SIGNATURE *[Signature]*

03. 13. 95 02:52PM

P 02

ALASKA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union
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March 7, 1995

The Honorable Con Burde and Cynthia Toohey
Co-Chairs -- House Health, Education,
and Social Services Committee
Alaska House of Representatives
State Capitol Building, Room 104
Juneau, AK 99801-1182

re: House Bills 104 and 125

Dear Representatives Toohey and Burde:

I am writing to you on behalf of the Board of Directors and the members of the Alaska Civil Liberties Union (AKCLU) in regards to two related bills currently pending before your committee: HB 125 and 104 relating to the disclosure of information regarding juvenile offenders. These bills would expand the disclosure of information regarding juvenile offenders. House Bill 125 provides for release of information to school officials and HB 104 provides release of the minor's name, address and offense, if the minor is over 14 and the offense would have been a felony if the minor was an adult.

The AKCLU opposes these changes. One of the most serious problems faced by a person who has a juvenile record is the possibility that it will be discovered by prospective employers. For this reason, juvenile records are purportedly made confidential by statute in every state. Many states including Alaska provide procedures by which a juvenile record may be sealed or expunged upon the individual reaching the age of majority. The underlying philosophy of these laws is that young people who have not fully matured, should not be stigmatized for acts of indiscretion which could have a permanent impact on their lives. Instead, Alaska and other states have passed laws to guard the privacy of juveniles and to make rehabilitation, not punishment, the primary focus of the juvenile justice system.

Our opposition to these bills rests primarily on the privacy clause (section 22) and the right of rehabilitation (section 12) of the Alaska Constitution. We believe that these bills will certainly impede the juveniles ability to be rehabilitated. Release of information about juvenile offenses will also interfere with the juvenile's right of privacy.

Page Two -- Representatives Toohey and Bunde -- March 7, 1995

There is little or nothing to be gained from changing the law as it currently exists, and much to lose. Under current law, juvenile records may be released for "good cause." It is typical practice under the current system for judges, prosecutors, probation officers, social workers and even school officials to have information about a juvenile offense. For example, if a juvenile is charged with an offense it is normal for prior offenses to be considered by the judge or magistrate when setting release conditions. Prosecutors frequently hinge charge bargaining decisions on whether juveniles have records. Juveniles who wish to be considered for probation are often required to cooperate with school officials or rehabilitation programs which involves divulging information about the offense to such people. In those situations where it is necessary to release a juvenile's record (e.g. where "good cause" exists), the current law permits for that information to be distributed.

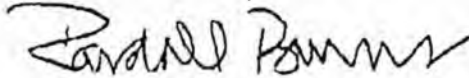
By changing the law, two things will happen. First, the media will have access to information about any juvenile felony level offense of children over the age of 14. This could have a potentially devastating impact on the lives of children. Information about any felony level offense, no matter how minor, can be distributed to the public at large impacting that child's life dramatically by hampering his or her ability to seek employment, participate in community activities, and exposing him or her to community animosity. In this atmosphere, a child is more likely to suffer permanent consequences of what may have been a stupid mistake and less likely to be rehabilitated and reintegrated into the community. By stigmatizing a child, we greatly reduce the probability that the youth will see any value in attempting the hard work of putting his or her life back together. Having been already branded "criminal" he or she is likely to continue the same patterns and associate with the same people that led to involvement with the justice system. By giving up on our young people so early, we are effectively agreeing to "throw away" our youth.

Secondly, by automatically informing the school authorities about certain juvenile offenses, the juvenile will likely suffer adverse consequences. He or she may be suspended from school, forbidden to participate in extra-curricular activities, and suffer the criticism and ostracism of his peers, all of which will also hinder his or her likelihood of rehabilitation. Again, there is no reason to change the current law to allow for protection of the school community. If the prosecuting authorities or the court determine that there is "good cause" to release this information to school authorities, then the current law provides for the release of that information.

Page Three -- Representatives Toohy and Bunde -- March 7, 1995

Thank you for your attention to this matter. We ask you to consider our concerns and reject these proposed bills.

Sincerely,



Randall Burns
Executive Director

RCK:RFB

Rep. Joe Green

INFORMATION ON JUVENILE DISCLOSURE IN OTHER STATES.

Attachment B is a copy of a 1994 publication, "Confidentiality of Juvenile Court Records Statutes Analysis," conducted by Linda Szymanski of the National Center for Juvenile Justice (NCJJ), an independent, nonprofit research group. According to Ms. Szymanski's summaries, as of 1993, juvenile statutes provided specifically for the following:

- 36 states and the District of Columbia provide for the release of records to persons having a legitimate interest;
- 4 states provide specifically for release of information to persons in danger from the child;
- 25 states provide specifically for release of information to victims of the crime;
- 13 states provide for release of juvenile records to school officials;
- 2 states provide specifically for release of information to the news media under some limited circumstances; and
- **24 states provide for release of information about certain crimes to the general public under special circumstances.**

²The state Division of Family and Youth Services (DFYS) and the DHHS consider Title IV-B--child welfare services--funding to be at risk along with funding for Title IV-E programs. According to Kathy Tibbles, acting director of DFYS, although the major share comes from the IV-E programs, funding from the two sources totals nearly \$7 million dollars annually.

Representative Green

February 8, 1995

Page 4

Of the states Ms. Szymanski cites as providing for release of information about certain crimes to the general public under special circumstances, 4 refer specifically to records of juveniles who have been transferred to adult courts. Although the particulars vary, **another 12 states provide specifically for public access to records of juveniles charged with or adjudicated for crimes that would be considered felonies if committed by adults.** (Since Ms. Szymanski published the report, at least one other state--Illinois--has passed a similar law, and at least one additional state--Utah--is considering a similar law.). Louisiana appears to be unique in requiring that the name of a serious violent offender be released only after the entire appeal process has been exhausted. The following states' provisions may be of particular note.

California, WI.676. The names of minors having committed serious violent offenses shall not be confidential, unless the court, for good cause, so orders. Any party may petition the court to prohibit disclosure, and the court shall grant the petition if it appears that the harm to the minor, victims, witnesses, or public from the disclosure outweighs the benefit of public knowledge.

Colorado, 15.1.119 (i)(b.5). Basic information in the court records of a juvenile charged or convicted of an act that would have constituted a class 1,2,3, or 4 felony if committed by an adult shall be open to the public.

Florida, 39.045 (9). A law enforcement agency may release for publication the name and address of a child of 16 or more years who has been taken into custody for a violation of law which, if committed by an adult, would be a felony, or the name and address of any child 16 or older who has been found to have committed at least three or more violations which, if committed by an adult, would be misdemeanors, or the name and address of any child who has been adjudicated guilty of a capital felony, life felony, first degree felony, or a second degree felony involving violence against a person.

Montana, 41.5.601(2). Publicity may not be withheld regarding any youth formally charged with an offense that would be punishable as a felony if the youth were an adult.

New Jersey, 2A.4A.60(d). Information as to the identity of a juvenile, the offense, the adjudication and the disposition of a case shall be disclosed to the public where the offense for which the juvenile has been adjudicated delinquent, if committed by an adult, would constitute a crime of the first, second, or third degree, or aggravated assault, destruction or damage to property to an extent of more than \$500, or the manufacture or distribution of a narcotic drug, unless upon application at the time of disposition the juvenile can demonstrate a substantial likelihood that specific harm would result from such disclosure.

Oklahoma, 10.51.1125.3. Confidentiality restrictions shall not apply if a juvenile is adjudicated for a serious act or for certain habitual criminal acts.

Representative Green

February 8, 1995

Page 5

Virginia, 16.1.309.1. Where consideration of public interest requires, the judge may make public the name and address of a child and the nature of the offense for which the child has been adjudicated delinquent if for an act which would be a class 1,2, or 3 felony, forcible rape or robbery if committed by an adult, or in any case where a child is sentenced as an adult.

Wyoming, 14.6.240 (d). The court may release to the news media the name of a child who has been adjudicated a delinquent for a second or subsequent time pursuant to a petition filed under this act alleging the commission of a delinquent act constituting a felony.

I spoke with program representatives in Colorado, Florida, and Wyoming about Title IV-E funding in relation to the release of juvenile court records. **These states have experienced no funding problems in connection with access to juvenile justice records.**

- Sharen Ford, program administrator with the Division of Child Welfare Services in Colorado, notes that a few months ago, the juvenile justice and child welfare services functions were consolidated into a single department. The state's Title IV-E and IV-B funding has not been impacted--either before or after consolidation--by the release of juvenile records.
- Janet Ferris, general counsel for Florida's youth services program, notes that in the past, Florida has not sought Title IV-E and IV-B funding for delinquent youth. Thus, Florida has not had occasion to test the compatibility of Title IV-E confidentiality requirements and the state's release of juvenile records provision. With a potential of approximately \$39 million annually, however, IV-E funding is currently a high priority. Ms. Ferris is not anticipating a problem in regard to confidentiality requirements.
- Jim Mitchell, management consultant for Wyoming's Division of Youth Services, Department of Family Services, notes that a law similar to their current one has been in effect in Wyoming since 1957. Mr. Mitchell, who is the former administrator of the division, states that both children's services and juvenile justice are administered within the Division of Youth Services, and that the IV-E funds serve delinquent children on a regular basis. Wyoming has never experienced a problem with their Title IV-E funding.

I also spoke with Dan Lewis, at the Children's Bureau, the Administration for Children, Youth, and Families, US DHHS. Mr. Lewis suggested that I submit a formal request for an interpretation of the confidentiality requirements in regard to this issue to the associate commissioner of the Children's Bureau. I will forward copies of my request and the response when it arrives.

Representative Green

February 8, 1995

Page 6

Legislative History and Intent--Confidentiality of Juvenile Court Proceedings

The Laws of Alaska in 1957 provided that the public be excluded from all juvenile hearings. Certain persons could be permitted to attend if, in the judge's opinion, such attendance was in the best interest of the minor. This aspect of the law has not changed, although in 1966 the legislature added a provision allowing for the presence of a "young adult advisory panel," and in 1991, the legislature passed a provision granting a victim the unlimited right to attend a hearing. The addition of the advisory panels was intended to allow for some measure of peer pressure for juveniles, as well as to provide a wider range of young adults with a look at the potential consequences of criminal behavior. The right to be present allowed to victims is in keeping with the victims' rights movement across the country.

Attachment C is a copy of Linda Szymanski's recent NCJ publication, "Confidentiality of Juvenile Court Delinquency Proceedings (1994 Update)." As of 1994, 20 states admit the general public to juvenile hearings, at least under some circumstances. According to the summary provided, **hearings in nine states--California, Delaware, Kansas, Louisiana, Maine, Minnesota, Montana, Oklahoma, and Utah--are open if the crimes are serious.**

The general rule has always been that juvenile hearings, like juvenile records, should be kept confidential because children can change their behavior, have their records sealed, and go on to lead productive lives. Public sentiment, however, is changing in this regard.

The possibility of open juvenile court hearings raises questions about eligibility for Title IV-E funding similar to those raised by access to or publication of juvenile court records. I will include this issue in my request to the Children's Bureau.

I hope this information is helpful. If you have questions or need further information, please let me know.

Attachments

9-LS0499AG ✓
Chenoweth
2/21/95

CS FOR HOUSE BILL NO. 125()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES GREEN, Toohey, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to disclosures to school officials of information about certain
2 minors."

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

4 * Section 1. AS 47.10.060(e) is amended to read:

5 (e) A person who has been tried as an adult under this section, or the department
6 on the person's behalf, may petition the superior court to seal the records of all criminal
7 proceedings, except traffic offenses, initiated against the person, and all punishments
8 assessed against the person, while the person was a minor. A petition under this
9 subsection may not be filed until five years after the completion of the sentence imposed
10 for the offense for which the person was tried as an adult. If the superior court finds that
11 the punishment assessed against the person has had its intended rehabilitative effect and
12 further finds that the person has fulfilled all orders of the court entered under
13 AS 47.10.080(b), the superior court shall order the record of proceedings and the record
14 of punishments sealed. Sealing the records restores civil rights removed because of a

1 conviction. A person may not use these sealed records for any purpose except that the
2 court may order their use for good cause shown or may order their use by an officer of
3 the court in making a presentencing report for the court. The court may not, under this
4 subsection, seal records of a criminal proceeding

5 (1) that are subject to disclosure under AS 47.10.090(f);

6 (2) initiated against a person if the court finds that the person has not
7 complied with a court order made under AS 47.10.080(b); or

8 (3) [(2)] commenced under AS 47.10.010(e) unless the minor has been
9 acquitted of all offenses with which the minor was charged or unless the most serious
10 offense of which the minor was convicted was not an offense specified in
11 AS 47.10.010(e)(1) or (2).

12 * Sec. 2. AS 47.10.090(c) is amended to read:

13 (c) Within 30 days of the date of a minor's 18th birthday or, if the court retains
14 jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which
15 the court releases jurisdiction over the minor, the court shall order all the court's official
16 records pertaining to that minor, except the records that are subject to disclosure
17 under (f) of this section, sealed. The court order directing that the records be sealed
18 must include the [, AS WELL AS] records of all driver's license proceedings under
19 AS 28.15.185, of all criminal proceedings against the minor except the records of
20 criminal proceedings that are subject to disclosure under (f) of this section, and of
21 all punishments assessed against the minor, except records of punishments that are
22 subject to disclosure under (f) of this section. A person may not use these sealed
23 records for any purpose except that the court may order their use for good cause shown
24 or may order their use by an officer of the court in making a presentencing report for the
25 court. The provisions of this subsection relating to the sealing of records do not apply
26 to records of traffic offenses.

27 * Sec. 3. AS 47.10.090(d) is amended to read:

28 (d) Except as provided by (f) of this section, the [THE] name or picture of a
29 minor under the jurisdiction of the court may not be made public in connection with the
30 minor's status as a delinquent child or a child in need of aid unless authorized by order
31 of the court.

1 * Sec. 4. AS 47.10.090(e) is amended to read:

2 (e) The court's official records that, under this chapter, are required to be
3 confidential or that have been sealed may be inspected only with the court's permission
4 and only by persons having a legitimate interest in them. A person with a legitimate
5 interest in the inspection of an official record maintained by the court includes a victim
6 who suffered physical injury or whose real or personal property was damaged as a result
7 of an offense that was the basis of an adjudication or modification of disposition. If the
8 victim knows the identity of the minor, identifies the minor or the offense to the court,
9 and certifies that the information is being sought to consider or support a civil action
10 against the minor or against the minor's parents or guardians under AS 34.50.020, the
11 court shall, subject to AS 12.61.110 and 12.61.140, allow the victim to inspect and use
12 the following records and information in connection with the civil action:

13 (1) a petition filed under AS 47.10.010(a)(1) seeking to have the court
14 declare the minor a delinquent;

15 (2) a petition filed under AS 47.10.080 seeking to have the court modify
16 or revoke the minor's probation;

17 (3) a petition filed under AS 47.10.060 requesting the court to find that
18 a minor is not amenable to treatment under this chapter and that results in closure of a
19 case under AS 47.10.060(a); and

20 (4) a court judgment or order entered under AS 47.10.010 - 47.10.142
21 that disposes of a petition identified in (1) - (3) of this subsection.

22 * Sec. 5. AS 47.10.090 is amended by adding a new subsection to read:

23 (f) If a minor who has been adjudicated delinquent is enrolled in school, the clerk
24 of the court in which the adjudication order is entered

25 (1) shall transmit a copy of the court's adjudication order to the principal
26 of the minor's school if

27 (A) the minor has been adjudicated delinquent for committing an
28 offense on the school's property; or

29 (B) the minor has been adjudicated delinquent for committing one
30 or more of the following acts that, if committed by an adult, would be a violation
31 of

1 (i) AS 11.41 and the violation is punishable as a felony;

2 (ii) AS 11.46.100 - 11.46.490 and the violation is
3 punishable as a felony;

4 (iii) AS 11.71 and the violation is punishable as a felony;

5 or

6 (iv) a statute defining a criminal offense if the offense
7 involved the possession or use of a deadly weapon, as that term is defined
8 by AS 11.81.900(b);

9 (2) shall provide with the copy of the adjudication order a notice to the
10 principal that the copy of the order may not be disclosed except as provided in
11 AS 47.10.093(h); and

12 (3) shall maintain a record of the adjudication order released to the
13 principal under this subsection and the basis for its release.

14 * Sec. 6. AS 47.10.093(a) is amended to read:

15 (a) Except as specified in AS 47.10.092 and (b) - (f), and (h) of this section, all
16 information and social records pertaining to a minor who is subject to this chapter or
17 AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or
18 employee in the discharge of the agency's or employee's official duty, including driver's
19 license actions under AS 28.15.185, are privileged and may not be disclosed directly or
20 indirectly to anyone without a court order.

21 * Sec. 7. AS 47.10.093(c) is amended to read:

22 (c) A state or municipal law enforcement agency

23 (1) shall disclose information regarding a case that is needed by the
24 person or agency charged with making a preliminary investigation for the information of
25 the court under AS 47.10.020;

26 (2) may disclose to the public information regarding a criminal offense
27 in which a minor is a suspect, victim, or witness if the minor is not identified by the
28 disclosure;

29 (3) shall notify the principal of the school attended by a minor who
30 is subject to AS 47.10.010 - 47.10.142 and [MAY] disclose to that school official
31 information

1 (A) about an incident occurring within the agency's
2 jurisdiction if the law enforcement agency has probable cause to believe that
3 the minor has committed an offense that would be a crime if committed as
4 an adult and

5 (i) that the victim of the offense is a student or staff
6 member of the school and that notice to the school is reasonably
7 necessary for the protection of the victim; or

8 (ii) is an offense described in AS 47.10.090(f)(1)(B); or

9 (B) [OFFICIALS INFORMATION] regarding a case not
10 required to be disclosed under (A) of this paragraph [AS MAY BE
11 NECESSARY] to protect the safety of school students and staff;

12 (4) may disclose to the public information regarding a case as may be
13 necessary to protect the safety of the public; and

14 (5) may disclose to a victim information, including copies of reports, as
15 necessary for civil litigation or insurance claims pursued by or against the victim.

16 * Sec. 8. AS 47.10.093 is amended by adding new subsections to read:

17 (h) When information or a record is disclosed to a school principal under (c)(3)
18 of this section or under AS 47.10.090(f), the school principal may disclose the
19 information only to persons employed by that school district or to the chief administrative
20 officer of a school district to which the minor transfers.

21 (i) Notwithstanding (c)(3) of this section, a state or municipal law enforcement
22 agency is not required to notify the principal of a school under (c) of this section if the
23 agency determines that notice would jeopardize an ongoing investigation.

24 (j) In this section, "school" means a public or private elementary or secondary
25 school.



Lawrence A. Wiget, Ed.D.
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Anchorage School District
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TO: HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
COMMITTEE

SUBJECT: LETTER OF SUPPORT: HOUSE BILL 125

DATE: FEBRUARY 23, 1995

The Anchorage School District supports the passage of House Bill 125, "An Act relating to disclosures to school officials of information about certain minors."

The Juvenile Waiver Bill, CCS SB 54, became effective September 1, 1994. As part of the Bill, AS 47.10 was amended to add a new section which provides in relevant part: a state law enforcement agency " may disclose to school officials information regarding a case as may be necessary to protect the safety of school students and staff" AS 47.10.093 (c)(3).

HB 125 goes a step further and indicates that a state or municipal law enforcement agency shall notify the principal of the school attended by a minor who is subject to AS 47.10.010 - 47.10.142 .

The Anchorage School District supports this change. Without this section, a school district may request information which it feels may be necessary to protect the safety of school students and staff, but be denied the information at the discretion of the law enforcement agency.

Alaska State Legislature

WHILE IN SESSION:
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DISTRICT 10



CHAIR, OIL & GAS COMMITTEE
VICE CHAIR, LABOR & COMMERCE
COMMITTEE
JUDICIARY COMMITTEE
RESOURCES COMMITTEE
INTERNATIONAL TRADE & TOURISM
COMMITTEE
ECONOMIC TASK FORCE

Representative Joe Green

SPONSOR STATEMENT, HB 125

"An act relating to disclosures
of information about certain minors"

One of the leading problems school administrators face is violence in the schools. Currently, there is no requirement that a school principal be given records regarding an adjudicated delinquent who is attending that school. Some juvenile offenders who have committed serious crimes are in schools and school officials are left out of the information loop. HB 125 helps to address this serious problem. Last year the law was changed to require that serious juvenile offenders over 16 years of age be automatically waived into adult court. However, there is no automatic waiver for juvenile offenders 15 and under, some of whom have committed serious, violent crimes. The crimes covered by this disclosure would include homicide, assault and reckless endangerment, kidnapping, sexual offenses, robbery, extortion, offenses against property, controlled substance offenses, and possession or use of a deadly weapon. It is these records with which HB 125 is concerned. HB 125, if enacted, would require mandatory disclosure of an adjudicated juvenile's court records to school officials:

- A. If the victim of the offense is a student or staff member and that notice to the school is necessary to protect the victim, or
- B. The disclosure is necessary to protect the safety of school students and staff.

This bill also requires law enforcement agencies to inform the principal if there is "probable cause" to believe that a minor attending that school has committed a serious felony. Additionally, HB 125 sets limits on the further release of the records. Since schools already adhere to strict confidentiality standards, the disclosure would fall under their existing confidentiality policy.

The information provided by mandatory disclosure would protect the victims of juvenile crime, protect students, protect teachers, and give the principal information that would allow him or her to use the school's resources to provide help for the adjudicated delinquent. If schools are held responsible for the safety of the students and faculty, school officials must have the necessary information about student violence to do the job properly.

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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Juneau, Alaska 99801-2105

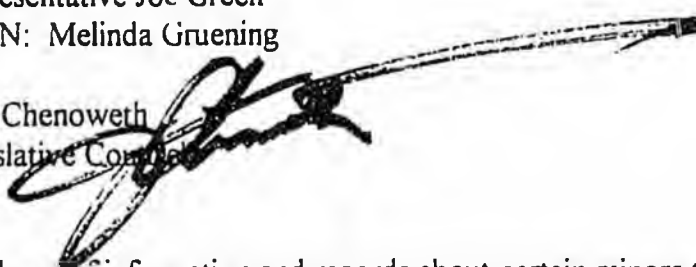
MEMORANDUM

February 21, 1995

SUBJECT: Draft CSHB 125(), relating to disclosure of information about minors to school officials: sectional analysis (Work Order No. 9-LS0499\G)

TO: Representative Joe Green
ATTN: Melinda Gruening

FROM: Jack Chenoweth
Legislative Counsel



The bill proposes to allow release of information and records about certain minors to school officials, and sets new limitations on the further release of that information or those records. The information and records that may be disclosed derive from two sources, records of the Alaska Court System and records compiled and maintained by law enforcement agencies.

*

The first five sections of the bill speak to information and records of the Alaska Court System.

The principal operative provision is bill section 5. Under that bill section, if the courts have entered an order adjudicating a minor a delinquent, the clerk of the court in which that order is entered is directed to transmit a copy of the adjudication order to the principal of the minor's school under the following circumstances:

(1) the offense for which the minor was adjudicated a delinquent occurred on school property; or

(2) the offense involved one of the following offenses that, if committed by an adult, would be a criminal offense:

- (A) a crime against a person (AS 11.41) punishable as a felony;
- (B) a property crime (AS 11.46.100 - 11.46.490) punishable as a felony;
- (C) a controlled substance offense (AS 11.71) punishable as a felony; or
- (D) an offense, however classified, involving the possession or use of a deadly

weapon.

Additionally, the clerk of the court is to give notice to the school principal receiving the copy of the order as to the limitations on the order's further release, and is to maintain a record of the release and the basis for that release.

Representative Joe Green

February 21, 1995

Page 2

Disclosure of court system records under AS 47.10.090(f) implicates existing laws relating to confidential treatment of court records concerning minors and the possibility of eventual closure and sealing of records about a minor. The changes proposed by bill sections 1 - 4 recognize the exception for the records disclosable under AS 47.10.090(f) from existing provisions generally applicable to continued confidential treatment and sealing of those records.

*

The last three sections of the bill speak to the manner of handling information and records of agencies.

Bill section 6 makes a collateral change to recognize that AS 47.10.093(h) is a further exception to the general rule that agency records concerning minors are to be confidentially handled.

Bill section 7 amends AS 47.10.093(c) the first change directs a law enforcement agency to release information to a school principal relating to an offense alleged to have been committed by a minor if the law enforcement agency has probable cause to believe that the minor committed an offense described in AS 47.10.090(f)(1)(B)--these are enumerated above--or committed an offense in which the victim was a student or staff member of the school and the giving of the notice is reasonably necessary for the protection of that victim. The second change amends current law to make mandatory the permission disclosure of information about a case in order "to protect the safety of school students and staff." These mandatory disclosures are in addition to the optional or discretionary disclosure currently allowed by law.

Bill section 8 amplifies the law enforcement disclosure provisions:

-- subsection (h) permits the school principal to whom information had been disclosed to re-disclose within the limitations noted;

-- subsection (i) makes an exception to law enforcement agency disclosure if a disclosure would jeopardize on ongoing investigation;

-- subsection (j) sets out a definition for the term "school."

JBC:glc

95-152.glc

**DIVISION OF LEGAL SERVICES
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STATE OF ALASKA**

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

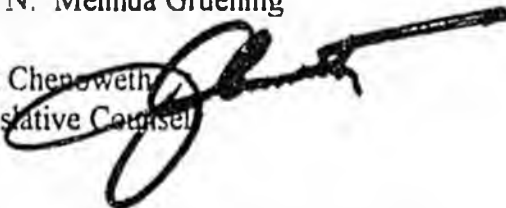
MEMORANDUM

January 25, 1995

SUBJECT: Disclosures of information to school officials
(Work Order No. 9-LS0499\C)

TO: Representative Joe Green
ATTN: Melinda Gruening

FROM: Jack Chenoweth
Legislative Counsel



In an attempt to avoid the contention by the Division of Family and Youth Services that disclosure of information from that division's records would jeopardize receipt of federal program assistance, the bill draft accompanying this memo shifts the source of the disclosure information, and the corresponding obligation to disclose, to the Alaska Court System. In doing so, it seems to me that the requirements of disclosure from court system records implicates the permanent sealing of certain court records related to serious juvenile misbehavior that may be the basis of a delinquency adjudication. The first four bill sections take that concern into account.

Under this version, the sources of disclosable information would be court system records or records prepared by law enforcement officials. As I mentioned in yesterday's discussion, by my reading of the federal statute cited by the Division of Family and Youth Services, if the information to be disclosed is available from the division's records and from another source and is disclosed from the other source (and not from the division's records), the continued receipt of federal program assistance ought not to be called into question.

JBC:klb:pl
95-009.klb

Enclosure

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FLX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

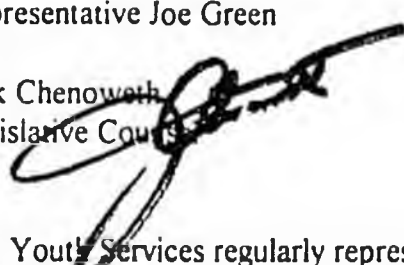
MEMORANDUM

January 30, 1995

SUBJECT: Disclosure of records concerning certain minors
(Work Order No. 9-LS0547A)

TO: Representative Joe Green

FROM: Jack Chenoweth
Legislative Council



The Division of Family and Youth Services regularly represents that the legislature's efforts to broaden access to information about minors who commit offenses may call into question the continued receipt of federal financial assistance for the work of that division. It asserts that disclosure of information about minors may jeopardize payment of federal financial assistance to the division for programs that are assisted under two parts of the Social Security Act, Titles IV-B (the program of grants to states for aid to families with dependent children) and IV-E (the program of grants to states for foster care and adoption assistance). As I understand, the statute more often cited by the division is the one applicable to the IV-E program, 42 U.S.C. 671(a)(8), section 471(a)(8) of the Social Security Act:

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which --

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with

(A) the administration of the plan of the State approved under this part [or under other specified program titles], or the supplementary security income program

(B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program,

(C) the administration of any other Federal or federally assisted program which provides assistance, cash or in kind, or services, directly to individuals on the basis of need,

(D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and

(E) reporting and providing information pursuant to [42 U.S.C. 671(a)(9)] to appropriate authorities with respect to known or suspected child abuse or neglect

There is very little case law on this statute.¹⁷ However, a small but significant body of case law more fully considers a substantially similar "information and records safeguard" provision. 42 U.S.C. 602(a)(9), in conjunction with administration of the aid to families with dependent children (AFDC) program.²⁰

¹⁷ With respect to the Adoption Assistance and Child Welfare Act provisions of the Social Security Act, I found only two decisions, Wilder v. Bernstein, 645 F.Supp. 1292, 1339 (S.D.N.Y. 1986), aff'd 848 F.2d 1338 (2d Cir. 1988), and In re F.E.F., 594 A.2d 897, 903 n. 4 (Vt. 1991), in which 42 U.S.C. 671(a)(8) is specifically referenced. In each instance, the reference is hardly more than a mention without discussion.

²⁰ See, for example, Michigan Welfare Rights Organization v. Dempsey, 462 F.Supp. 227 (E.D. Mich. 1978) (the privacy right of individuals who apply for or receive assistance under the AFDC program requires nondisclosure, except as Congress has specifically authorized disclosure by law), Haskins v. San Diego County Department of Public Welfare, 161 Cal. Repr. 385 (Cal. App. 4th Dist. 1980) (the federal law imposes a duty on the states, counties, and municipalities administering the AFDC program to protect against use and disclosure of program records except for purposes identified by the federal law), Whisler v. Whisler, 684 P.2d 1025 (Kan. App. 1984) (disclosure of information regarding AFDC applicants and recipients is limited to instances enumerated in 42 U.S.C. 609(a)(9)).

There are several similar "information and records safeguards" provisions in other related federal programs. 42 U.S.C. 302(a)(7) is applicable to grants to states for old age assistance; 42 U.S.C. 1202(a)(9) applies to grants to states for aid to the blind; 42 U.S.C. 1352(a)(9) is applicable to grants to states for aid to those who are permanently and totally disabled; 42 U.S.C. 1382(a)(7) applies to the supplemental security income
(continued...)

Rep. esentative Joe Green
January 30, 1995
Page 3

In response to the legislature's growing interest that some information about juveniles who commit criminal offenses be disclosed to the public, the division sought and obtained from regional officials of the Department of Health and Human Services a written endorsement of their interpretation and application of the "information and records safeguard." A copy of the November 9, 1994, response letter is enclosed. A key conclusion in that letter is set out at the end of its third paragraph:

. . . Confidentiality requirements apply to all of the information in the Title IV-B or Title IV-E record, not just the child welfare information. Under this restriction, other information in the file, such as criminal records concerning the child, cannot be shared.

What the letter means to say, I hope, is that the information and records that the federal law protects against disclosure are limited to that information that has been obtained by the agency--in Alaska's case, the Division of Family and Youth Services--in the course of the division's providing program assistance supported by federal appropriations. In other words, the safeguards of the federal law should apply only to information that relates to, or arises out of, or is secured by the state agency in determining eligibility for and providing that program assistance. Consequently, if the information which is part of the file is at the same time a part of another record and that other record is disclosable, then the Social Security Act provision cited should not interpose a limitation on disclosure of the information if disclosure is to be made from that alternate source.

That the operative language would be limited to non-disclosure of the relevant program assistance records is not altogether clear. In the phrase in question, "the use or disclosure of information concerning individuals assisted," the term "information" is unmodified. The plain language of the statute does not circumscribe the term "information" in a way that limits the reference to "information" only to that which is program-related.

To some degree, courts have supplied the missing modifier, limiting the operation of the "information and records safeguard" provision to the information contained in the original records of the agency responsible for administration of the program. So, for example, with respect to the AFDC-related program confidentiality requirement of 42 U.S.C. 602(a)(9), various courts have assumed that the phrase "information concerning applicants and recipients" applies only to the welfare files and records generated in the course of accepting

(...continued)

(SSI) program for aged, blind, and disabled persons; and 42 U.S.C. 1396a(a)(7) applies to the medical assistance program. The statutory statement of safeguards applicable to the AFDC program is the most comprehensive on the matter.

Representative Joe Green
January 30, 1995
Page 4

and processing applications. State ex rel. Haugland v. Smythe, 169 P.2d 706, 711 (Wash. 1946), Morris v. Danna, 411 F.Supp. 1300, 1307 (D.Ct. Minn. 1976), aff'd 547 F.2d 436 (8th Cir. 1976), Michigan Welfare Rts. Org. v. Dempsey, 462 F.Supp. 227, 237 (E.D. Mich. 1978), Haskins v. San Diego County Department of Public Welfare, 161 Cal. Repr. 385, 389 (Cal. App. 4th Dist. 1980).

Surely 42 U.S.C. 671(a)(8), 42 U.S.C. 602(a)(9), and other similar provisions were not intended to have a protective reach beyond safeguarding the records that have been compiled by the state agency to which federal financial assistance is payable. Those federal law provisions do not, to me, appear to support protecting against disclosure information about all acts of minors for whom the state receives assistance under one or another facet of the Social Security Act if the information or record is available from another source. To conclude otherwise--to say that the federal statute safeguards against public disclosure the records of **any state agency** applicable to minors for whose benefit the state is receiving assistance under the Social Security Act--broadens the meaning of the statute beyond logical limits and, arguably, establishes a double standard as to information that is disclosable,³ that might be found to violate equal protection provisions of the federal and state constitutions. If at all possible, courts will avoid giving a statute a meaning that would make the statute unconstitutional.

In our conversation last week, we briefly touched on the need to call attention to this problem in federal law. On reflection, I question the need for a resolution directed to the attention of the Congress to reconsider this matter. If we are willing to rely upon the reported case decisions in which the courts have limited the reference to "information" to that which is program-related, then I see no need to push for approval of the resolution. Nonetheless, Congress' apparent current willingness to reconsider the manner of supporting social services programs initiated and operated by the states seems to me to provide the opportunity to clarify the manner in which this restriction is to operate.

After you have read this memo, please advise me as to whether or not you still see the need to have a House Joint Resolution drafted for introduction.

JBC:klb:pl
95-025.klb
Enclosure

³ It is a double standard in that, for minors for whom federal financial assistance is received under the Social Security Act, information and records may not be disclosed, but for minors for whom no federal financial assistance is received under that Act, information and records relating to the minor would be fully disclosable.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

Region X
M/S _____
2201 Sixth Avenue
Seattle, WA 98121

November 9, 1994

Debra Wing, Director
DHSS/DFYS
PO Box 11601
Juneau, AK 99811-0630

Dear Ms. Wing:

This is to respond to your request for our opinion on potential legislation to release information about juvenile offenders to the public, particularly information from Title IV-B and IV-E case files. Federal regulations require that these files are to be kept confidential and the information only used to provide services to the child.

Both Title IV-E and Title IV-B are subject to the requirements of Section 471(a)(8) of the Social Security Act. (Refer to 45 CFR 1355.21). In addition, both Title IV-B and Title IV-E are subject to the confidentiality restrictions prescribed in 45 CFR 205.50. (Refer to 1355.30 (1)). Under 45 CFR 205.50, the release of information concerning applicants and recipients is restricted to specified purposes including, principally, the administration of certain Federal programs. The passage of the proposed Alaska legislation would result in violation of the federal requirements for the operation of both the Title IV-B and Title IV-E programs.

Title IV-E confidentiality requirements apply to all Title IV-E children placed under state child welfare agency responsibility, including those with delinquent behavior. Similarly, Title IV-B confidentiality requirements apply regardless of the reason the child is receiving Child Welfare Services. Once the information is in a Title IV-B or Title IV-E record, it cannot be released except in the circumstances specified in the regulations. This means that the records are kept confidential at all times, including times in which Title IV-E payments are not being made (such as during a placement in a locked detention facility). Confidentiality requirements apply to all of the information in the Title IV-B or Title IV-E record, not just the child welfare information. Under this restriction, other information in the file, such as criminal records concerning the child, cannot be shared.

If you have any questions or need further clarification, please contact Carol Overbeck at (206) 615-2558, ext. 3078.

Sincerely,

Richard D. McConnell
Chief, CCW&R

BACK PAGE



MARCHING AGAINST VIOLENCE
HOMER'S BEST BETS

Received



Old-time tunes & dancing feet

Arts Page 22

Election

PAGE 3

VOTERS GO TO THE PO

Alaska State Library

HOMER NEWS

Homer, Alaska, Vol. 20, No. 39 Thursday, September 30, 1993

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Boys charged in rape of 5-year-old

by Susan Price
 Staff Writer

Homer police have filed sexual assault charges in juvenile court against three Homer boys, ages 11, 12 and 13, who allegedly held down a 5-year-old girl last year and repeatedly raped her.

Police say the girl told investigators that the incident occurred a year ago last month as she played by herself with a "magic" wand with sparkles on it near a tree

house in a wooded area between Lakeside Mall and the homes on Ben Walters Lane.

The boys, who were 10, 11 and 12 years old at the time, found the girl playing by herself. They allegedly chased her, pulled her pants off and took turns holding her down while each one raped her at least twice, said Homer Police Sgt. Andy Klamsner.

The girl didn't tell anyone what happened.

See BOYS, Page 17

Experts describe rape case as extreme

by Susan Price
 Staff Writer

As David Sperbeck, an Anchorage clinical and forensic psychologist who has evaluated criminals for the state Department of Corrections for 11 years, listened to the details of a Homer rape case, his first words were barely audible: "Oh, God."

Homer police believe three boys, then 10, 11 and 12 years old, sexually assaulted

a 5-year-old girl, taking turns holding her down while each one raped her at least twice. They used various objects, police say.

Single charges of first-degree sexual assault against each of the boys, alleging sexual penetration without consent, were referred last week to the Juvenile Intake Office in Kenai, Klamsner said.

See ABUSE, Page 17

... Abuse often prompts abuse, experts say

FROM PAGE ONE

The incident, which allegedly happened a year ago, came to light June 5 when the girl gave the account to a therapist.

Although Sperbeck and Gail Ryan, a Denver-based child abuse specialist, haven't reviewed the case in detail, they did offer some observations about children who tend to commit such crimes and their chances for rehabilitation. Sperbeck said he's worked with adults and children who have committed serious anti-social acts, but he said he's never encountered children so young who have done something so extreme as that described in the Homer case.

"In my opinion and in my experience, children aren't born with this extent of anti-social behavior," Sperbeck said.

Ryan said there's a strong likelihood that at least one if not all the boys has experienced some kind of abuse. Sperbeck said, "Either they're a product of abuse or they have been exposed to extremely inappropriate material through the media — violent, anti-social, predatory material."

"I would find it almost inconceivable if there wasn't some fascination with violent sexuality. This thing doesn't happen without some kind of actual or vicarious participation," Sperbeck said.

Ryan said that such exposure comes from our culture, from the media, from advertising, even from children's role models who come up as abusers in the news. All the while, children are learning about their sexuality and the adults who care for them — parents as well as teachers — aren't prepared to validate or correct them.

As far as the chances of rehabilitation, Sperbeck said he has a dim view when such a "horrendous crime" has been committed.

"I'm very pessimistic. For perpetrators to act so indifferent, to act with a total lack of empathy, a total lack of sensitivity — that kind of indifference is so extreme, in my opinion it makes potential rehabilitation guarded at best," he said.

But that potential would largely depend on whether or not the August 1992 rape is isolated, he said. The boys would have to be evaluated

beyond the specific acts, as well, he said.

"If this kind of behavior has been repeated before — this kind of long-standing anti-social predatory behavior," Sperbeck said, "then I'm comfortable in saying there is very little rehabilitation potential for children of this age."

Ryan appeared a little more optimistic. She's a project director at the Kempe National Center for the Prevention and Treatment of Child Abuse and Neglect. She has also edited a book with Sandy Lane, "Juvenile Sexual Offending: Causes, Consequences and Correction."

Ryan said the most important thing now, if the boys are found guilty, is that they are held accountable.

"You can't treat a problem that's not acknowledged," she said. Once offenders are held accountable, then they have to be put in the appropriate treatment program. And that can't be done without the support of the offender's family, she said.

"If you're challenging the beliefs of these boys, then it's very likely you're challenging the beliefs that have been present in the family system as well," Ryan said.

Sperbeck said the young sex offenders aren't necessarily from broken or dysfunctional families, but more often than not, that's a big factor. The perpetrators tend to be from families with a seriously disruptive family system, he said.

But that's not always the case. Sperbeck said he recently dealt with a case in New York in which a little boy was murdered by three other boys. Two of the boys came from very good homes, he said.

Ryan said there are usually signs before something as severe as the rape of the 5-year-old girl occurs.

"Kids just don't suddenly arrive at this behavior out of the blue," she said. People have to be trained to look for signs of abusive behavior, she said.

"If you want to get to the bottom line of what makes it possible to be an abuser, that's it — a lack of empathy. Aggressive behavior (in people) is a trait. Empathy has to be learned," Ryan said.

... Boys charged in rape of 5-year-old

FROM PAGE ONE

Her mother has since told police her daughter showed signs at the time of emotional trauma. The mother said her daughter had nightmares and suddenly feared being left alone or being separated from her in public, Klamser said.

The mother put the 5-year-old in therapy, hoping it would help. As a result, the rape came to light in a June 5 therapy session, Klamser said. The therapist, as required by law concerning such disclosures, reported the incident to police, prompting a lengthy investigation that culminated in last week's charges. Single charges of first-degree sexual assault against each of the boys were referred last week to the Juvenile Intake Office in Kenai. From there, the case will be handled through the juvenile-court system, which is closed to the general public.

Klamser said the first-degree sexual assault charge in this case is defined as "sexual penetration of another without consent." Klamser said "there were objects used." He wouldn't elaborate.

"I was shocked," said Klamser, who has had specialized training in investigating sex crimes and has been a law-enforcement officer for nearly 15 years. "I've never seen anything like this before. If any three adults did this with any age victim, it would be real shocking."

"What occurred with this little girl — the way they repeatedly raped her was very brutal and something you wouldn't expect from anyone."

Klamser said the girl, who is 6 years old now and still lives in Homer, wasn't physi-

cally injured beyond the trauma of the rape. He said it's common for the crimes of sexual assault and sexual abuse where the victims are children not to surface for years.

Klamser investigated the case, along with Officers Jim Bolt and Deena Axler-son. Klamser said it took all summer to put the case together, mostly because one of the boys moved out of state in July and many of the 10 or 11 people who were interviewed, including five children, had to be reinterviewed as new information arose.

Klamser said he thinks the boys didn't plan anything ahead of time.

"It was more of a spur-of-the-moment crime," he said.

Asked if he thinks the boys could have had other victims, Klamser said, "Yes, it's possible."

"Statements were made during the investigation that made us suspicious that it might have happened with other victims, but we haven't found any other occasion where there were any other victims," he said.

Even so, Klamser said he thinks the case is strong.

"We feel we have some strong evidence to corroborate the statement of the victim," he said.

If the boys are found guilty and they are sentenced as juveniles, they could be incarcerated in the juvenile correction center until they turn 19 years old, he said. They could theoretically be tried as adults, but Klamser said he's never seen a case where that's happened when the suspects are so young.

for juvenile sex offenders.

"If they don't do something with them now, they'll end up doing something with them later," she said. "The cost difference will be in the number of victims between now and then. It's hard. We don't want to think about 11-year-olds being rapists."

Babies start to learn empathy when they communicate their needs to parents and their parents meet those needs, she said. "Kids who don't get it have to learn it later, along the way," she said.

Ryan said it's up to each community to decide how it wants to prioritize its treatment

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510
(907) 586-1083 • Fax (907) 586-2995

February 16, 1995

The Honorable Joe Green
House of Representatives
Alaska State Legislature
Capitol Building
Juneau, AK 99811

SUPPORT FOR HB 125
INFORMATION DISCLOSURE ABOUT MINORS

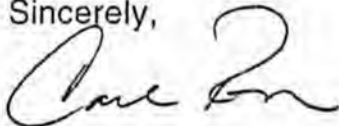
Dear Rep. Green

The Association of Alaska School Boards supports HB 125—An Act relating to disclosures to school officials of information about certain minors.

Bill Review: HB 125 directs the court to notify the principal of the minor's school if the offense was committed on school property or the minor has committed offenses that, if committed by an adult, would be considered a serious felony such as murder, assault, kidnapping, etc. The bill also requires law enforcement to notify the principal if there is *probable cause* to believe a minor attending their school has committed a serious felony. The school principal is allowed to disclose this information to other persons in the district, and also to a chief administrator of a school district to which a minor transfers. Law enforcement agencies are not required to notify the school if the agency determines it would jeopardize an ongoing investigation.

The Association of Alaska School Boards believes this Act will help ensure the safety of students and staff alike. As an association we endeavor to work cooperatively with agencies of government in the transfer of information on behalf of kids. In the past, however, the deterrent to meaningful intra-agency cooperation regarding severe school violence has been the issue of confidentiality. This is a welcome piece of legislation that will further help to maintain a safe school environment.

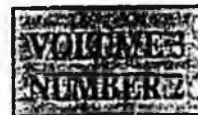
Sincerely,



Carl Rose, Executive Director

ACSA EDUCATION BULLETIN

ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS
ALASKA ASSOCIATION OF SECONDARY SCHOOLS PRINCIPALS
ALASKA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS



ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

JANUARY, 1995

VIOLENCE IN ALASKAN SCHOOLS

by Spike Jorgensen
President, AASA

One of the leading concerns of Alaska principals is violence. Violence in the form of guns, gangs, disease, abuse, and neglect. Every imaginable form of human indignity violence and crime as a part of student behavior. Student to student, adult to student, and student to adult violence takes place in the schools and communities of the state.

A major concern is that schools are being left out of the information loop. Students who commit serious crimes are in the schools and school officials are not informed by social services, law enforcement, the courts, or other schools about the situation. School can not provide help to the individual who has

committed the crime and can not safeguard the balance of the student body and staff from the dangers of seriously affected students.

If schools are held responsible as parents for the students while they are in school, the school must have the necessary information. Schools have more resources to help than any other agency in the state and the schools should not be held without information.

Just last week the number of homicides caused by firearms alone exceeded the number of deaths in automobile accidents. We are living in an ever more violent and permissive society. There is more and

more evidence to show that students learn problem solving strategies from TV violence, talk show, and soaps. It may appear real to a child, but any reasonable adult would never choose the tragedy that Arnold Schwarzenegger or Rambo would bring to family problem solving.

Please let your legislators know that schools need information about student violence from other agencies, that young students need to have less exposure to violence and school rules on anti-gang dress codes and behavior need to be supported through legislation. As you have more and better ideas, please contact Steve McPhetres. ★

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ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

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POSITION STATEMENT

HOUSE BILL NO. 125

"An Act relating to disclosures to school officials of information about certain minors."

The Alaska Council of School Administrators supports House Bill #125.

Incidents of violence seem to be increasing at an alarming rate among or involving Alaska's youth. This includes reports of gang activities, incidents of students bringing illegal weapons into the schools and youth committing acts of violence which could be considered a felony if they were adults.

Parents and the community rightfully expect schools to be a place students can work and learn in a safe environment. Yet, principals are experiencing increasing concern over being able to assure parents and the community that the school setting is secure and safe because of the lack of information from other agencies involved with youth who have been adjudicated delinquent.

To help ensure some safety of students, it is necessary to be aware of those students who have committed acts of violence and crime outside the school as well as inside the school. The laws of confidentiality have prevented the sharing of such information with school personnel in the past, thereby preventing school personnel from being able to take action to protect the rights of other innocent students in the school.

School administrators across Alaska believe this information is necessary to ensure proper supervision. It is also necessary to provide a relevant intervention program and this information will help provide a safer environment for all students.

Again, The Alaska Council of School Administrators supports HB #125

Stephen McPhetres
Executive Director



Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

SUBJECT OF MEETING:
Alaska Native Health Board
 HB 104
 HB 126

DATE: 02/23/95

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
✓ Anne Walker	AK Native Health Bd	1345 Rudakof Circle Ste 206 Anch AK	99508	(907) 337-0028		(Y) N	ANHB Priorities
✓ Robert J. Clark	ANHB BSATTC	Box 130 Prishol Bay Area Health Ctr. Dillingham AK 99576	99576	907 842-5201		(Y) N	//
✓ CHRIS CHRISTENSEN	COURT SYSTEM	305 K ST ANCH. 99501			264-8228	(Y) N	HB 104 HB 125
✓ Elmer Lindstrom	DHSS			465-3030	465-3030	(Y) N	HB 104 HB 125
✓ Margaret Knuth	Law				4037	(Y) N	HB 104 HB 126
✓ Steve McPhetres	AK Council Sch. Adm.					(Y) N	HB 125
✓ Verna Marshall	NEA	Support				Y N	HB 125
✓ Cathy Tibbles	DFYS					Y N	HB 125
						Y N	
						Y N	
						Y N	

HB

135

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 135

Revision Date: _____ Dept. Affected: EDUCATION
 Title: An Act relating to student loans; and providing BRU: ACPE
for an effective date. Component: Student Loan Operations

Sponsor: House HESS Committee
 Requestor: House HESS Committee COMPONENT SERIAL NO. 213

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES					
TRAVEL					
CONTRACTUAL					
SUPPLIES					
EQUIPMENT					
LAND & STRUCTURES					
GRANTS, CLAIMS					
MISCELLANEOUS					
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0

CAPITAL					
---------	--	--	--	--	--

REVENUE FUND SOURCE:					
----------------------	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

Estimate of current year (FY95) impact: \$ _____ \$0

ANALYSIS: (Attach a separate page if necessary)

Zero (0) fiscal impact.

Prepared by: Gillian R. Hays
 Division: Alaska Commission on Postsecondary Education
 Approved by Executive Director: Joe F. McCormick
 Agency: ACPE

Phone: 465-6740
 Date: 1-Feb-95
 Date: 2-1-95

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HOUSE COMMITTEE REPORT

(7)

Date Referred: January 30, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/7/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 135

HOUSE BILL NO. 135

STUDENT LOANS

"An Act relating to student loans; and providing for an effective date."

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

additional referral to _____ Committee attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____
 zero fiscal note(s) Education zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Alan Robly</i>	✓	✓		
<i>Paul Denny</i>	✓			
<i>Carla Bunker</i>	✓			
<i>Carroll Jensen</i>	✓			
<i>Non Bruce</i>			✓	

CHAIR'S SIGNATURE *Car Bunker*

BILL ANALYSIS

Section 1. The current interest rate of 8% for Alaska Student Loans is repealed effective July 1, 1995. Before the Commission can enter into student loans for the summer and 1995-96 terms, it must set an interest rate. This transitional language will allow the Commission to adopt regulations to implement the new interest rate under ch. 112, SLA 1994. In the absence of this authority, the Commission has been advised by the Department of Law that it will not be able to set the interest rate for money disbursed after July 1, 1995, and no new loans could be made. Under the Federal Truth in Lending law, student loan applicants must be informed of the interest rate at which they are borrowing money. The applications/promissory notes are printed each spring, and must be distributed before the summer 1995 term stating interest rate information. In order to meet the Commission's schedule for printing and distribution of loan packets for loans disbursed after July 1, 1995, the regulations must be adopted as early as possible.

Provides transitional language to allow adoption of regulations to implement loans default procedures and consolidation of loans. Regulations under this section may not take effect until July 1, 1995.

Section 2 Provides for an immediate effective date of this Act.

MEMORANDUM

State of Alaska

Department of Law

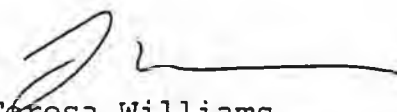
TO: Gillian Hays
Alaska Commission on
Postsecondary Education

DATE: January 13, 1995

FILE NO.:

TEL NO: 269-5200

SUBJECT: Transition provisions
regarding ch. 112, SLA 1994


FROM: Teresa Williams
Assistant Attorney General
Commercial Section -- Anchorage

I am writing to explain the necessity for the legislature to immediately adopt transition provisions regarding ch. 112, SLA 1994.

The current interest rate of 8% for Alaska Student Loans is repealed effective July 1, 1995, and the commission has the duty to set the interest rate for money disbursed after that time. Ch. 112, SLA 1994. Before the commission can enter into student loans for the summer and 1995-96 terms, it must set an interest rate. The commission attempted to begin that process in November, 1994. However, the Department of Law's Regulation Attorney has determined that, in the absence of transitional regulation authority, the commission cannot move forward to adopt regulations to establish the elements of the new interest rate until the new legislation becomes effective July 1, 1995.

Commission staff have advised me that loan packets are sent to students and schools in the spring of each year, and students sign promissory notes for student loans during that time for the following school year. However, this year, the students cannot be advised of the interest rate. Under the Federal Truth in Lending law, student loan programs are required to notify students of the interest rate at which they are borrowing money. Additionally, in making decisions about which loan programs to pursue, students need to know the cost of each.

This office has drafted the attached bill language to correct the problem. Section 1 gives the commission authority to immediately begin the adoption process for regulations that will give the commission authority to set the interest rate for money disbursed after July 1, 1995. The bill would allow the regulations to take effect as soon as that project could be completed under the APA, even if that date is before July 1, 1995. In order to meet the commission's schedule for printing and distribution of loan packets for loans disbursed after July 1, 1995, the regulations must be adopted as early as possible.

Gillian Hays
Alaska Commission on
Postsecondary Education

January 13, 1995
Page 2

Section 2 of the bill gives the commission standard transition regulatory authority to immediately begin the process to adopt regulations for other provisions of ch. 112, SLA 1994, relating to loan default procedures and consolidation of loans. Regulations adopted under section 2 may not take effect before July 1, 1995, when the enabling statute becomes effective.

I will be out of the country from January 15 - February 11 and April 1 - 20. If any questions arise during that time about this problem or other issues, please direct them to AAG Linda Kesterson or to AAG Linda O'Bannon, my supervisor.

TEW:mh

Attachment



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: FEB 07, 1995

PLACE: Capitol Room 106

SUBJECT OF MEETING:
HB 135: STUDENT LOANS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Joe M ^c Cormick	ACPE					<input checked="" type="radio"/> Y	<input type="radio"/> N	HB 135
						<input type="radio"/> Y	<input type="radio"/> N	HB 135
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

HB

156

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 156

Revision Date: _____

Department Affected: Education

Title: Student Access to School Programs

BRU: Executive Administration

Component: Commissioner's Office

Sponsor: House HESS Committee by request

Requester: House HESS Committee

COMPONENT SERIAL NO. 185

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	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						
----------------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-----------------------------	--	--	--	--	--	--

FUNDING:

(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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

House Bill 156 requires school districts to allow a home schooled student to participate in the district's extracurricular activities such as drama, music, band, debate, and athletic activities. The legislation will have no fiscal impact on the department. However, individual school districts may incur additional costs associated with the legislation.

Prepared by: Sheila Peterson, Special Assistant Phone: 465-2803

Division: Commissioner's Office Date: April 11, 1995

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

Agency: Education Date: April 11, 1995

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

For further distribution information call the Governor's Legislative Office

January 2, 1994

Thank you for assisting in an education issue that affects many students within the state of Alaska. Students who subscribe to State of Alaska issued Centralized Correspondence School (CCS), Private-school students, and independent Home-schooled curriculum students are denied access to public school co-curricular programs. These valuable programs include drama, debate, music, band, and team sporting events.

At this time many education alternatives exist. The Anchorage School District offers education alternatives such as the ABC back-to-basics elementary programs, foreign language emersion, school-within-a-school, and the Stellar and Polar alternatives. Students who attend district sponsored alternatives are allowed complete access to co-curricular programs at the school of their choice.

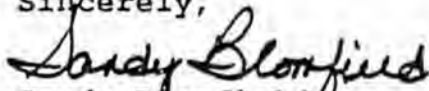
The discriminatory practice of locking-out students not enrolled in the public education system fosters a system of education that allows complacency and mediocrity. Competition in any monopoly is healthy and can assist in providing the best possible education for Alaskan students.

The State of Alaska Department of Education has held public hearings on this issue. The regulatory agency Alaska School Activities Association (ASAA) and the Anchorage School district strive to enforce rules and regulations that prevent private, home-schooled, and CCS students from participation.

Legislation needs to be enacted to provide equal access to all programs for all students regardless of enrollment. For your reference I am enclosing legislation from Oregon, Washington, and Colorado that allows equal access.

Your assistance is greatly appreciated. I will be available at your convenience for further discussion.

Sincerely,



Sandy Blomfield
7610 Wildwood Circle
Anchorage, AK 99516
346-2738 Home
244-5766 Mobile

AN ACT

SENATE BILL 93-198

BY SENATORS Wells, Bishoo, Hopper, Nutzebaugh, L. Powers, Roberts, and Tebedo;
also REPRESENTATIVES Foster, Chlouber, Faatz, Friednash, Jerke, Martin, Morrison, and Reaser.

CONCERNING PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES IN PUBLIC SCHOOLS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 32 of title 22, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

22-32-114.5. Interscholastic activities. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR ANY POLICY OR RULE OF ANY RECOGNIZED ASSOCIATION OF SCHOOLS WHICH ORGANIZES AND CONTROLS SANCTIONED INTERSCHOLASTIC ACTIVITIES, A STUDENT ENROLLED IN THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE SHALL BE ALLOWED TO PARTICIPATE IN AN INTERSCHOLASTIC ACTIVITY SPONSORED IN ANY OTHER SCHOOL WITHIN SAID SCHOOL DISTRICT OR AT ANY SCHOOL IN A SCHOOL DISTRICT WHICH HAS BOUNDARIES CONTIGUOUS TO THE BOUNDARIES OF THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE IF THE SCHOOL IN WHICH THE STUDENT IS ENROLLED DOES NOT SPONSOR THAT PARTICULAR INTERSCHOLASTIC ACTIVITY AND IF THE STUDENT OTHERWISE MEETS THE SCHOOL'S ELIGIBILITY REQUIREMENTS FOR PARTICIPATION. ANY STUDENT PARTICIPATING IN AN INTERSCHOLASTIC ACTIVITY PURSUANT TO THE PROVISIONS OF THIS SECTION MAY BE REQUIRED TO PAY A FEE AS A PREREQUISITE TO SUCH PARTICIPATION.

(2) THE PROVISIONS OF THIS SECTION ARE INTENDED TO ALLOW STUDENTS TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES WHO WOULD OTHERWISE BE DENIED THE OPPORTUNITY TO DO SO AND ARE NOT INTENDED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and

TO SANCTION OR ENCOURAGE THE RECRUITMENT OF STUDENTS FOR PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES BY SCHOOLS OR SCHOOL DISTRICTS.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Tom Norton

Tom Norton
PRESIDENT OF
THE SENATE

Charles E. Barry

Charles E. Barry
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John H. Albi

John H. Albi
SECRETARY OF
THE SENATE

Lee C. Barney

Lee C. Barney
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED April 12, 1993 at 2:26 P.M.

Roy Roberts

Roy Roberts
GOVERNOR OF THE STATE OF COLORADO

First Regular Session

Fifty-ninth General Assembly

LLS NO. 93-0297.01 jr

SENATE BILL 93-

140

STATE OF COLORADO

EDUCATION

*Assigned
Stewart*

BY SENATORS Ruddick and Owens;
also REPRESENTATIVE Hagedorn.

A BILL FOR AN ACT

101 CONCERNING SCHOOL ATTENDANCE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that parents shall be responsible for their children's attendance at public school. Provides that home-based students who participate in school interscholastic activities may be counted for purposes of determining pupil enrollment upon fulfillment of certain conditions. Permits boards of education to deny admission to or expel a child for one year with adequate reasons. Authorizes boards of education to delegate to school principals the power to suspend a pupil for up to 10 days for having a weapon on school grounds. Specifies that behavior on or off school property may be grounds for suspension or expulsion. Includes carrying and bringing a deadly weapon on school grounds as reasons for suspension or expulsion. Empowers boards of education to impose a civil penalty of \$25 per unexcused absence upon parents after their children accumulate more than 4 unexcused absences in one month or more than 10 unexcused absences in one school year. Requires boards of education to implement policies and procedures concerning children with such multiple unexcused absences. Provides that money collected through imposition of the civil penalty shall go to the school district for use in encouraging and enforcing parental responsibility for school attendance.

- 1 Be it enacted by the General Assembly of the State of Colorado:
- 2 SECTION 1. 22-33-104, Colorado Revised Statutes, 1985 Repl.
- 3 Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:
- 4 22-33-104. Compulsory school attendance. (5) (a) THE

1 GENERAL ASSEMBLY HEREBY DECLARES THAT TWO OF THE MOST IMPORTANT
 2 FACTORS IN ENSURING A CHILD'S EDUCATIONAL DEVELOPMENT ARE PARENTAL
 3 INVOLVEMENT AND PARENTAL RESPONSIBILITY. THE GENERAL ASSEMBLY
 4 FURTHER DECLARES THAT IT IS THE OBLIGATION OF EVERY PARENT TO
 5 ENSURE THAT EVERY CHILD UNDER SUCH PARENT'S CARE AND SUPERVISION
 6 RECEIVES ADEQUATE EDUCATION AND TRAINING. THEREFORE, EVERY PARENT
 7 OF A CHILD WHO HAS ATTAINED THE AGE OF SEVEN YEARS AND IS UNDER THE
 8 AGE OF SIXTEEN YEARS SHALL ENSURE THAT SUCH CHILD ATTENDS THE
 9 PUBLIC SCHOOL IN WHICH SUCH CHILD IS ENROLLED IN COMPLIANCE WITH
 10 THIS SECTION.

11 (b) PARENTS WHOSE CHILDREN ARE ENROLLED IN AN INDEPENDENT
 12 OR PAROCHIAL SCHOOL OR A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM
 13 PURSUANT TO THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION SHALL
 14 BE EXEMPT FROM THE REQUIREMENTS OF THIS SUBSECTION (5).

15 SECTION 2. 22-33-104.5 (6), Colorado Revised Statutes, 1988
 16 Repl. Vol., is amended to read:

17 22-33-104.5. Home-based education - legislative declaration
 18 - definitions - guidelines. (6) (a) If a child is participating
 19 in a non-public home-based educational program but also attending
 20 his local school district of residence for a portion of the school
 21 day, the local school district of residence shall be entitled to
 22 count such child in accordance with the provisions of section
 23 22-53-103 (7) for purposes of determining pupil enrollment under
 24 the "Public School Finance Act of 1988", article 63 of this title.

25 (b) FOR PURPOSES OF THIS SUBSECTION (6), A CHILD WHO IS
 26 PARTICIPATING IN A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM AND

1 WHO PARTICIPATES IN ANY INTERSCHOLASTIC ACTIVITY OF THE LOCAL
2 SCHOOL DISTRICT OF RESIDENCE INCLUDING, 'BUT NOT LIMITED TO,
3 ATHLETICS, MUSIC, SPEECH, AND OTHER RELATED ACTIVITIES, SHALL BE
4 CONSIDERED ATTENDING HIS LOCAL SCHOOL DISTRICT OF RESIDENCE FOR A
5 PORTION OF THE SCHOOL DAY PROVIDED THE CHILD:

6 (I) IS IN COMPLIANCE WITH ALL LAWS GOVERNING NON-PUBLIC
7 HOME-BASED EDUCATION;

8 (II) MEETS ALL OF THE PUBLIC SCHOOL DISTRICT'S ELIGIBILITY
9 REQUIREMENTS FOR PARTICIPATION IN THE INTERSCHOLASTIC ACTIVITY,
10 EXCEPT FOR CLASS ATTENDANCE REQUIREMENTS OF THE SCHOOL DISTRICT OR
11 ANY RECOGNIZED ASSOCIATION OF SCHOOLS ORGANIZING AND CONTROLLING
12 THE INTERSCHOLASTIC ACTIVITIES;

13 (III) HAS NOT BEEN RULED ACADEMICALLY INELIGIBLE TO
14 PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES WHILE A PUBLIC SCHOOL
15 STUDENT WITHIN THE LAST TWO YEARS;

16 (IV) FULFILLS THE SAME RESPONSIBILITIES AND STANDARDS OF
17 BEHAVIOR AND PERFORMANCE, INCLUDING RELATED CLASSROOM OR PRACTICE
18 REQUIREMENTS, AS OTHER STUDENTS PARTICIPATING IN THE
19 INTERSCHOLASTIC ACTIVITY OF THE TEAM, SQUAD, OR GROUP, AND MEETS
20 THE SAME STANDARDS FOR PARTICIPATION WITH THE TEAM, SQUAD, OR
21 GROUP; AND

22 (V) RESIDES WITHIN THE ATTENDANCE BOUNDARIES OF THE SCHOOL
23 WITH WHICH THE CHILD PARTICIPATES.

24 SECTION 3. 22-33-105 (2) (a) and (2) (c), Colorado Revised
25 Statutes, 1988 Repl. Vol., are amended to read:

26 22-33-105. Suspension, expulsion, and denial of admission.

1 (2) In addition to the powers provided in section 22-32-110, the
2 board of education of each district may:

3 (a) Delegate to any school principal within the school
4 district or to a person designated in writing by the principal the
5 power to suspend a pupil in his school for not more than five
6 school days on the grounds stated in section ~~22-33-106~~ 22-33-106
7 (1) (a), (1) (b), (1) (c), OR (1) (e) OR NOT MORE THAN TEN SCHOOL
8 DAYS ON THE GROUNDS STATED IN SECTION 22-33-106 (1) (d); and

9 (c) Deny admission to, or expel for any period not extending
10 beyond ~~the end of the school~~ ONE year, any child whom the board of
11 education, in accordance with the limitations imposed by this
12 article, shall determine does not qualify for admission to, or
13 continued attendance at, the public schools of the district. A
14 board of education may delegate such powers to its executive
15 officer; but, at its next meeting, the latter shall report on each
16 case acted upon, briefly describing the circumstances and the
17 reasons for his action. When delegated, an appeal may be taken
18 from the decision of the executive officer to the board of
19 education. No board of education shall deny admission to, or
20 expel, any child without a hearing, if one is requested by the
21 parent of the child, at which evidence may be presented in his
22 behalf. If the child is denied admission or expelled, he shall be
23 entitled to a review of the decision of the board of education in
24 accordance with section 22-33-108.

25 SECTION 4. 22-33-106 (1) (c) and (1) (d), Colorado Revised
26 Statutes, 1988 Repl. Vol., are amended, and the said 22-33-106 (1)

1 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

2 22-33-106. Grounds for suspension, expulsion, and denial of
3 admission. (1) The following shall be grounds for suspension or
4 expulsion of a child from a public school during a school year:

5 (c) Behavior ON OR OFF SCHOOL PROPERTY which is detrimental
6 to the welfare, safety, or morals of other pupils or of school
7 personnel;

8 (d) Serious violations in a school building or in or on
9 school property, including, but not limited to, ~~the possession of~~
10 CARRYING, BRINGING, OR POSSESSING a deadly weapon as defined in
11 section 18-1-901 (3) (e), C.R.S., the sale of a drug or controlled
12 substance as defined in section 12-22-303, C.R.S., or the
13 commission of an act which if committed by an adult would be
14 robbery pursuant to part 3 of article 4 of title 18, C.R.S., or
15 assault pursuant to part 2 of article 3 of title 18, C.R.S., which
16 suspension or expulsion shall be mandatory;

17 (e) REPEATED INTERFERENCE WITH A SCHOOL'S ABILITY TO PROVIDE
18 EDUCATIONAL OPPORTUNITIES TO OTHER STUDENTS.

19 SECTION 5. 22-33-107, Colorado Revised Statutes, 1988 Repl.
20 Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

21 22-33-107. Enforcement of compulsory school attendance.
22 (3) (a) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT, BY AND
23 THROUGH THE ATTENDANCE OFFICER FOR EACH DISTRICT, MAY IMPOSE A
24 CIVIL PENALTY ON EVERY PARENT WHO KNOWINGLY FAILS TO COMPLY WITH
25 THE PROVISIONS OF SECTION 22-33-104 (5). SUCH CIVIL PENALTY SHALL
26 NOT EXCEED TWENTY-FIVE DOLLARS FOR EACH UNEXCUSED ABSENCE, AS

1 DEFINED BY THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT IN WHICH
2 THE CHILD IS ENROLLED, ATTRIBUTABLE TO A CHILD WHO IS THE
3 RESPONSIBILITY OF SUCH PARENT AFTER THE PARENT RECEIVES NOTICE FROM
4 THE PUBLIC SCHOOL WHERE SUCH CHILD IS ENROLLED THAT SUCH CHILD IS
5 HABITUALLY TRUANT, AS DEFINED IN THIS SUBSECTION (3). NO CIVIL
6 PENALTY MAY BE IMPOSED UNLESS THE PARENT UPON WHOM SUCH PENALTY IS
7 IMPOSED HAS RECEIVED NOTICE OF SUCH IMPOSITION FROM THE BOARD OF
8 EDUCATION AND THE OPPORTUNITY FOR A HEARING BEFORE THE BOARD AT
9 WHICH EVIDENCE MAY BE PRESENTED ON SUCH PARENT'S BEHALF. IF A
10 CIVIL PENALTY IS IMPOSED, SUCH PARENT SHALL BE ENTITLED TO A REVIEW
11 OF THE DECISION OF THE BOARD OF EDUCATION IN ACCORDANCE WITH
12 SECTION 22-33-108.

13 (b) AS USED IN THIS SUBSECTION (3), A CHILD WHO IS
14 "HABITUALLY TRUANT" MEANS A CHILD WHO HAS ATTAINED THE AGE OF SEVEN
15 YEARS AND IS UNDER THE AGE OF SIXTEEN YEARS HAVING FOUR UNEXCUSED
16 ABSENCES FROM PUBLIC SCHOOL IN ANY ONE MONTH OR TEN UNEXCUSED
17 ABSENCES FROM PUBLIC SCHOOL DURING ANY SCHOOL YEAR. ABSENCES DUE
18 TO SUSPENSION OR EXPULSION OF A CHILD SHALL BE CONSIDERED EXCUSED
19 ABSENCES FOR THE PURPOSES OF THIS SUBSECTION (3).

20 (c) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT SHALL
21 ADOPT AND IMPLEMENT POLICIES AND PROCEDURES CONCERNING CHILDREN WHO
22 ARE HABITUALLY TRUANT WHO ARE ENROLLED IN PUBLIC SCHOOLS UNDER THE
23 JURISDICTION OF SUCH BOARD OF EDUCATION. SUCH POLICIES AND
24 PROCEDURES MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

25 (1) REQUIRING A MEETING BETWEEN THE PARENT OF THE CHILD WHO
26 IS HABITUALLY TRUANT AND APPROPRIATE SCHOOL PERSONNEL TO REVIEW AND

1 EVALUATE THE REASONS FOR THE CHILD BEING HABITUALLY TRUANT, SUCH
2 MEETING TO BE HELD NOT LATER THAN TEN SCHOOL DAYS AFTER THE CHILD'S
3 FOURTH UNEXCUSED ABSENCE IN A MONTH OR TENTH UNEXCUSED ABSENCE IN
4 A SCHOOL YEAR;

5 (II) ANNUALLY AT THE BEGINNING OF THE SCHOOL YEAR AND UPON
6 ANY ENROLLMENT DURING THE SCHOOL YEAR, NOTIFYING THE PARENT OF EACH
7 CHILD ENROLLED IN THE PUBLIC SCHOOLS IN WRITING OF SUCH PARENT'S
8 OBLIGATIONS PURSUANT TO SECTION 22-33-104 (5);

9 (III) ANNUALLY AT THE BEGINNING OF THE SCHOOL YEAR AND UPON
10 ANY ENROLLMENT DURING THE SCHOOL YEAR, OBTAINING FROM THE PARENT
11 OF EACH CHILD A TELEPHONE NUMBER OR OTHER MEANS OF CONTACTING SUCH
12 PARENT DURING THE SCHOOL DAY; AND

13 (IV) ESTABLISHING A SYSTEM OF MONITORING INDIVIDUAL
14 UNEXCUSED ABSENCES OF CHILDREN WHICH SHALL PROVIDE THAT, WHENEVER
15 A CHILD WHO IS ENROLLED IN A PUBLIC SCHOOL FAILS TO REPORT TO
16 SCHOOL ON A REGULARLY SCHEDULED SCHOOL DAY AND SCHOOL PERSONNEL
17 HAVE RECEIVED NO INDICATION THAT THE CHILD'S PARENT IS AWARE OF THE
18 CHILD'S ABSENCE, SCHOOL PERSONNEL OR VOLUNTEERS UNDER THE DIRECTION
19 OF SCHOOL PERSONNEL SHALL MAKE A REASONABLE EFFORT TO NOTIFY BY
20 TELEPHONE SUCH PARENT. ANY PERSON WHO, IN GOOD FAITH, GIVES OR
21 FAILS TO GIVE NOTICE PURSUANT TO THIS SUBPARAGRAPH (IV) SHALL BE
22 IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, WHICH MIGHT OTHERWISE
23 BE INCURRED OR IMPOSED AND SHALL HAVE THE SAME IMMUNITY WITH
24 RESPECT TO ANY JUDICIAL PROCEEDING WHICH RESULTS FROM SUCH NOTICE
25 OR FAILURE TO GIVE SUCH NOTICE.

26 (d) CIVIL PENALTIES IMPOSED PURSUANT TO THE PROVISIONS OF

1 THIS SUBSECTION (3) SHALL BE PAID TO THE SCHOOL DISTRICT OF THE
2 PUBLIC SCHOOL IN WHICH THE CHILD IS ENROLLED. SUCH MONEYS SHALL
3 BE USED TO OFFSET THE COSTS TO THE SCHOOL DISTRICT OF ENCOURAGING
4 AND ENFORCING PARENTAL RESPONSIBILITY IN COMPLYING WITH THE
5 COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS OF THIS ARTICLE.

6 SECTION 6. 22-33-108 (3) and (5), Colorado Revised Statutes,
7 1988 Repl. Vol., are amended to read:

8 22-33-108. Judicial proceedings. (3) After the petition is
9 filed, the court shall notify the board and shall hold a hearing
10 on the matter. If, from the matters presented to it, the court
11 finds that the board of education failed to comply with the
12 provisions of this article, ~~or~~ that the child should be permitted
13 to enter or reenter the schools of the district, OR THAT A CIVIL
14 PENALTY SHOULD NOT BE IMPOSED, the court shall set aside the order
15 of the board of education and direct that the child be admitted to
16 school OR THAT THE CIVIL PENALTY NOT BE IMPOSED. If the court
17 finds that the board of education complied with the provisions of
18 this article and that under the circumstances the child should not
19 be allowed to enter or reenter the schools of the district OR THAT
20 A CIVIL PENALTY SHOULD BE IMPOSED, the court shall dismiss the
21 petition.

22 (3) Court proceedings shall be initiated to compel
23 compliance with the compulsory attendance statute after the parent
24 and the child have been given written notice by the attendance
25 officer of the school district or of the state that proceedings
26 will be initiated if the child OR PARENT does not comply with the

1 provisions of this article. The school district may combine the
2 notice and summons. If combined, the petition shall state the date
3 on which proceedings will be initiated, which date shall not be
4 less than five days from the date of the notice and summons. The
5 notice shall state the provisions of this article with which
6 compliance is required and shall state that the proceedings will
7 not be brought if the child OR PARENT complies with that provision
8 before the filing of the proceeding.

9 SECTION 7. Safety clause. The general assembly hereby
10 finds, determines, and declares that this act is necessary for the
11 immediate preservation of the public peace, health, and safety.



6900 S.W. HAINES RD., SUITE 120 TIGARD, OR 97223 503 639-96

FAX 503 639-53

June 21, 1994

Herbert A. Vlergutz
Attorney at Law
1029 West Third Avenue, Suite 100
Anchorage, Alaska 99501

Dear Herbert,

I appreciated talking with you about our home school programs in Oregon. In 1991 the Legislature passed a law that home schoolers be allowed to participate in public school activities and athletics programs.

We had many concerns regarding this issue. The basic concept was that programs were developed for those students in those schools. The feeling was that students representing their schools not only gain positive benefits from their participation, they also serve as good peer role models for other students.

Our membership has experienced some frustration in working with the home school law and the lack of accountability as we deal with the eligibility questions for participation. We would have liked to see them worked out before the law was imposed on us.

In the first year we did not have a substantial number of home schools involved in our athletics and activities statewide. This number has grown each year. Our state legislature took a position that participation should be the main goal and this law obviously allows more students the opportunity to participate.

There is still concern in the state that the home schooler has the best of all worlds. He is exempt from compulsory school attendance by registration with the county school district office and having to pass a test at the 23rd percentile is quite minimal. We have not experienced major problems except in individual cases. The home school issue needs to be spelled out in more detail than we have in Oregon.

I am enclosing copies of the information regarding the law passed in 1991 and our home school policy.

If you have any questions, please call me.

Sincerely,

Wes Ediger
Executive Director

WE/cb
Enclosures

OREGON

Home School Students

By action of the 1991 Oregon Legislative Assembly, home school students are eligible to participate in interscholastic activities. Those participating shall reside within the attendance boundaries of the public schools for which the student participates.

Following are the additional requirements for home school student eligibility:

1. The student shall be in compliance with all rules governing home schooling and shall provide the school administration with acceptable documentation of compliance.
2. The student shall meet all school district eligibility requirements with the exception of:
 - a. The school district's school or class attendance requirements; and
 - b. The OSAA class requirements
3. The student shall achieve a minimum score on the achievement test required annually of all home schooling students which shall be taken at the end of each year, and which shall be used to determine eligibility for the following year. The minimum, composite test score as currently determined by the State Board of Education is the 23rd percentile.
4. Any public school student who chooses to be home schooled also shall meet the minimum test standards as described in No. 3 above. The student may participate while awaiting test results.
5. Any public school student who has been unable to maintain academic eligibility shall be ineligible to participate in interscholastic activities as a home school student for the duration of the school year in which the student becomes academically ineligible and for the following year. The student shall take the required tests at the end of the second year and meet the standards described in No. 3 above to become eligible for the third year.
6. The home school student shall be required to fulfill the same responsibilities and standards of behavior and performance, including related class or practice requirements, of other students participating in the interscholastic activity of the team or squad and shall be required to meet the same standards for acceptance on the team or squad. The home school student also shall comply with all public school requirements during the time of participation.

8-5 School Representation

- ✓ 8-5-1 A student who competes in athletics representing a school other than the one in which the student has been enrolled, becomes ineligible for that sport for the remainder of its season. NOTE: A home school student participating in interscholastic activities shall reside within the attendance boundaries of the public school for which the student participates. *

8-6 Transfer

Preamble: Without regulation of the eligibility of transfer students, athletes could easily be induced to transfer schools, exclusively for athletic motives. Moreover, students and their families--with or without outside influence--could permit athletic interests to become dominant factors in educational decisions. In either of these instances, athletics would be in an improper and abusive perspective. Schools believe rules to deter such situations are warranted. Therefore, the transfer rules exist to:

- a) Emphasize the primary importance of academics in educational decision making;
- b) Prevent the recruiting of student athletes;
- c) Prevent "school jumping" by students for athletic reasons;
- d) Minimize the influence of athletics upon the family decisions regarding school attendance;
- e) Protect and maintain equitable opportunity for students whose families are legitimate residents of a school district;
- f) Maintain an equitable standard for interscholastic competition between public schools which are restricted by legally established boundaries and private schools;
- g) Provide common ground for interscholastic athletic competition between schools.

↙ 8-6-1 It is a fundamental rule of the Association that students must attend only the high school in the school district where their parents reside. Exceptions to this rule are to be strictly construed.

8-6-2 Before a student can participate in athletics after having transferred from one high school to another high school, a transfer certificate in a form prescribed by the Association, properly signed by the superintendent, assistant superintendent or principal of the high school the student enters, must be filed with the Executive Director. (Transfer Certificate)

8-6-3 A student who transfers from any high school to any member high school in whose attendance area the student's parents do not reside becomes ineligible until one calendar year after the student first attends the new school. For purposes of this Rule, a student is deemed to have transferred from another high school if at any previous time the student attended classes at, or participated in any way in athletics at, another high school.

- 8-4.9 Q. May a student participate in a "jog-a-thon", a "swim-a-thon" or other "...thon" activity and receive cash or merchandise prizes for his/her fund raising effort?
- A. *Yes, provided no such prize is presented for the student's athletic performance per se. Prizes are acceptable only if they are presented exclusively on the basis of the student's fund raising achievements.*
- 8-5.0 Q. May a member of a high school golf team (see 8-5.1 below) accept USGA approved awards in a non-high school golf tournament?
- A. *A student is considered to be a member of a high school golf team the first time the student represents the school in interscholastic golf competition. From the time the student becomes a member of the high school golf team until that student no longer is a member of the high school golf team--when the season for that student is completed--he/she may not accept awards other than those permitted in Rule 8-4-1. At any other time of the year, that particular student may accept USGA approved awards and still retain his/her high school eligibility.*
- 8-5.1 Q. When is a student considered to be a high school team member in a particular sport?
- A. *The student is considered to be a team member the first time a student represents his/her school in an interscholastic contest in a particular sport.*
- 8-5.2 Q. May a high school student who is a member of a high school team also compete on a non-school, organized athletic team or as an unattached individual in that sport during the high school season?
- A. *Yes.*
- 8-5.4 Q. May a high school baseball team member (a) practice or (b) play a game with a summer team during the high school baseball season?
- A. *A high school baseball team member may practice or play with a summer team during his high school's baseball season.*
- 8-5.5 Q. May a student enrolled in one high school represent another high school in interscholastic activities?
- A. *No. A student shall represent the high school in which the student is enrolled.*
- ✓ 8-5.6 Q. May a home school student represent a member school in interscholastic activities?
- A. *Yes, providing the home school student meets all necessary requirements and represents only the public school in which district the student resides. (NOTE: See Board Policies-Home School Students)*



MEMORANDUM

To: State Board of Education

Date: October 5, 1993

From: Commissioner's Office

Action Item: 94-14

■ ISSUE

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

■ BACKGROUND

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

■ OPTIONS

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

■ ADMINISTRATION'S RECOMMENDATION

Motion: I move that the State Board of Education open a period of public comment on 4 AAC 05.035, 4 AAC 09.015, and 4 AAC 09.040, proposed regulations allowing private, home school, and correspondence students to enroll part time in public schools and setting up a method of reimbursement for school districts enrolling these students.

EXHIBIT 2 Page 1 of 4

MISC. BACKGROUND INFORMATION



Alaska
Department of
Education

MEMORANDUM

To: State Board of Education

Date: October 5, 1993

From: Commissioner's Office

Action Item: 94-15

I ISSUE

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

II BACKGROUND

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

III OPTIONS

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

IV ADMINISTRATION'S RECOMMENDATION

Motion: I move that the State Board of Education open a period of public comment on 4 AAC 08.111, a proposed regulation allowing private, home school, and correspondence students to participate in the interscholastic activities of the public schools.

Register , 1993

EDUCATION

4 AAC 06.111 is amended to read:

4 AAC 06.111. ALASKA SCHOOL ACTIVITIES ASSOCIATION. (a) Except as provided in (b) of this section, the [THE] constitution and bylaws of the Alaska School Activities Association, as approved by the State Board of Education on January 29, 1977, and as amended as of September 25, 1986, are adopted by reference as the applicable rules for the administration, management, and control of interscholastic activities and for eligibility for participation in these activities.

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

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

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

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

2/16/93
3

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

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

(5) comply with ASBA and local school regulations during the time of participation. (Eff. 10/28/76, Register 60; am 3/24/77, Register 61; am 3/1/78, Register 65; am 9/23/78, Register 67; am 11/23/80, Register 76; am 11/25/80, Register 76; am 7/31/81, Register 79; am 6/9/81, Register 86; am 3/30/84, Register 91, am 1/24/85, Register 93; am 8/30/86, Register 99; am 2/20/87, Register 101, am ___/___/___, Register ___)

Authority: AS 14.07.020(1)
AS 14.07.053
AS 14.07.060

State Board of Education

Date: January 27, 1994

From: Commissioner's Office

File Number 94-37

ISSUE

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

BACKGROUND

- State law does not address the issue of non-public school students enrolling in public schools. Consequently, schools are free to set their own policies, which vary from district to district.
- This proposed regulation would establish a uniform statewide policy by prohibiting school districts from denying access to non-public school students.
- This would allow non-public school students to enroll in public school for one or more courses.
- The proposal would also provide reimbursement for these students through the Public School Foundation Program.
- The period of public comment ended January 21. Public hearings were held in Fairbanks on January 6 and in Anchorage on January 19.
- Written comments and transcripts of oral testimony will be provided in a separate packet. The public comments address two related action items: this one and 94-38, regulations governing participation in public school interscholastic activities. Both items deal with access to public schools by private, home school, and correspondence students.
- A new issue has arisen since the Board introduced this proposal. The governor has proposed funding for the foundation program for FY 95 at the FY 94 level. This means that school districts will have no funding for new students. In light of this development, the Commissioner proposes that the Board table this proposed regulation until the legislature and governor act on the foundation program appropriation.
- A copy of the proposed regulation follows this memo.

OPTIONS

- Adopt the regulation as proposed
- Adopt an amended proposal
- Table the proposal

ADMINISTRATION'S RECOMMENDATION

Motion: I move to table 4 AAC 05.035, 4 AAC 09.015, and 4 AAC 09.040, allowing private, home school, and correspondence students to enroll part time in public schools and setting up a method of reimbursement for school districts enrolling these students.

Panel urges enrollment rule for sports

By JANIE LAWLEY
Peninsula Clarion

1/26/95

Some correspondence students who are playing sports in the local public schools may have to make some hard choices before the fall.

At its last meeting, the Kenai Peninsula School Activities Association, which governs extracurricular activities in the school district, voted unanimously to put some eligibility requirements on the books. It will recommend to the school board that students must be enrolled in and passing three public school courses before being allowed to participate in extracurricular activities.

Associate Superintendent John Dahlgren, who oversees the KPSAA board, defined extracurricular activities as those that occur outside of the normal school day and those that aren't required as part of a course. The majority of these are athletics, but other examples are participation in all-state band

and choir competitions.

As of now, Dahlgren said, the district doesn't have any guidelines that state whether students in district correspondence or those in private or home schools can take part in extracurricular activities. Public school students must be taking and passing four classes now to do the same.

The KPSAA board began to discuss the issue after the school board voted in September to allow those students outside of the public schools to take elective courses. In addition, Dahlgren said, school athletic directors have been struggling to keep track of eligibility for correspondence students.

The issue, he said, is one of fairness. Dahlgren wonders if it is appropriate for a student outside of the public realm to participate in athletic competitions.

"If they enroll in one class does that allow them to participate in a co-curricular program? We're try-

See ENROLL, back page

...Enroll

Continued from page 1

ing to define what an enrolled student is," Dahlgren said.

There are pros and cons.

Dahlgren said that while loosening requirements will provide more opportunities for more students, there is something missing. He believes that to truly be a part of the school, a student must be there.

"You can't be a part of the school community if you aren't there. You are part of a school — part of the community — that school culture," he said.

Dahlgren said that he believes many students don't realize the responsibility that comes with extracurricular activities. Team members are representing themselves, their communities, their schools, their parents and their peers, he said.

Dahlgren said another point is that only so many students can make an athletic team. He questioned what would happen if a full-

time student at a local high school was replaced by a student who is taking only one class at the school.

Despite his concerns, he said that he is comfortable with the proposed three-course rule, which is basically part-time.

Pam Lazenby, the parent representative on KPSAA, said she can also live with the three-course requirement, but she prefers an all or nothing approach.

She said she has talked with several parents who agree that the eligibility requirements should be stricter.

"My feeling on it is that if you want to participate in extracurricular activities, you have to attend that school. To me, it's a spirit issue. If you're not part of that school, I don't see how you can represent that team," Lazenby said.

Another issue is choice.

"People have choices in today's world. You can choose public school. There are some wonderful rewards and great opportunities, just as there are if you choose correspondence or home school. If you choose one, you shouldn't be able

to get the best of all three worlds. You should opt into one program and reap the benefits of that program," Lazenby said.

Dahlgren said there is also the issue of funding.

Finance Director Dick Swamer has said that the district cannot receive funding for those students enrolled full-time in state or district correspondence. However, those in home school, private or another correspondence program can be counted — no matter how many hours they take within the public school system.

Dahlgren said that the state Board of Education is considering changing that requirement and increasing the number of hours required for eligibility. This will mean that students will have to take more courses for the district to receive any funding for them.

Dahlgren said the money aspect is a good argument. If the district gets paid for a student, maybe he or she should be allowed to participate in all activities.

Looking at the big picture, however, Dahlgren said he worries

about being fair to all students. He wonders if it's fair that students outside of the public realm can pick and choose what programs they want to become involved in.

"There's got to be some structure. They want little pieces, but they don't want to buy the whole thing," he said.

Besides dealing with eligibility issues for extracurricular activities, KPSAA also oversees basic student rules and disciplinary procedures for extracurricular activities. The board is made up of a mix of people, including administrators from the middle and secondary school levels, a high school coach, an elementary principal, a parent representative and a school board member. The association has been in existence since the early 1980s and was formed to provide some order and consistency in the district's extracurricular programs.

Dahlgren will present the recommendation for a three-course eligibility requirement for those alternative students at the school board's meeting on Feb. 20.



February 23, 1995

Anchorage School District

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Honorable Members
House HESS Committee
State Capitol
Juneau, Alaska 99501-1182

RE: HB 156 (Relating to Access to Extra-curricular Programs By Home School Students)

Dear HESS Committee Members:

The Anchorage School District administration ("ASD") has reviewed HB 156 which, if enacted, would require the ASD to permit students not enrolled in the ASD to participate in ASD sponsored extracurricular activities. We strongly oppose this bill.

Over the past two years, the issue of admitting non-enrolled students to public school extracurricular programs has received much attention in Alaska. In 1993 and 1994, the Alaska Department of Education ("DOE") promulgated regulations which would have required local districts to permit home, correspondence, and other private school students to participate in public school extracurricular activities, including activities sanctioned by the Alaska School Activities Association ("ASAA"). Local school boards and the ASAA voiced strong opposition based on substantial legal, financial, administrative and policy implications of the proposed regulations. As a result, State Board of Education tabled the regulations.

During this same period, the ASD, DOE and ASAA were sued by a handful of home, correspondence and private school students who sought participation by non-enrolled students in ASD's extracurricular activities, particularly ASAA sanctioned interscholastic athletic programs.¹ The superior court rejected the

¹ Sandra I. Blomfield et al. v. Anchorage School District, Alaska School Activities Association, Inc. and State Board of Education, 3AN-93-2740 Civ (Super Ct. Third Judicial District, decided August 2, 1994).

Honorable Members
House HESS Committee
February 23, 1995
Page 2

plaintiffs' claims, holding that the ASD had legitimate financial and administrative reasons for excluding non-enrolled students from participation in ASD sponsored extracurricular activities. The court expressly noted that under the state public school foundation program, only students enrolled in a public school district generate state/local funding for the district. The court said:

[I]t is undisputed that ASD's state funding is provided on a per-pupil basis. If students not enrolled in the District participate in athletic programs there, they effectively draw down the state/local funding without contributing to the "body count" which generates that funding.

Memorandum of Decision and Order Granting Defendants and Denying Plaintiffs' Motions for Summary Judgment at 5. (Copy attached hereto as Attachment 2).

House Bill 156 imposes the identical financial burden and resulting inequities involved in the Blomfield litigation. If enacted, it would create a costly obligation for the ASD, without the funding necessary to carry out the mandate.

In addition, HB 156 ignores long standing and well established principles of local control. Central to the Blomfield litigation were the interests of the ASD in setting and enforcing uniform eligibility standards in athletic programs, and the maintenance of a proper perspective towards extracurricular activities as being subordinate to the academic mission of the ASD. Permitting only students enrolled in the ASD to participate in ASD sponsored extracurricular activities best serves these legitimate interests. We therefore urge House HESS to not support HB 156.

HB 156, as proposed, raises additional concerns.

(a). Recruiting and School "Shopping": HB 156 appears to permit home school students to "shop" between school districts as well as between schools

Honorable Members
House HESS Committee
February 23, 1995
Page 3

within the same district for a team to play on. The proposed language does not appear to limit a home school student to activity participation in the home school student's attendance area. Under HB 156, a home school student living in Wasilla (Mat-Su School District attendance area), for example, could play on a football team in the Anchorage School District. The statute, as proposed, would even permit a student to play on teams in more than one school district, e.g. hockey in the Mat-Su School District and football in the ASD. In addition to "shopping" by students, the proposed statute would also encourage "recruiting" of student athletes by individual schools or school districts. Such a result is undesirable and would undermine long standing policies prohibiting recruitment of athletes and team shopping.

(b). Ambiguity as to the Activities Covered by the Statute: HB 156 defines "extracurricular activities" to include "drama, debate, music, band, and athletic activities." (Emphasis added). Under Alaska statutory rules of construction, the definition is not limited to the listed activities. AS 01.10.040 (b). Thus, it appears that activities such as yearbook, cheerleading, drill team, student council, dances, clubs, spelling bees and field trips, to mention a few, are included under the statute.

A major problem is that the statutory definition also appears to include academic activities. The ASD does not consider "band" and "music" to be extracurricular. They are academic classes which are offered during the regular school day for which students receive credits towards graduation. It is unclear whether HB 156 would require a school district to permit home school students to participate in academic band and music classes. If such participation is required, the ASD can only speculate as to what other academic classes are included within the meaning of "extracurricular activities" under HB 156. For example, the ASD has received numerous requests by home school parents to permit their students to participate in ASD's foreign language classes. Like band and music, foreign language classes are academic subjects. The statute's

Honorable Members
House HESS Committee
February 23, 1995
Page 4

definition of "extracurricular activities" will result in much confusion over what is or isn't an "extracurricular activity" and will encourage litigation over the matter.

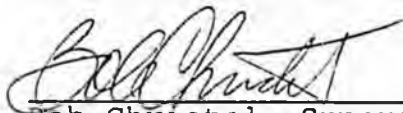
In summary, enactment of HB 156 will result in opportunities for home school students at the expense of ASD students. It will impose unjustified financial and administrative burdens on the ASD, and seriously undermine the ASD's ability to set standards for its extracurricular programs and operate the programs in a cost effective manner. In addition, enactment of HB 156 will serve to provoke costly litigation by persons challenging the constitutionality of the Act, as well as by persons (e.g., other private school students) who wish to be included in the Act. The statute's ambiguous language will also invite litigation. For the reasons outlined, we urge the House HESS committee to decline to support HB 156.

A detailed analysis of the problems we perceive under HB 156 is attached to this letter. See Attachment 1.

Thank you in advance for your thoughtful consideration of the ASD's concerns expressed in this letter. Please do not hesitate to contact myself or Larry Wiget, Director of Government Relations, for additional information or clarification regarding these concerns. My phone number is 269-2290 and Larry Wiget's number is 269-2255.

Very truly yours,

ANCHORAGE SCHOOL DISTRICT



Bob Christal, Superintendent

Attachments (2)

cc: Larry Wiget
Bill Mell

ANCHORAGE SCHOOL DISTRICT'S ANALYSIS OF HB 156

1. Economic Burdens: Under the Alaska Public School Foundation Program ("PSFP"), the ASD and other local districts receive no categorical funding for extracurricular activities, per se. AS 14.17 et. seq. Funds for such activities must be budgeted from basic education funds allocated under the PSFP.² Funding for basic education is based on a formula which counts only students who are enrolled in the local public school district. AS 14.17.041. Simply put, students who are not enrolled in the ASD do not generate PSFP revenues which pay for the extracurricular activities offered by the ASD. If HB 156 were enacted, potentially hundreds of home school students residing in the Anchorage attendance area would participate in ASD activities as "free riders," thereby imposing a significant financial burden on the ASD's activities' budget.³

In addition, it is a near certainty that the ASD would lose some currently enrolled students if HB 156 were enacted into law, since there are a number of students who remain enrolled in public schools solely because of extracurricular activities. In the Blomfield litigation, for example, two of the named plaintiffs admitted that but for the activity eligibility rules, they would not remain enrolled in the ASD, but would only participate in the ASD's athletic activities, while getting their academics elsewhere. The loss of students would further erode the ASD's funding base.

In this period of declining revenues and severe budgetary cutbacks, enactment of HB 156 would force the ASD to make further reductions or eliminate some extracurricular activities altogether.⁴

² The PSFP formula allocates both state and municipal (local contribution) funds to local municipal school districts. AS 14.17.025.

³ There are approximately 2,000 students residing within the ASD boundaries who are not enrolled in the ASD. Over 500 of these students are enrolled in home schools.

⁴ In addition to expenses for coaches, equipment, uniforms, rental fees and transportation costs associated with extracurricular activities, the ASD pays an ASAA membership fee and a surcharge for each student. Catastrophic liability insurance for non-enrolled students is an additional cost.

2. **Fairness Considerations:** With respect to interscholastic competitive activities, there are a limited number of positions on any given team. Participation by non-enrolled students would not increase available opportunities, but would simply result in the "bumping" or displacing of ASD students from their ASD interscholastic school team. Such a result raises issues of fundamental fairness. Students who attend the ASD and participate in its academic program should not be bumped from their school team in favor of a student who has made a choice to attend school elsewhere, even if the non-enrolled student is a superior athlete. ASD students generate the foundation funds from which the ASD funds its interscholastic activities. Home school students who, under HB 156, would drop by after school only to play sports would contribute nothing to the "body count" from which PSFP funds are calculated.

Furthermore, an important goal of our extracurricular programs is to foster school pride and school spirit. Each team represents a particular school as well as the ASD as a whole. It goes without saying that our teams should be composed of students who are enrolled in the ASD.

It should also be pointed out that home school students have opportunities to participate in extracurricular activities through private or public sports leagues in Anchorage. They are also permitted to join ASAA and compete individually in ASAA sanctioned competitions. Further, it is our understanding that ASAA rules allow a group of unrelated home school students to form a team. With over 500 home school students in Anchorage, it would be feasible for a number of these students and their parents to get together to form a sports team. In the alternative, home school students have the option of enrolling in the ASD, and when enrolled, may participate in ASD sponsored extracurricular activities. As the Blomfield court observed, "it is through their own choosing that they absent themselves from the realm of public education."

Fundamental fairness clearly militates against enactment of HB 156.

3. **Administrative Concerns:** The ASD considers participation in extracurricular activities to be a privilege which, at all times, is subordinate to the ASD's academic and educational mission. To participate in extracurricular activities, students must meet academic and attendance requirements, maintain passing grades and demonstrate citizenship and decorum. Uniform enforcement of the ASD's eligibility standards is important to the maintenance of fairness in team selection, team morale, school pride and a proper perspective towards extracurricular activities.

From a practical standpoint, application of the ASD's academic and disciplinary standards to hundreds of non-ASD home school students would be an administrative nightmare. Substantial administrative time and additional resources would be required to ensure that the ASD's rules are applied uniformly to ASD and non-ASD students.

For example, the ASD requires students who participate on interscholastic sports teams to be in regular attendance at school and in classes. A student must be in attendance for half of the day in order to attend practice or play in a game that day. ASD eligibility rules also require a 2.0 grade point average for all classes taken, and enrollment in at least four classes that lead towards graduation. Students may lose participation rights for violation of the ASD's training rules pertaining to the use of drugs, alcohol and tobacco, as well as for behavioral infractions that occur during the regular school day. If HB 156 were enacted, it would be difficult, if not impossible, to apply and enforce the ASD's standards to home school students. Determining comparability of grading systems would be extremely burdensome, if at all possible. Similarly, keeping track of the daily attendance of students in their home school classes would be next to impossible.

The ASD not only lacks the administrative capacity, but more importantly, it lacks any legal authority to require home schools to adhere to ASD's academic and disciplinary standards. Enactment of HB 156 would therefore result in a "double" standard--one for ASD students and a multitude of "standards" for home school students. Enactment of HB 156 stands to seriously undermine the ASD's ability to set eligibility standards, control its academic and extracurricular programs, and operate its extracurricular activities in a cost effective manner. From an administrative standpoint, the burdens imposed by HB 156 are so substantial that they can be met, if at all, only through inordinate additional costs and intrusion by the ASD into the home school operations.

4. Constitutional and Other Legal Issues: HB 156 raises substantial constitutional questions. Home schools are private schools established for a variety of reasons, including religious reasons. Permitting home school students to participate in ASD sponsored extracurricular activities likely violates the Alaska Constitution's prohibitions against providing direct benefits to secular or other private schools. AK. Const. art. VII, sec. 1. It

may also violate prohibitions against using public funds for a non-public purpose. AK. Const. art. IX, sec. 6.⁵

Home schools are clearly the sole beneficiaries of HB 156. The primary effect of HB 156 will be to subsidize the curriculum of private and secular home schools at the expense of public school students. Such subsidization constitutes a substantial direct benefit to home schools. School districts which permit home school students to participate in extracurricular programs pursuant to HB 156 will likely face costly legal challenges under the state and federal constitutions by the ACLU or others.

Enactment of HB 156 will also invite further Blomfield-type litigation by other private school students who see HB 156 as conferring an equal "right" for all non-enrolled students to participate on ASD interscholastic athletic teams. Although the ASD prevailed in the Blomfield lawsuit, it incurred thousands of dollars in litigation expenses and fees. The public interest is not well served by enacting legislation which is legally unsound and invites this type of costly litigation.

⁵ Those who favor the approach of HB 156 may argue that participation is a benefit to the student, rather than to the private school the student attends. However, the Alaska Supreme Court has rejected similar arguments. See Matthews v. Quinton, 362 P.2d 932 (Alaska 1961); Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979).

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

SANDRA I. BLOMFIELD, and
minor children,
A.J.B.; L.A.B.; M.S.G.;
S.E.W. and M.J.B.,

Plaintiffs,

vs.

ANCHORAGE SCHOOL DISTRICT;
ALASKA SCHOOL ACTIVITIES
ASSOCIATION, INC.; AND STATE
BOARD OF EDUCATION,

Defendants.

CASE NO. 3AN-93-2740 CIV

MEMORANDUM OF DECISION AND
ORDER GRANTING DEFENDANTS' AND DENYING
PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT

This case involves plaintiffs' challenge to rules promulgated by defendants which limit participation in public school extracurricular activities to students enrolled in the public schools. The plaintiffs are individuals (and one parent of two of those individuals) who attend or wish to attend private schools and students who receive their education through correspondence or home schooling. The students involved wish to participate in interscholastic activities offered by the Anchorage School District. The defendants include the District ("ASD"), the State Board of Education ("Board") and the Alaska School Activities Association, Inc. ("ASAA").

Plaintiffs' complaint asks the court to invalidate defendants' rules based on alleged violations of due process and equal protection guarantees under both the state and federal constitutions. The complaint also claims violations of plaintiffs'

civil rights and rights to liberty, pursuit of happiness and the enjoyment of the rewards of their own industry under Alaska's constitution.

In plaintiffs' briefing, their counsel emphasizes arguments arising under the direct benefits clause in the Alaska Constitution and the free exercise and establishment clauses of the state and federal constitutions. Those provisions involve questions of religious freedom. Plaintiffs themselves, however, specifically disavow any religious motivation for their decision to obtain education outside of the public school system. Accordingly, the court will disregard the religion-based arguments on the grounds of relevance.¹

The parties agree that there are no disputed issues of fact. Accordingly, the case turns on resolution of the legal contentions raised in plaintiffs' complaint.

A. The Civil Rights Claim

Art. I, Sec. 3 of the Alaska Constitution provides: "No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex or national origin. The legislature shall implement this Section." Title 18.80 of the Alaska Statutes establishes rights and remedies pursuant to this mandate. As noted above, plaintiffs have denied any religious basis for their education choices. Furthermore, plaintiffs have

¹ The direct benefits arguments are irrelevant for the additional reason that this suit does not challenge a rule which allows parochial students to participate in public school activities. Rather, the focus in this litigation is whether the defendants are obligated to include non-public students in public extracurricular activities.

not alleged any violation of Title 18.80. Accordingly, plaintiffs have not placed themselves in any protected class warranting relief under Art. I, Section 3.

B. The Liberty Claim

Plaintiffs rely on Breese v Smith, 501 P.2d 159 (Alaska 1972), to support their liberty claim. In Breese, the court noted first that Article VII, Section 7 guarantees all Alaskan children a public education. The court described the core of the concept of "liberty" embodied in Article I, Section 1 as "the notion of total personal immunity from governmental control: the right 'to be let alone.'" Id. at 168. The court concluded that the right of students to select their own hairstyle constitutes a fundamental constitutional right. Id. at 170. As such, the Fairbanks North Star School District and the school and principal involved were required (and ultimately failed) to demonstrate a compelling state interest to overcome Breese's challenge to his school's hair length rule.

Plaintiffs argue that if the right to liberty includes hair length choices, certainly it must also encompass the seemingly more significant right to participate in interscholastic activities in the public schools. There are three fallacies with this argument, two of which also apply to plaintiffs' allegations pertaining to due process and equal protection, discussed, infra.

First, specific to the liberty issue, there is an obvious distinction between a constitutional requirement to refrain from intruding upon an individual's right to control his or her own

person, versus the demand made here that a governmental entity affirmatively provide services to individuals.

Second, in Breese, the student was precluded from enjoying his right to a public education as a result of exercising his liberty rights. In the present situation, the school system welcomes the plaintiffs. Defendants do not require plaintiffs to make a "Hobson's choice" between religious freedom or other specially protected rights and the right to participate in extracurricular programs. It is through plaintiffs' own choosing that they absent themselves, or wish to absent themselves, from the realm of public education. See, Thomas v. Allegany County Board of Education, 443 A.2d 622 (Md. App. 1982).²

Finally, as suggested above, the right to engage in interscholastic activities is not a fundamental right. Steffes v. Cal. Intersch. Fed., 222 Cal. Rptr. 355, 360-61 (Cal. App. 2 Dist. 1986). While then Chief Justice Bird expressed a contrary view in her concurring opinion in Hartzell v. Connell, 689 P.2d 35 (Cal. 1984), neither California nor any other court has adopted this position.

The policies promulgated by all the defendants in this case establish the subordinate position of extracurricular activities in Alaska vis-a-vis the schools' academic programs.

²Although not pled, plaintiffs argue that the right to choose a particular form of education implicates their right to privacy, which somehow aligns them more with the reasoning in Breese. The right to privacy was not pleaded in the complaint. By way of dictum, the court finds that defendants' rules do not infringe in the slightest upon plaintiffs' right to privacy.

Interscholastic activities unquestionably have value, and certainly have great importance to the plaintiffs in this case. But these facts do not elevate such activities to the level of fundamental rights warranting special constitutional protections.

C. The Equal Protection Claims.

Plaintiffs allege that defendants discriminate against them versus students enrolled in the public schools on the basis of plaintiffs' placement outside the public system.

Under federal law, education itself is not a fundamental right. San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 35, 93 S.Ct. 1278, 36 L.Ed.2d 16 (1973). Nor is the classification of public/non-public school students "suspect." Accordingly, defendants' distinction must be upheld under the U.S. Constitution if supported by a rational basis. Denis J. O'Connell High School v. Virginia High School, 581 F.2d 81, 85 (4th Cir. 1978).

The affidavit submitted by A.S.D.'s William Mell articulates several rational policy reasons for the exclusion from extracurricular activities of students not enrolled in the District. First, it is undisputed that ASD's state funding is provided on a per-pupil basis. If students not enrolled in the District participate in athletic programs there, they effectively draw down the state/local funding without contributing to the "body count" which generates that funding. Mell describes additional concerns with eligibility supervision and administration of discipline. These suffice to meet the rational basis test.

Under the Alaska Constitution, the Alaska Supreme Court applies a sliding scale of scrutiny in analyzing claimed denials of equal protection. State v. Erickson, 574 P.2d 1, 11-12 (Alaska 1978). In Sonneman v. Knight, 790 P.2d 702 (Alaska 1990), the court described the appropriate three step analysis:

First, it must be determined . . . what weight should be afforded the constitutional interest impaired by the challenged enactment. . . .

Second, an examination must be undertaken of the purposes served by a challenged statute. . . .

Third, an evaluation of the state's interest in the particular means employed to further its goals must be undertaken.

Id. at 704, citing, Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264, 269 (Alaska 1984). Sonneman held that unemployment benefits warrant protection only at the lowest end of the scale. As is true under federal law, generally the strictest scrutiny is reserved for cases in which there is either a suspect classification or a fundamental right involved.

As discussed above, the right to participate in interscholastic activities does not rise to the level of a fundamental right. It is certainly not entitled to more weight than unemployment benefits. Additionally, plaintiffs have not suggested that the classification is suspect. It is not based on categories such as race or religion, nor on conditions such as wealth. As noted, supra, defendants' classifications bear a fair and substantial relationship to the accomplishment of legitimate ASD and state objectives. Accordingly, defendants' rules must be upheld against attack under state equal protection law.

D. The Due Process Claim

Finally, plaintiffs complain that defendants' refusal to allow non-enrolled students to participate in extracurricular activities contravenes substantive due process.

Boyd v. Board of Directors, 612 F. Supp. 86 (E.D. Ark. 1985), and Pelgram v. Nelson, 469 F. Supp. 134 (M.D.N.C. 1979), support plaintiffs' claim to a property right in these activities. The better reasoned cases, however, hold to the contrary. E.g., Menke v. Ohio High School Athletic Ass'n., 441 N.E. 2d 620 (Ohio 1981); Yellow Springs Exempted Village Sch. Dist. B. of E. v. Ohio High Sch. Ath. Ass'n., 443 F. Supp. 753, 758, n. 37 (S.D. Ohio 1978) and Denis J. O'Connell High Sch. v. Virginia High Sch., supra.

Even if the entitlement to participate in extracurricular activities were recognized as a property interest, substantive due process requires only that there be a rational basis for the challenged regulation. Concerned Citizens of So. Kenai Pen. v. Kenai Pen. Bor., 527 P.2d 447, 452 (Alaska 1974). As discussed, supra, such basis exists.

ORDER

Based on the foregoing reasoning, IT IS ORDERED that plaintiffs' motion for summary judgment is DENIED and defendants' motions are GRANTED.

Dated at Anchorage, Alaska this 2nd day of August 1994.

Joan M. Woodward
JOAN M. WOODWARD
SUPERIOR COURT JUDGE

I certify that on 8-2-94
a copy of the above was mailed to each
of the following at their addresses of
record:

M. Williams
Secretary/Deputy Clerk

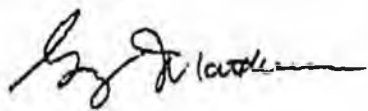
Ag. Group
W. script?
Secretary
Patterson

7



ALASKA SCHOOL ACTIVITIES ASSOCIATION, INC.

TO: House Health, Education and Social Services Committee

FROM: Gary Matthews
Executive Director 

DATE: April 11, 1995

RE: House Bill No. 156

The Alaska School Activities Association is the governing body of high school interscholastic sports and activities in the approximately 180 member high schools in Alaska.

The Alaska School Activities Association is opposed to the adoption of HB 156.

Premise: It has long been a precept of athletic eligibility, embodied in Article XII, Section 2 of the Alaska School Activities Association, Inc. (ASAA) Bylaws, that a student may participate in interscholastic activities only at the school at which s/he is enrolled (registered).

A. "To be eligible during a school semester for participation in interscholastic activities, a student must:

1. be properly registered in a 9-12 or 10-12 high school program or any combination thereof, in the member school where the student will participate or where authorized by a member district, be enrolled in the member district's alternative school or program when such district is paying the student surcharge for that student and when the student is participating at the member school s/he would normally attend or at the member school nearest to the alternative school; and
2. be carrying a minimum of four classes (semester units) that lead to granting of credit toward graduation; and
3. be in regular attendance at school classes in which enrolled (or be enrolled in a district or member school correspondence program."

The purposes of this provision are:

1. to recognize the primacy of academics in the overall school experience,
2. to keep interscholastic activities in its proper perspective in the entire educational program,
3. to recognize the amateur character of high school athletics,
4. to deter athletic school-shopping by students,
5. to avoid the pressure placed on students which would accompany a system which permitted students and schools to bid for positions of talent without regard to where the student receives his/her academic education, and
6. to recognize that a team, which represents a school, should be comprised of students who attend

the school.

Some Specific Concerns: This proposed statute change raises a number of concerns. This is not an exhaustive list.

1. HB 156 would frustrate the advantage of having one school with full administrative control over a student. There is often an interplay between disciplinary concerns, attendance, motivation and performance of a student in academic and athletic activities. It is better to have one school administration overseeing all of the student's activities, with enforcement abilities in all areas.
2. Under HB 156, it would be difficult to compare eligibility standards between home schools and public schools. ASAA eligibility rules require that a student pass at least four semester units of credit toward graduation in the immediately preceding semester. If academic schedules are slower at the home school (not an unusual circumstance), this may create the perception or even the fact of unfairness.
3. HB 156 would operate to the detriment of "school spirit" which is one of the positive features of interscholastic activities. Interscholastic sports and other activities provide rewarding experiences not only to the participants, but also to student spectators who turn out to root for their school teams. The sense of school pride and community may suffer if a substantial contingent of the school's team consists of students from another school, whom the public school students do not know.
4. HB 156 may result in students attending home schools in order to "get around" the ASAA's transfer rule which prevents students from transferring between schools within a district simply because students want to play on a certain team. By transferring from a public school to a home school, then participating at a different public school, students could circumvent ASAA's transfer rule.
5. A particular public school may be inundated with home school student participation in interscholastic activities, either because of geographic considerations or because the school has a particularly good interscholastic program. Without additional funding from the State or a requirement that home schools compensate the public school for the full cost of home school students' participation, the public school will either have to divert more of its academic budget to its interscholastic activities program, or curtail the program.
6. HB 156 would foster disputes and even possible litigation because it will cause some public school students to be displaced by private home school students on team rosters. Parents of public school students displaced from activities by home school students can be expected to challenge the statute as violating the Alaska Constitution provision which prohibits the use of public school funds for the direct benefit of private home schools. Moreover, individual decisions regarding a student's qualifications to play for a team or to play a certain position will become more controversial. For example, a parent of a home school student will be more inclined to suspect that a public school coach's decision to utilize the student athlete is the result of politics, school loyalty or related motivations rather than based upon the actual abilities of the student. Given the increasing tendency of parents to litigate such matters, coaches or band directors may find themselves in court defending individual decisions.
7. HB 156 raises a number of related questions concerning other ASAA Bylaws. For example:
 - A. Which school supervises the home school student? Present Bylaws permit a member school principal to deny eligibility to a student for misbehavior.

B. Which school can appeal ASAA decisions affecting student eligibility?
Under ASAA Bylaws, only member schools are entitled to do so.

C. What is acceptable documentation and who will decide? ASAA member schools must verify student eligibility based on school records and information that is readily available. How will the public school gain access to this information for home school students? Will it be the public school's responsibility to verify the information? Will the state verify home schools for the purpose of establishing acceptable documentation?

D. State certified home schools are eligible for membership in ASAA. Since students in those schools are then eligible for interscholastic competition, doesn't HB 156 create a situation in which those students have two opportunities to participate: 1) at their home school or 2) at a public school? This hardly seems fair.

Summation: HB 156 raises the question of fundamental fairness to the public schools of Alaska. Parents choose to send their students to a certain school or to school them at home, based on a set of beliefs and values. All aspects of the decision on school choice should be considered in deciding how and where to educate children. School choice should mean the act of selecting a school for children, based on the overall consideration of a variety of factors.

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1	_____	GISELLE	BERYERON	HUNTWOOD CHRISTI	T 01 HB 156
	12570	NORTHERN RAVEN	ANCHORAGE	AK 99516	(907)345-1010
2	_____	SANDY	BLOMFIELD	_____	T 01 HB 156
	7610	WILDWOOD CIRCLE	ANCHORAGE	AK 99516	(907)346-2738
3	_____	STEVEN	PORTER	_____	T 01 HB 156
	10420	LONE TREE DR	ANCHORAGE	AK 99516	(907)265-6269
4	DR.	WILLIAM	MELL	ASD	T 01 HB 156
					(907)000-0000
5	_____	JUSTIN	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323
6	_____	JOSHUA	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323
7	_____	JONATHAN	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323
8	_____	PAIGE	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323

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 SITE: LIO ANC VTS ANCHORAGE

9	_____	SARAH	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323
10	_____	JERRY	WALTON	_____	T 01 HB 156
	PO BOX	221166	ANCHORAGE	AK 99522	(907)248-1323
11	_____	LAUREL	TATSUDA	_____	T 01 HB 156
	510 L ST,	STE 500	ANCHORAGE	AK 99501	(907)278-8533
12	_____	MATTHEW	BERGERON	_____	U 01 HB 156
	12570	NORTHERN RAVEN	ANCHORAGE	AK 99516	(907)345-1010
13	_____	MARK	BERGERON	_____	U 01 HB 156
	12570	NORTHERN RAVEN	ANCHORAGE	AK 99516	(907)345-1010
14	_____	ONE	OBSERVER	_____	O 01 HB 156
					(907)000-0000
15	_____	ONE	OBSERVER	_____	O 01 HB 156
					(907)000-0000
16	_____	ONE	OBSERVER	_____	O 01 HB 156
					(907)000-0000

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 SITE: LIO SOL VTS KEN/SOL

1	MR.	JOHN	DAHLGREN	KPBSD	T 01 HB 156
	148 N.	BINKLEY	SOLDOTNA	AK 99669	(907)262-5846
2	MS.	MARYJEAN	YRAGUI	SELF	T 01 HB 156
	PO BOX	1290	KENAI	AK 99611	(907)283-4947
3	MS.	ISABEL	HUESTIS	SELF	T 01 HB 156
	PO BOX	1886	SOLDOTNA	AK 99669	(907)262-2868
4	MS.	MARY	HUTCHINSON	SELF	T 01 HB 156
	HC 2 BOX	389	SOLDOTNA	AK 99669	(907)262-4260
5	MS.	MAGGIE	REILLY	SELF	T 01 HB 156

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 1 _____ DAVID MCGUIRE _____ T 02 HB 135
 _____ ANCHORAGE AK _____ (907)562-4142

MSG: 1410 NO FURTHER INFORMATION

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 SPONSOR: HHES HOUSE HEALTH, EDUCATION & SOCIAL SERVICE CHAIRS: TOOHEY
 PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE BUNDE
 1ST ITEM: HB 156 STUDENT ACCESS TO SCHOOL PROGRAMS 2 ITEMS ON AGENDA
 CONTACT: LYNNE SMITH TEL: (907)465-6825 MODERATOR: ZZZ
 LOCATION STAFF

CHAIRING SITE: JUNEAU CAPITOL ROOM: CAP106 PRINTER: L300
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 AT THIS TIME, HB 156 WILL BE THE FIRST BILL ON THE CALENDAR
 TESTIMONY WILL BE TAKEN WITH A 3 MINUTE LIMIT.

BACKUP MATERIAL: N

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 SPONSOR: HHES HOUSE HEALTH, EDUCATION & SOCIAL SERVICE CHAIRS: TOOHEY
 PURPOSE: PUB PUBLIC-HEARING LEGISLATIVE BUNDE
 1ST ITEM: HB 156 STUDENT ACCESS TO SCHOOL PROGRAMS 2 ITEMS ON AGENDA
 CONTACT: LYNNE SMITH TEL: (907)465-6825 MODERATOR: ZZZ
 LOCATION STAFF

04/13/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

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PUBLIC HEARING HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:KEN/SOL

HB 156	MR.	JOHN	DAHLGREN ✓	KPBSD	TESTIFY
HB 156	MS.	MARYJEAN	YRAGUI ✓	SELF	TESTIFY
HB 156	MS.	ISABEL	HUESTIS ✓	SELF	TESTIFY

04/13/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

14:08:46 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC

TCN:50573 SCHEDULED FOR:04/13/95 14:00 TO 16:00 FOR:ANC

PUBLIC HEARING HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:ANCHORAGE

HB 156		GISELLE	BERYERON ✓	HUNTWOOD CHRISTITESTIFY
HB 156		SANDY	BLOMFIELD ✓	TESTIFY
HB 156		STEVEN	PORTER ✓	TESTIFY
HB 156		BILL	MELL ✓	TESTIFY
HB 156		JUSTIN	WALTON ✓	TESTIFY
HB 156		JOSHUA	WALTON ✓	TESTIFY
HB 156		JONATHAN	WALTON ✓	TESTIFY
HB 156		PAIGE	WALTON ✓	TESTIFY
HB 156		SARAH	WALTON ✓	TESTIFY
HB 156		JERRY JESSY	WALTON ✓	TESTIFY
HB 156		LAUREL	TATSUDA ✓	TESTIFY

.04/13/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:21:17

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:SOL

TCN:50573

SCHEDULED FOR:04/13/95 14:00 TO 16:00

FOR:SOL

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:KEN/SOL

HB 156	MR.	JOHN	DAHLGREN ✓	KPBSD	TESTIFY
HB 156	MS.	MARYJEAN	YRAGUI ✓	SELF	TESTIFY
HB 156	MS.	ISABEL	HUESTIS ✓	SELF	TESTIFY
HB 156		MARY	HUTCHINSON ✓		TESTIFY
HB 156		MAGGIE	REILLY ✓		TESTIFY