

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 00 / 2

10540 SENATE HEALTH EDUCATION & SOCIAL SERVICES

**HB 71 / SB 40: Special Education Statute  
Comparison of Current and Proposed Legislation**

<p><b>Sec. 14.30.180. Purpose.</b> It is the purpose of AS 14.30.180 - 14.30.350 to (1) provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age; (2) allow procedures and actions necessary to comply with the requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p><b>Sec. 14.30.351. Purpose.</b> It is the purpose of AS 14.30.351 - 14.30.359 to provide an appropriate education for each gifted child who enrolls in a public school in the state.</p>	<p>This section substitutes "gifted child" for "exceptional children".</p> <p>This section changes "appropriate public education" to "appropriate education" for children enrolled in a public school.</p>
<p><b>Sec. 14.30.186. Coverage.</b> (a) A borough or city school district shall provide special education and related services for exceptional children residing in the district. (b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school. (c) [Repealed, Sec. 19 ch 147 SLA 1984]. (d) [Repealed, Sec. 19 ch 147 SLA 1984]. (e) Exceptional children being educated as provided under AS 14.30.010(b) may receive special education and related services as provided under AS 14.30.180 - 14.30.350. The exceptional child of a parent who elects to educate the child as allowed under AS 14.30.010 (b) may not be compelled to receive the special education</p>	<p><b>Sec. 14.30.352. Coverage.</b> Each school district shall establish a program for identification and provision of educational services to gifted children who enroll in the schools of the district.</p>	<p>This section substitutes "gifted child" for "exceptional children".</p> <p>This section clarifies that districts must provide gifted education services only to gifted children who are enrolled in the district.</p>

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<p>and related services provided under AS 14.30.180 - 14.30.350.</p>		
<p><b>Sec. 14.30.191. Educational evaluation and placement.</b>          (a) A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services.          (b) After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children.          (c) Before a school district initiates or refuses a change in a child's placement or program, the district shall notify the child's parent.          (d) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the exceptional child.          (e) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district</p>	<p><b>Sec. 14.30.353. Identification, evaluation and placement of gifted children.</b>          (a) Each school district shall establish and implement written procedures to ensure that all gifted children who enroll in public school in the district are identified and located for the purpose of establishing their need for a gifted education program.          (b) A school district shall obtain the written informed consent of the child's parent before an initial evaluation or placement in a gifted education program.          (c) After initial placement in a gifted education program and not less than once every three years for as long as the child is assigned to the program, a gifted child shall receive an educational evaluation for the identification of gifted children.          (d) Before a school district initiates or refuses a change in a child's placement or program, the school district shall notify the child's parent.          (e) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each gifted child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the gifted child.          (f) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the school district or by choosing a</p>	<p>This section substitutes "gifted child" for "exceptional child".</p> <p>This section specifies that each district must create a plan for identifying children enrolled in public school who are gifted.</p> <p>This section lists the requirements that districts must fulfill in providing gifted education services, including</p> <ul style="list-style-type: none"> <li>- obtaining informed parental consent;</li> <li>- notifying parents of changes in their child's placement or program;</li> <li>- providing parents with the opportunity to consult with the team regarding the results of evaluations and re-evaluations;</li> <li>- providing for independent evaluations; and</li> <li>- providing written notice</li> </ul>

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<p>or by choosing a person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.</p> <p>(f) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation</p> <p>(1) must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;</p> <p>(2) may be presented as evidence at a hearing regarding the child.</p> <p>(g) If a hearing officer requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation.</p>	<p>person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a due process hearing under AS 14.30.357 to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district is not required to pay for the independent educational evaluation.</p> <p>(g) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation</p> <p>(1) must be considered by the school district in a decision made with respect to the provision of an appropriate gifted education program to the child; and</p> <p>(2) may be presented as evidence at a due process hearing regarding the child.</p> <p>(h) If a hearing officer requests an independent educational evaluation as part of a due process hearing, the school district shall pay for the evaluation.</p> <p>(i) A school district shall provide written notice of its decisions under this section to the parent of the child. The notice shall include a description of the procedural safeguards available under AS 14.30.356.</p>	<ul style="list-style-type: none"> <li>- of its decisions under this</li> <li>- section that includes a description of the available procedural safeguards.</li> </ul>
<p><b>Sec. 14.30.278. Individualized education program.</b></p> <p>(a) The individualized education program for each exceptional child must include</p> <p>(1) a statement of the child's present levels</p>	<p><b>Sec. 14.30.354. Individualized gifted education program.</b> (a) Each school district shall provide for the development of an individualized gifted education program for each gifted child, that includes:</p>	<p>This section substitutes "gifted child" for "exceptional children".</p> <p>This section changes "individualized education</p>

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<p>of educational performance;  (2) a statement of annual goals, including short term instructional objectives;  (3) a statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;  (4) the projected dates for initiation of services and the anticipated duration of the services;  (5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.  (b) Each meeting concerning an exceptional child must include  (1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;  (2) the child's teacher;  (3) at least one of the child's parents;  (4) the child, when appropriate;  (5) other individuals selected by the parent or school district.  (c) Each school district shall develop an individualized education program for every exceptional child who receives services or whose parent requests services</p>	<p>(1) a statement of the child's present levels of educational performance;  (2) a statement of annual goals, including short term instructional objectives;  (3) a statement of the specific gifted education services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;  (4) the projected dates for initiation of services and the anticipated duration of the services;  (5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.  (b) The persons invited to participate in each meeting to develop the program under (a) of this section must include  (1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of gifted education;  (2) the child's teacher;  (3) at least one of the child's parents;  (4) the child, if appropriate; and  (5) other individuals selected by the parent or school district.</p>	<p>program" to "individualized gifted education program" and lists the components required to be addressed in the gifted education program.</p> <p>This section clarifies that "related services" are not required to be provided for gifted children. A gifted child may still receive these types of services if also determined eligible for special education and related services as a child with a disability.</p> <p>This section clarifies the required team members to develop the gifted education program.</p>
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<p>under AS 14.30.180 - 14.30.350.</p>		
<p><b>Sec. 14.30.276. Least restrictive environment.</b> Each school district shall ensure that to the maximum extent appropriate, exceptional children, including children in public or private institutions or other care facilities, are educated with children who are not exceptional and that special classes, separate schooling, or other removal of exceptional children from the regular educational environment occurs only when the nature or severity of the child's exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p><b>Sec. 14.30.355. Least restrictive environment.</b> Each school district shall ensure that to the maximum extent appropriate, gifted children are educated with children who are not gifted and that special classes, separate schooling, or other removal of gifted children from the regular educational environment occurs only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p>This section substitutes "gifted child" for "exceptional children".</p>
<p><b>Sec. 14.30.272. Procedural safeguards.</b> (a) A school district shall inform the parent of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and school district, to request an impartial hearing, to</p>	<p><b>Sec. 14.30.356. Procedural safeguards.</b> A school district shall inform the parent of a gifted child of the following procedural safeguard rights:</p> <ul style="list-style-type: none"> <li>(1) to review the child's educational record;</li> <li>(2) to review evaluation tests and procedures;</li> <li>(3) to refuse to permit evaluation or a change in the child's educational placement;</li> <li>(4) to be informed of the results of evaluation;</li> <li>(5) to obtain an independent evaluation by choosing a person from a list provided by the school district or by choosing a person by</li> </ul>	<p>This section substitutes "gifted child" for "exceptional children".</p>

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<p>appeal a hearing officer's decision, and to give consent or deny access to others to the child's educational record.</p> <p>(b) The department shall establish, by regulation, impartial procedures for a school district to follow for hearings under AS 14.30.193 to comply with requirements necessary to participate in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p>agreement between the parent and school district;</p> <p>(6) to request an impartial hearing;</p> <p>(7) to appeal a hearing officer's decision; and</p> <p>(8) to give consent or deny access to others to the child's educational record.</p>	
<p><b>Sec. 14.30.193. School district hearings.</b></p> <p>(a) If a parent refuses to consent, or does not respond within 30 days to the school district's request for consent, under AS 14.30.191 (a) or 14.30.285(f), the school district may appoint an impartial hearing officer to conduct a hearing to determine whether the school district may initiate the evaluation or placement of the child, or transfer the child.</p> <p>(b) If a parent disagrees with the school district's intended placement of a child or program for a child, the parent may request a hearing. If a hearing is requested under this subsection, the school district shall appoint an impartial hearing officer to conduct the hearing.</p> <p>(c) A hearing officer may not be appointed under this section unless approved in writing by the parent; however, parent approval of a hearing officer is not required</p>	<p><b>Sec. 14.30.357. Due process hearing.</b> (a) A school district or a parent of a gifted child may request a due process hearing on any issue related to identification, evaluation, educational placement of the child, or the provision of a free, appropriate, public education to the child. A request is made by providing written notice to the other party to the hearing. A request for a due process hearing under this section must be made not later than 12 months after the date that the school district provides the parent with written notice of the decision or initially takes the action with which the parent disagrees.</p> <p>(b) If a due process hearing is requested by either a school district or a parent, the school district shall contact the department to request appointment of an available hearing officer. The department shall select a hearing officer through a random selection process, from a list maintained by the department. Within five working days after receipt of the request, the department shall provide to the district and the parent a notice of appointment, including the name,</p>	<p>This section amends the due process hearing procedures. The purpose of these changes is to make the process more efficient while still ensuring that the rights of both parents and school districts are protected. This process will also allow the department to more effectively track the number of due process hearings as well as the issues involved. This process will ensure consistency for due process hearings relating to children with disabilities and gifted children.</p> <p>Proposed changes include the following:</p> <ul style="list-style-type: none"> <li>- Parents must request a</li> </ul>

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<p>if the parent has been offered and has rejected three different hearing officers. After a hearing officer is appointed under this section, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If, after a hearing under this section, the hearing officer determines that the school district's intended action is in accordance with law and is in the child's best interest, the hearing officer shall approve that action.</p> <p>(d) If a parent participates in the hearing but refuses to comply with the decision of the hearing officer, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child.</p> <p>(e) If a parent does not participate in the hearing, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child and the parent's lack of participation in evaluation, placement, or transfer.</p> <p>(f) A hearing officer's decision under this section is final and binding on the school district and parent, unless appealed under (g) of this section. Notwithstanding a decision by the hearing officer, a child may not be evaluated, placed, transferred, or compelled to receive special education or</p>	<p>and a statement of qualifications of the hearing officer that the department determines is available to conduct the hearing.</p> <p>(c) The school district and the parent each have the right to reject without statement of cause, one hearing officer appointed under this section. The rejecting party shall notify the department of that rejection in writing within five days of receipt of the department's notice of appointment. If a hearing officer is rejected under this subsection, the department shall, within five working days after receipt of the written rejection, provide a notice of appointment, including the name and a statement of qualifications, of another hearing officer that the department determines is available to conduct the hearing. Each appointment is subject to a right of rejection under this subsection by a party who has not previously rejected an appointment.</p> <p>(d) After a hearing officer is appointed and the time for rejection under (c) of this section has expired, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If the conference does not result in settlement of all of the issues and a hearing is conducted, the hearing officer shall issue a written decision that (1) upholds the school district's decision, or (2) overturns the school district's decision with specific instructions for modification of the identification, evaluation, educational placement, or provision of the education program by the district.</p>	<p>due process hearing no</p> <ul style="list-style-type: none"> <li>- later than 12 months</li> <li>- following the decision;</li> <li>- The department will appoint a hearing officer through a random selection process;</li> <li>- The school district and the parent may each reject one hearing officer for any reason; after this is exhausted, a hearing officer will be appointed.</li> <li>- Once appointed, the hearing officer will conduct an informal prehearing settlement conference to attempt to resolve the issue.</li> <li>- If the prehearing conference is unsuccessful, the officer will conduct a due process hearing;</li> <li>- The hearing officer's written decision is final but may be appealed to the superior court.</li> </ul>
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<p>related services from the school district until the period for filing an appeal under (g) of this section has expired or, if an appeal is filed, until the department and court appellate review process has been completed.</p> <p>(g) A parent or a school district may appeal a hearing officer's decision under this section to the department by requesting an appeal hearing under AS 14.30.195 . The appeal hearing request must be in writing and must be received by the department within 30 days after receipt of the hearing officer's decision.</p> <p>(h) The department shall maintain a list of qualified hearing officers. The department shall qualify hearing officers through a training program that shall be open to all residents of the state. A hearing officer may be qualified for a period not to exceed five years. The list of qualified hearing officers shall be maintained as a public record.</p>	<p>(e) A hearing officer's decision under this section is a final administrative order, subject to appeal to the superior court for review in the manner provided under AS 44.62.560.</p>	<p>Appeals are no longer</p> <ul style="list-style-type: none"> <li>- made to the department.</li> </ul>
	<p><b>Sec. 14.30.358. Teacher qualifications; substitutes.</b> A person may not be employed as a teacher of gifted children unless that person possesses a valid teacher certificate and, in addition, any training the department requires by regulation. This section does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of gifted children.</p>	<p>This section specifies that teachers of gifted children must be certified.</p> <p>This section clarifies that qualified substitute teachers without gifted certification may also serve as substitute teachers of gifted children.</p>

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<p><b>Sec. 14.30.350. Definitions.</b> In AS 14.30.180 - 14.30.350,</p> <p>(1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;</p> <p>(2) "children with disabilities" means children with mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; or preschool developmental delays;</p> <p>(3) "consent" means the parent has been fully informed of all information relevant to the activity or the release of records for which consent is sought and the parent understands and voluntarily agrees to the activity or release of records;</p> <p>(4) "educational records" means those files, documents, records, and other material that contain information directly related to a student and are maintained by a school district or a person acting for a school district; the term "educational records" does not include the personnel records of the school district, maintained in the normal course of business, that relate exclusively to</p>	<p><b>Sec. 14.30.359. Definitions.</b> Unless the context otherwise specifies, in AS 14.30.351 - 14.30.359,</p> <p>(1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;</p> <p>(2) "due process hearing" means a hearing under AS 14.30.357;</p> <p>(3) "educational records" means those files, documents, records, and other material that contain information directly related to a student and are maintained by a school district or a person acting for a school district; "educational records" does not include the personnel records of the school district that are maintained in the normal course of business, that relate exclusively to a person's capacity as an employee, or other records as designated by the department in regulation;</p> <p>(4) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p>(5) "gifted education" means specially designed instruction, at no cost to the parent, to meet the unique needs of gifted children; in this paragraph "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged students who are not gifted children or their parents as a part of the regular</p>	<p>These definitions have been placed in this section since they pertain to gifted education.</p> <p>The term "gifted education" has been added to the definition list to distinguish the term from special education or education for exceptional children.</p>
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<p>a person's capacity as an employee, or other records as designated by the department in regulation;</p> <p>(5) "exceptional children" means children with disabilities, and gifted children, who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective;</p> <p>(6) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p>(7) "individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following:</p> <p>(A) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;</p> <p>(B) the child's teacher;</p> <p>(C) the child's parent;</p> <p>(D) the child, if appropriate;</p> <p>(E) other individuals, at the discretion of the child's parent or the school district;</p> <p>(8) "parent" includes a guardian, a person acting as a parent of a child, and a</p>	<p>education program;</p> <p>(6) "informed consent" means that</p> <p>(A) a child's parent has been fully informed, in the parent's native language or other mode of communication, of all information relevant to the activity for which consent is sought;</p> <p>(B) the parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought;</p> <p>(C) the consent describes that activity and lists any records that will be released and to whom; and</p> <p>(D) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.</p> <p>(7) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, and the state centralized correspondence study program.</p>	
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surrogate parent appointed under AS 14.30.325 .

(9) "related services" means transportation and developmental, corrective, and other supportive services required to assist children with disabilities or gifted children to benefit from special education and includes but is not limited to speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services including rehabilitation counseling, and medical services for diagnostic or evaluation purposes; the term also includes school health services, school social work services, and parent counseling and training;

(10) "school district" means a borough school district, a city school district, or a regional educational attendance area;

(11) "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of exceptional children, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions; the term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children, and is considered

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<p>special education rather than a related service under state standards; the term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children; in this paragraph (A) "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to nonexceptional students or their parents as a part of the regular education program; (B) "physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, and individual and group games, and sports (including intramural and lifetime sports); the term includes special physical education, adapted physical education, movement education, and motor development; (C) "vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.</p>		
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	<p><b>ADDITIONAL STATUTORY REVISIONS:</b></p> <p>AS 14.30.640 AS 47.80.090(9) AS 47.80.900(6)</p> <p>AS 29.60.599 (7)</p>	<p>These three sections have been amended to delete references to "exceptional" children and to insert "children with disabilities" and "gifted children" as appropriate.</p> <p>This section is amended to update its definition of "school district" to include the components listed in AS 14.30.350 and AS 14.30.359.</p>
	<p><b>REPEALED SECTIONS IN PROPOSED STATUTE</b></p> <p><b>AS 14.30.186(b)</b> The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school.</p> <p><b>AS 14.30.193(b)</b> If a parent disagrees with the school district's intended placement of a child or program for a child, the parent may request a hearing. If a hearing is requested under this subsection, the school district shall appoint an impartial hearing officer to conduct the hearing.</p> <p><b>AS 14.30.195 (a)</b> The department shall, by regulation, provide for administrative appeal hearings, based on the record, of impartial hearing</p>	<p>The revised AS 14.30.186 clarifies the agencies responsibility for providing special education and related services.</p> <p>The revised AS 14.30.193 clarifies that the department, not the school district, is responsible for appointing an impartial hearing officer.</p> <p>This section is repealed since the revised due process hearing procedures no longer contain the</p>

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	<p>officers' decisions under AS 14.30.193 . An administrative appeal hearing shall comply with all requirements necessary for participation in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p> <p>(b) The agency conducting a hearing under this section may issue subpoenas under AS 44.62.430 and may petition the superior court for adjudications of contempt under AS 44.62.590 .</p> <p>(c) After an appeal hearing under this section, the department shall render its decision affirming, reversing, modifying, or remanding the hearing officer's decision under AS 14.30.193 .</p> <p>(d) A parent or the school district may appeal to the appropriate court for review of the department's decision on appeal under (c) of this section.</p> <p>(e) A parent who appeals to the court and who is determined by the court to be an indigent person may be provided with a court appointed attorney at public expense. In this subsection, "indigent person" has the meaning given in AS 18.85.170 .</p> <p><b>AS 14.30.315(b)</b> Nothing in this section prohibits the department from requiring approval of programs of special education and related services for other categories of exceptional children.</p> <p><b>AS 14.350(3)</b> (3) "consent" means the parent has been fully informed of all information relevant to the activity or the release of records for which</p>	<p>provision for an appeal of a due process hearing to the department.</p> <p>This subsection is repealed since the term "exceptional children" is no longer used. The department's general authority to regulate educational programs is also contained in AS 14.07.020.</p> <p>The definition of "consent" has been replaced by the definition of</p>
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	<p>consent is sought and the parent understands and voluntarily agrees to the activity or release of records;</p> <p><b>AS 14.350(5)</b> "exceptional children" means children with disabilities, and gifted children, who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective;</p> <p><b>AS 14.350(6)</b> "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p><b>AS 14.350(7)</b> "individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following:          (A) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;          (B) the child's teacher;          (C) the child's parent;          (D) the child, if appropriate;          (E) other individuals, at the discretion of the child's parent or the school district;</p>	<p>the term "informed consent".</p> <p>The definition of "exceptional children" is repealed since this term is no longer used in the statute.</p> <p>The definition of "gifted children" is repealed and replaced in section 14.30.359.</p> <p>The definition of "individualized education program team" is not carried over into the gifted program, since it is a federal regulation term applicable to special education. The persons required to be included in the development of an "individualized gifted education program" are specified and listed in the proposed section AS 14.30.354.</p>
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# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 71  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 2/6/01 Dept. Affected: Education & Early Dev.  
 Title: An Act relating to special education . . BRU: Teaching & Learning Support  
 Component: Special and Supplemental Services  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 166

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	40.4	40.4	40.4	40.4	40.4	40.4
Travel	6.0	6.0	6.0	6.0	6.0	6.0
Contractual	47.0	47.0	47.0	47.0	47.0	47.0
Supplies	10.0	10.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	103.4	103.4	103.4	103.4	103.4	103.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>	<b>103.4</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time	1					
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Currently, the department is charged, by state statute, to administer the state's Gifted Education program. This legislation clarifies the state's responsibilities relating to the Gifted Education program. Although the legislation does not add new responsibilities, the department has not had the resources to meet the requirements. Federal special education funds cannot be used for this purpose. The department has requested a general fund increment in the FY2002 budget for the Division of Teaching and Learning Support, Special and Supplemental Services Component to cover the costs for administering this program.

Prepared by: Barbara Thompson, Deputy Director Phone 465-8727  
 Division: Teaching & Learning Support Date/Time 2/6/01 12:00 AM  
 Approved by: [Signature] Date 2/6/01  
 Agency: Department of Education & Early Development

For distribution information, call the Governor's Legislative Office

**HB 71  
Fiscal Note Budget Narrative**

Current state law and the proposed HB 71 require the state to oversee gifted education programs provided by school districts. Federal special education funding may not be used for these purposes since gifted education is not a federal mandate. Therefore, the following funds are required to enable the state to fulfill its oversight responsibility.

**Personal Services**

*.5 FTE Education Specialist II, 21 A/B	\$36,200
**10 FTE Admin. Clerk II, 8 B	<u>\$ 4,200</u>
Total	\$40,400

\*This fiscal note includes personal services costs for a .5 FTE Education Specialist II. This position is reflected on page 1 of the fiscal note as 1 new full-time position. The other half of this position is reflected in a department increment in the FY2002 budget for the statewide correspondence program.

\*\*An existing position will be used for the Administrative Clerk II position. No new position is being requested in this fiscal note.

**Travel**

Due Process Training for 2 days @ \$1,000 each	\$ 2,000
Monitoring to accompany contractor for 4 visits @ \$1,000 each	<u>\$ 4,000</u>
Total	\$ 6,000

**Contractual**

<b>Contractor:</b>	
Training, 10 days @ \$500 per day	\$ 5,000
Due Process Hearings, 4 @ \$5,000 each	\$20,000
Monitoring visits, 2 contractors at \$500 per day, 3 days each, 4 districts per year	\$12,000
Monitoring visits, \$1,000 each trip, 4 trips	\$ 4,000
Postage, phone, copier, printing	<u>\$ 6,000</u>
Total	\$47,000

**Supplies**

Training materials, other supplies	<u>\$10,000</u>
Total	\$10,000

Grand Total \$103,400

AMENDMENT

SB 40  
Possible

TO: CSSB 205 (HES)

Page 4, add a new Sec. 9

Sec. 9. AS 14.30.315 is repealed and reenacted to read:

~~shall~~ <sup>may</sup> Sec. 14.30.315. Programs for gifted children. Every school district shall establish educational services for gifted children that provide for student identification, student eligibility, student learning plans, and parental and student participation including an appropriate review process, consistent with regulations adopted by the department.

Renumber the following sections.

Comments on  
gifted

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Fri, 24 Nov 2000 11:36:00 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse <charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Anne Fuller  
email: amrcomputing@gci.net  
Phone: (907) 586 4422  
Regulation: 4 AAC 53  
Submit: Submit

comments:

As I get older, I realize that my safety and quality of life is not in my hands alone. Our society needs to provide excellent education for everyone's children.

I am writing to encourage you to provide specific programs and funding for our academically talented youngsters. Alaska is not doing this now and I fear that the proposed regulations do not go far enough.

Do not be misled by folks who claim, "those kids will survive school just fine". Do not fall for the line that "of course, they can take university classes any time they want to". Think about the results of competency testing that show many of the students failing classes already have the skills being taught in those classes.

Thank you.

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Fri, 24 Nov 2000 11:44:25 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*  
NAME: Denise Greger  
email: denisegreger@hotmail.com  
Phone: 688-5980  
Regulation: 4AAC 52 and 4AAC 53  
Submit: Submit

comments:

I am writing to voice my opposition to the proposal to remove gifted children from the special education umbrella in Alaska. Separating out gifted children will not benefit children with disabilities in any way, yet it will almost certainly harm children who are gifted.

I believe that every child has the right to an appropriate education based on that child's needs and abilities. In the case of highly gifted children, it has been shown that self-contained gifted classrooms can be the best way to provide that education. However, in this time of budget constraints, school districts are not likely to provide this appropriate education unless required by law to do so.

If gifted children are removed from the special education umbrella, it is highly likely that gifted education as we know it will end. Knowing that many programs will be competing for the same finite supply of dollars, and that gifted children are often (although erroneously) perceived as an elite group who already receive too many benefits, the legislature is not likely to mandate districts to continue to provide gifted educational services.

Therefore, please do not allow 4AAC 52 and 4AAC 53 to go forward. The adoption of these bills will accomplish no good in our communities but is very likely to cause harm.

Date: Wed, 22 Nov 2000 15:32:34 -0900  
Subject: Comments on Proposed Changes - Chapter 53 Gifted/Talented  
To: sheila\_box@eed.State.ak.us  
Cc: dpeterson@kpbsd.k12.ak.us, dboehmer@kpbsd.k12.ak.us, mstoner@kpbsd.k12.ak.us  
From: "Ed McLain" <emclain@kpbsd.k12.ak.us>

November 20, 2000

To: Alaska State Board of Education  
Richard Cross, Alaska Commissioner of Education

From: Dr. Ed McLain, KPBSD, Assistant Superintendent

Re: Comment on Proposed Revisions to Regulations - Chapter 53

The Kenai Peninsula School District and our Department of Special Education support proposed changes in the Regulations of the Department of Education & Early Development that will create Chapter 53 for gifted education. We do suggest the following rewording:

- ° Article 2, section 100: Change to most appropriate environment instead of least restrictive
- ° Article 2, section 110: Delete reevaluation
- ° Article 2: add Personnel Development
- ° 4AAC53.050: to serve students from age 5 until graduation or age 21
- ° 4AAC53.090: delete requirements to AS14.30.278 and include condensed requirements (see attached)
- ° 4AAC53.100: change to Most Appropriate Environment (see attached for details)

Several other specific rewording suggestions can be found on the attached document. Suggested additions or new language are indicated by underline. Suggested deletions are indicated by strike throughs of the words to be deleted.

Thank you for your review and consideration of our comments and suggestions.

Cc: Dr. Donna Peterson, KPBSD, Superintendent of Schools  
Mo Stoner, KPBSD, Quest (Gifted Talented Program) Manager  
Dr. Donald Boehmer, KPBSD, Director of Special Services



[Ch 53 suggested revisions2.doc](#)



[Ch 53 revision memo2.doc](#)

November 20, 2000

To: Alaska State Board of Education  
Richard Cross, Alaska Commissioner of Education

From: Dr. Ed McLain, KPBSD, Assistant Superintendent

Re: Comment on Proposed Revisions to Regulations - Chapter 53

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Thank you for your review and consideration of our comments and suggestions.

Cc: Dr. Donna Peterson, KPBSD, Superintendent of Schools  
Mo Stoner, KPBSD, Quest (Gifted Talented Program) Manager  
Dr. Donald Boehmer, KPBSD, Director of Special Services

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Wed, 22 Nov 2000 11:22:51 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Sonja Schmidt  
email: sscnmidt@mail.denali.k12.ak.us  
Phone: 907-683-2572  
Regulation: 4AAC 52: Education for Children with Disabilities  
Submit: Submit

comments:

I support the division of chapter 52 into two sections, putting services for students identified as Gifted and Talented inside of the regulations for Special Education. I believe all of the procedural safeguards are necessary and of benefit to students with gifted/talented needs. I have served as a teacher of the Gifted/Talented and currently work as a classroom teacher, frequently providing services to those who have been included in a G/T category.

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Wed, 22 Nov 2000 11:22:38 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: J. Margaret Castellini  
email: maggiec@ims.uaf.edu  
Phone: 907-479-5444  
Regulation: 4 AAC 52 and 4 AAC 53  
Submit: Submit

comments:

I am a parent of 2 GT students in the Fairbanks School District. I attended the public information meeting at the School District building on Nov 20 to discuss proposed changes to regulations concerning GT education. I would first like to thank the Board of Education and Early Development for having this meeting. It helped me to better understand the roles of the Board, the legislature and the individual school districts in providing support for these special needs children.

My main concern at this moment is that GT education not be separated from Chapter 52 (Education of Exceptional Children). While GT students and families have different needs than children with disabilities, these students still fall under the definition of exceptional children and have very special needs which are generally not met by the typical school curriculum. Dividing Chapter 52 into subsections would allow for more clarity while still making the point that GT children are considered exceptional and have special needs.

I also feel compelled to remind everyone involved in these decisions (not just the Board of Education), that while these children are exceptionally bright they are usually extremely emotionally and socially vulnerable. Having high intellectual abilities is not a guarantee for success in school or life. GT programs provide much needed intellectual, academic, social and emotional support.

Thank you for this opportunity to comment and my apologies for the earlier incomplete submission - my computer submitted my comment when I hit the TAB key.

Sincerely,  
Maggie Castellini

November 15, 2000

RECEIVED

NOV 22 2000

Alaska Department of Education  
& Early Development

Department of Education & Early Development  
Bruce Johnson, Deputy Commissioner  
801 W. 10<sup>th</sup> Street, Suite 200  
Juneau, Alaska 99801

Dear Mr. Johnson:

The Anchorage Parents of Gifted Children Committee would like to extend our gratitude for having the opportunity to review your department's proposed regulation, 4 AAC 53, Education for Gifted Children. It is clear that a great deal of time and effort have been spent on this regulation, and we appreciate your hard work.

After hours of review and discussion with gifted educators and parents of gifted children, we recommend that gifted education remain in Chapter 52, Education for Exceptional Children. We acknowledge that there are different federal requirements for disabled children and gifted children, but both gifted and disabled education are covered under the same Alaska statute. To remain consistent with the current statutory structure, the regulations for both programs should remain within the same chapter. Additionally, we believe that separation of the programs into two different chapters will diminish the quality of gifted educational services in Anchorage schools.

The proposed separate regulation 4 AAC 53 does not include several critical provisions necessary for meaningful and appropriate education of gifted children. For example, complete requirements for Individualized Education Programs in the current 4 AAC 52.140 must be included in the gifted education regulation. Also, requirements for placement (current 4 AAC 52.150), application for assistance from the department (current 4 AAC 52.160), least restrictive environment (current 4 AAC 52.170), and reevaluation (current 4 AAC 52.180) are inadequate in the draft 4 AAC 53.

We would prefer the gifted education regulation to be combined with the proposed chapter 52; education for disabled children would be covered in chapter 52A; gifted education in chapter 52B. However, it seems that the state's *Drafting Manual for Administrative Regulations* prohibits this. Accordingly, enclosed is our proposal for 4 AAC 52, Education for Exceptional Children. Our proposal includes your suggested revisions to the existing chapter 52, as well as the language in the draft 4 AAC 53.

We appreciate the opportunity to have input into regulations that govern the education our children receive.

Sincerely,



*for* Anchorage Parents of Gifted Children  
Committee

(see attached list for signatures)

2 lists attached

## Petition to Approve the Parent Legislative Committee Proposal

If you agree to the Anchorage Parents of Gifted Children Legislative Committee's Chapter 52A & 52B Proposal, please sign your name and residence below. Thank You.

Mollie TeVrucht	Mollie TeVrucht	PO Box 111685 Anch 99511-1685
ERIC GROSCHE	Eric Grosche	P.O. Box 111685 ANCH 99511-1685
Linda Shelton	Linda Shelton	9541 Arlene Dr Anch. 99515
Dawn B. Wilcox	Dawn B. Wilcox	3116 Madison Way 99508
CHRISTINE [unclear]	Christine [unclear]	4623 Campus Circle
Matt J Lovgren	Matt J Lovgren	24545 Teal Loop Chugiak A. 9956
Herb Spytke	Herb Spytke	2311 Jefferson Ave #1 Anch, AK 9951
MICHAEL HARVEY	Michael Harvey	9520 Lennox Dr, Anch AK 99515
Josiah Lemay	Josiah Lemay	3672 DUNKIN CT. ANCH. AK 99502
Joy Lemay	Joy Lemay	3672 Dunkin Ct. 99502
[unclear]	[unclear]	[unclear]
Jean Scinto	Jean Scinto	12521 Birchmeadow Dr. 99515
Janet Evans	Janet Evans	2210 Drybrook Ct. 99501
Talia I. Kahilifa	Talia I. Kahilifa	4045 Lakeview Parkway 99508
Annmarie Bender	Annmarie Bender	8111 Major Eric Ct. 99504
Bruce B. Hull	Bruce Hull	2913 Madison Way - Anch. 99
John P. Griffin	John P. Griffin	2400 Galewood St 99508
George A Conway	George A Conway	PO Box 112275 Anchorage AK 995
Merris Kael Vanderploeg	Merris Kael Vanderploeg	7901 Casey Circle Anchorage, AK 995
KAREN LOUDER STRIBE	Karen Louder Stribe	21415 TINA ST CHUGIAK, AK. 9950
Kelley Brockway	Kelley Brockway	3043 Eagle Bay Cr Anch 9950
Jill Griffin	Jill Griffin	2400 Galewood St 99508
Melissa Harvey	Melissa Harvey	9520 Lennox Dr Anch, AK 9951
Dallas M Price	Dallas M Price	2777 W. 66th Ave Anch, AK 995

I agree to the CHAPTER 52 EDUCATION FOR EXCEPTIONAL CHILDREN [WITH DISABILITIES] Proposal that was written by the Anchorage Parents of Gifted Children Committee:

- ~~Kerry Walker~~ Kerry Walker 10340 Delta Circle Eagle River AK 99577
- ~~William Parker~~ William Parker 10847 Good Hope Cir Eagle River AK 99577
- Debbie Nantz Debbie Nantz 22714 Northwoods Drive Chugiak AK 99567
- ~~...~~
- Madelaine Barry Madeline Barry 10831 Klutina Circle Eagle River AK 99577
- ~~...~~
- Delashm... 17545 Laguna Circle Eagle River 99577
- Douglas E Hall Douglas E Hall 18701 Carolyn Circle Eagle River AK 99577
- Monica E. Hall Monica E. Hall 18701 Katelyn Circle Eagle River AK 99577
- Marcia M. Everson Marcia M. Everson 19420 UPPER SKYLINE DR EAGLE RIVER AK 99577
- Adam Sweet 17311 Palos Verdes Dr Eagle River AK 99577
- Donald D Sweet Jr Donald D Sweet Jr 17811 Palos Verdes Dr Eagle River AK 99577
- Tammi J. Sloan 3012 Delores Dr, Eagle River, AK 99577
- Teresa J. Semmler Teresa Semmler 18080 Amosson Rd Chugiak, AK 99567
- Josie Fonteyn Josie Fonteyn 18105 Hidden Falls Ave Eagle River AK 99577
- ~~...~~
- Shelley Simpson Key POB 874025 Wasilla AK 99687
- ~~...~~
- Erleen & Robby 6523 Cobblecreek Circle, AK 99507



**Matanuska-Susitna Borough School District  
STUDENT SUPPORT SERVICES**

125 West Evergreen, Palmer, AK 99645  
Phone (907)746-9233 FAX (907)745-6119  
Michael S. Melear, Director

Health Services  
746-9254  
Preschool  
746-9232  
SpEd Transportation  
746-9221  
SpEd Records  
746-9220/9222

January 24, 2001

**RECEIVED**

**JAN 30 2001**

Office of the Commissioner  
Department of Education and Early Development  
Attn: Regulations Review  
801 West 10<sup>th</sup> Street - Suite 200  
Juneau, Alaska 99801-2800

Alaska Department of Education  
& Early Development

RE: Comment on proposed changes to 4 AAC 52

Dear Commissioner Cross:

Subject: Special Education and Gifted Education  
Citation: 4 AAC 52.800 - 52.900

As a Special Education Director in the state of Alaska for the past 16 years, I would like to encourage you and the Alaska State School Board to approve the originally proposed regulation changes regarding the addition of Chapter 53 entitled Gifted Education. It has been my experience that much confusion regarding the legal rights of students who are identified as gifted are frequently confused with those who possess disabilities.

In this regard, parents of children who receive special education as gifted are surprised that, under the current regulations, some of the procedures required under the Individuals with Disabilities Act do not correspond to those authorized for exceptional children who are currently protected under 4 AAC 52.

This confusion has been long-standing in Alaska, while a majority of the nation has made a legal distinction between special education and gifted education. This in no way limits the rights and protections afforded to gifted children, but provides more clarity which prevents disputes.

Thank you for allowing me the opportunity to respond during this public comment period.

Sincerely,

Michael Melear

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Tue, 16 Jan 2001 14:30:17 -0800  
To: Sheila Box <sheila\_box@eed.state.ak.us>  
From: "Susan McGloin" <mint@gci.net> (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: new regulations for gifted services

I oppose the separation of exceptionalities that the State Department of Education would like to propose in the 2001-2002 special education regulations. It is not true that the current state regulations has led to confusion. I have worked many years with the school district and never saw confusion regarding how the regulations apply to each group of students. The protections for the gifted children are intact in the current chapter 52. The proposed changes are harmful to the gifted program. The real intention of the change is to protect those who misused federal funding. If the proposed changes are made, I will work for an investigation of the matter. What the people of Alaska want is the education department's honest effort at saving and ensuring the services for the education for exceptional children.

Sincerely,  
Susan McGloin

all other  
pages  
Elev

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Tue, 16 Jan 2001 14:30:06 -0800  
To: Sheila Box <sheila\_box@eed.state.ak.us>  
From: "Susan McGloin" <mint@gci.net> (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Proposed Changes: New Regulations for Gifted Services

I oppose the separation of exceptionalities that the state department of education would like to propose in 2001-2002 special education regulations. The protection of the gifted program is not maintained in the proposed Chapter 53.

sincerely,  
Susan McGloin

RECEIVED

DEC - 8 2000

Alaska Department of Education  
& Early Development

November 22, 2000

Richard Cross  
Department of Education and Early Development  
800 West Tenth Suite 200  
Juneau, AK 99801-1894

The Alaska School Psychologist Association (ASPA) is pleased to offer the following comments on the proposed regulations for Chapters 52 and 53 Education for Exceptional Children.

ASPA supports separating regulations pertaining to individuals with disabilities as defined by federal law and those pertaining to gifted and talented children. We are hopeful this will decrease the paperwork and cumbersome procedures required for documenting the evaluation and service to gifted and talented students.

**4 AAC 52.020 (b)** Districts offering correspondence programs shall administer a program offering special education and related services shall coordinate its provision with the district of residence in conformance with 4 AAC 33.432.

This provision needs to be spelled out to indicate how documentation, eligibility determination, service plan creation and funding will be handled.

#### **Page 7 Comparison Chart**

(4) Maintains old language about preschool developmental delays and the age 6 cut-off. New language provides the option of up to age 9. This is confusing wording and is at variance from new language found on page 11. How are we to know which you mean? ASPA supports the extension of early developmental delays up to the ninth birthday. ASPA supports wording of "on or before the ninth birthday."

**4 AAC 52.120 Evaluation Each** district shall conduct a "full individual evaluation"

ASPA recommends changing the wording to "full evaluation based on the educational needs of the child". "Full evaluations" can cause confusion for parents and teams. Is DOEED suggesting that every child needs an evaluation in every area (speech, occupational therapy, physical therapy, etc.) regardless of the presenting concerns? A "full evaluation" is not needed in every case and will create huge bottlenecks in the system. Evaluations should be based on the needs of the student as determined by the evaluation planning team and not by an arbitrary requirement of "full evaluation".

**4 AAC 52. 125 (1) Eligibility ..** "and related service providers"

ASPA recommends a change in the wording to "may include (e.g. occupational and physical therapy, counseling, assistive technology, adaptive physical education etc.). The present wording suggests that all of these sources would be required to determine eligibility for special education. This is overkill for a student with solely a math disability.

Shouldn't children regarded as having possible handicaps be given the same consideration? Psychologists, so as to expedite portions of the evaluation, evaluate some children during the summer. There are no teams available to determine eligibility or IEP services during the summer. We would either be continually out of compliance in summer months or be faced with refusing summer service to parents in order not to violate criteria of calendar days rather than school days.

**4 AAC 52.990 - 13 informed consent (D) parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. Page 48)**

Current procedures are that consent is voluntary until the evaluation has begun. In practice, if a parent requests us to terminate an evaluation that request is honored. This regulation puts special education teams in an ethical and legal bind. We are required to protect the child's rights to special education. How do we do that if parents withdraw consent "at any time"? If a child has been deemed eligible for special education and requiring specialized instruction what are we to do if a parent removes the child from the program because he or she does not like the handicapping label? How do we balance the needs/rights of the child against this provision? ASPA respectfully requests DOE modify this wording to match Federal Statutes. Parents can voluntarily remove consent prior to the onset of the evaluation and prior to initial placement in special education. Once a child has been placed in special education, the child's rights should become paramount with the option of parties going to mediation or hearing to determine the appropriateness of withdrawal of the student from special education when the two parties do not agree.

**(24) "severely" emotionally disturbed. Page 50**

Has this not been changed to "emotionally disturbed"?

Citation Referenced Proposed Changes to Title 4 Chapter 42 page  
**300.532. Evaluation Procedures (f)**

**No single procedure is used as the sole criterion...**

Is the term "procedure" to be considered the same as "test" or "measure"? A procedure [*method, plan, process*] often describes the necessary steps or components of an evaluation. Different procedures are established for determining eligibility for Learning Disabilities, Emotional Disturbance, Other Health Impairments, etc. Different tests [measures, exams] are also used within certification categories. No single "test/measure" is allowable for determining presence of a disability. Clarification on meaning of the term "procedure" is desired here. ASPA supports replacing the word "procedure" with the term "test" or "measure".

**Chapter 53 Education for Gifted Children**

**4 AAC 53.080 Criteria for Determination of Eligibility as Gifted**

ASPA recommended deleting the requirement of Related Services as these services are rendered to disabled students under federal requirements and are not required under Federal guidelines for gifted and talented students. ASPA supports a change of wording to: "Each district shall adopt written eligibility criteria for use in the district's identification of children eligible for gifted education services under Chapter 53.

**4 AAC 53.140. Parental Participation Page 7 Line 7-9**

**The parent has the right to bring to the meeting an individual with knowledge or expertise regarding the child, as determined by the parent.**

Does not IDEA list attorneys as one person *not* to be brought to a meeting, unless a hearing is requested?

#### **4 AAC 53.160 Cost of Services**

(a) It is the experience of the Anchorage School District that children referred to the Advanced and Accelerated (gifted) program request repeated evaluations when the child does not meet criteria. School Psychologists are known to test a child twice within a given year and some children are tested annually at parent request. This is inappropriate for students to be repeatedly tested; knowing the pressure they are under to score well enough to gain admittance to a desired program. ASPA requests that the regulation include opportunity for districts to limit the number of times a child should be tested, at public expense, within a given time period. Children under consideration for a handicapping condition are not re-tested by parental request at a level demanded by parents who desire their child to be provided gifted education services.

#### **4 AAC 53.230 Parental Consent for Release of Records**

Does this exception include the Office of Public Advocacy and Guardian ad Litem?

#### **4 AAC 53.250 Availability of Due Process Hearings 6 (e) page 17**

**Current proposed state requirements for a hearing officer is a high school diploma or equivalent education.**

This low standard of training astounds the Alaska School Psychologists Association. You are granting extensive decision making powers to an individual regarding appropriateness of assessments, eligibility decisions and special education placement decisions to someone with a high school education when the *professionals* involved with the assessment and eligibility have a minimum of a Master's degree in their specialty area. It is ludicrous that someone is vested with such far-reaching authority with so little background required in education, special education, child development, legal rights etc. At the minimum, ASPA requests the state raise the standard to attainment of a Bachelor's degree from a recognized college or university. It behooves parents and the state to involve someone who has had advanced education over that of a high school diploma.

#### **4 AAC 53.320 Maintenance of Records**

**(6) class and grade attendance records.**

What is meant by class records? All the previously required information would reasonably be found in a special education record. Much of this information is inappropriate for a cumulative record. Tests and other documents for determining eligibility are highly protected in order to maintain integrity of the test. If test protocols were to be found in a child's cumulative record, they would be subject to photocopying. Test publishers and school psychologist's ethics prohibit this action. If test protocols containing test questions, child responses and the resulting item scores are placed in cumulative records then the integrity of the test would be violated.

### **Article 5. General Provisions**

#### **4 AAC 53.990 Definitions (2) "days" means calendar days.**

Other federal special education regulations refer days with respect to evaluations and placement procedures to be school or business days. ASPA takes strong exception to this definition. Many times consent for assessment is obtained just before the winter break from school. In this instance, seventeen to eighteen days of the time limit is lost to vacation. School psychologists and other related service personnel are often in a school one-to-two days per week. What provides a reasonable time line to conduct a thorough evaluation by all involved parties is lost with a count of calendar days.

Forty-five days is equivalent to seven weeks. That gives a psychologist who is in a building once a week only seven opportunities to observe, assess, review records, consult with colleagues prior to arriving at placement decision. Given that we deal with children it is inappropriate for them to be subjected to full days of total assessment. We don't do this with any other high stakes examinations. Benchmarks, IOWA's, graduation exams are all spread out across several days. Shouldn't all children being tested receive those the same considerations? Some children are evaluated during the summer by psychologists. There are no teams available to determine eligibility or IEP services during the summer. We would either be continually out of compliance in summer months or be faced with refusing summer service to parents in order not to violate criteria of calendar days rather than school days.

**(6) informed consent (D) parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.**

Current procedures are that consent is voluntary until the evaluation has begun. In practice, if a parent requests us to terminate an evaluation that request is honored. This regulation puts special education teams in an ethical and legal bind. We are required to protect the child's rights to special education. How do we do that if parents withdraw consent "at any time"? If a child has been deemed eligible for special education and requiring specialized instruction, what are we to do if a parent removes the child from the program because he or she does not like the handicapping label? How do we balance the needs/rights of the child against this provision? ASPA respectfully requests DOE modify this wording to match Federal Statutes. Parents can voluntarily remove consent prior to the onset of the evaluation and prior to initial placement in special education. Once a child has been placed in special education, the child's rights should become paramount with the option of parties going to mediation or hearing to determine the appropriateness of withdrawal of the student from special education when the two parties do not agree.

**(b) A child is entitled to a surrogate parent if**

Does (4) "the child is committed to the department of Health and Social Services" negate other aspects? That is, if a parent is known and located does the child require not just become entitled to a surrogate parent?

Thank you for consideration of these comments.

Sincerely,



School Psychologist  
ASPA member

Brett J. Erb  
School Psychologist - Anchorage School District  
5821 Downey Finch Drive  
Anchorage, Alaska  
99516

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DEC - 4 2000

Alaska Department of Education  
& Early Development

November 22, 2000

Richard Cross  
Department of Education and Early Development  
800 West Tenth Suite 200  
Juneau, AK 99801-1894

The Alaska School Psychologist Association (ASPA) is pleased to offer the following comments on the proposed regulations for Chapters 52 and 53 Education for Exceptional Children.

ASPA supports separating regulations pertaining to individuals with disabilities as defined by federal law and those pertaining to gifted and talented children. We are hopeful this will decrease the paperwork and cumbersome procedures required for documenting the evaluation and service to gifted and talented students.

4 AAC 52.020 (b) Districts offering correspondence programs shall administer a program offering special education and related services shall coordinate its provision with the district of residence in conformance with 4 AAC 33.432.

This provision needs to be spelled out to indicate how documentation, eligibility determination, service plan creation and funding will be handled.

Page 7 Comparison Chart

(4) Maintains old language about preschool developmental delays and the age 6 cut-off. New language provides the option of up to age 9. This is confusing wording and is at variance from new language found on page 11. How are we to know which you mean? ASPA supports the extension of early developmental delays up to the ninth birthday. ASPA supports wording of "on or before the ninth birthday."

4 AAC 52.120 Evaluation Each district shall conduct a "full individual evaluation"

ASPA recommends changing the wording to "full evaluation based on the

identification of children eligible for gifted education services under Chapter 53.

#### 4 AAC 53.140. Parental Participation Page 7 Line 7-9

The parent has the right to bring to the meeting an individual with knowledge or expertise regarding the child, as determined by the parent. Does not IDEA list attorneys as one person not to be brought to a meeting, unless a hearing is requested?

#### 4 AAC 53.160 Cost of Services

(a) It is the experience of the Anchorage School District that children referred to the Advanced and Accelerated (gifted) program request repeated evaluations when the child does not meet criteria. School Psychologists are known to test a child twice within a given year and some children are tested annually at parent request. This is inappropriate for students to be repeatedly tested; knowing the pressure they are under to score well enough to gain admittance to a desired program. ASPA requests that the regulation include opportunity for districts to limit the number of times a child should be tested, at public expense, within a given time period. Children under consideration for a handicapping condition are not re-tested by parental request at a level demanded by parents who desire their child to be provided gifted education services.

#### 4 AAC 53.230 Parental Consent for Release of Records

Does this exception include the Office of Public Advocacy and Guardian ad Litem?

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Current proposed state requirements for a hearing officer is a high school diploma or equivalent education.

This low standard of training astounds the Alaska School Psychologists Association. You are granting extensive decision making powers to an individual regarding appropriateness of assessments, eligibility decisions and special education placement decisions to someone with a high school education when the professionals involved with the

specialty area. It is ludicrous that someone is vested with such far-reaching authority with so little background required in education, special education, child development, legal rights etc. At the minimum, ASPA requests the state raise the standard to attainment of a Bachelor's degree from a recognized college or university. It behooves parents and the state to involve someone who has had advanced education over that of a high school diploma.

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(6) class and grade attendance records.

What is meant by class records? All the previously required information would reasonably be found in a special education record. Much of this information is inappropriate for a cumulative record. Tests and other documents for determining eligibility are highly protected in order to maintain integrity of the test. If test protocols were to be found in a child's cumulative record, they would be subject to photocopying. Test publishers and school psychologists' ethics prohibit this action. If test protocols containing test questions, child responses and the resulting item scores are placed in cumulative records then the integrity of the test would be violated.

#### Article 5. General Provisions

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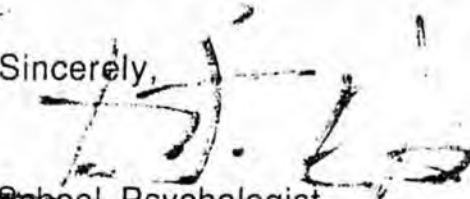
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Thank you for consideration of these comments.

Sincerely,



School Psychologist  
ASPA member

November 22, 2000

Richard Cross  
Department of Education and Early Development  
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(24) "severely" emotionally disturbed. Page 50  
Has this not been changed to "emotionally disturbed"?

Citation Referenced Proposed Changes to Title 4 Chapter 42 page 300.532. Evaluation Procedures (f)

No single procedure is used as the sole criterion...

Is the term "procedure" to be considered the same as "test" or "measure"? A procedure [method, plan, process] often describes the necessary steps or components of an evaluation. Different procedures are established for determining eligibility for Learning Disabilities, Emotional Disturbance, Other Health Impairments, etc. Different tests [measures, exams] are also used within certification categories. No single "test/measure" is allowable for determining presence of a disability. Clarification on meaning of the term "procedure" is desired here. ASPA supports replacing the word "procedure" with the term "test" or "measure".

Chapter 53 Education for Gifted Children

4 AAC 53.080 Criteria for Determination of Eligibility as Gifted

ASPA recommended deleting the requirement of Related Services as these services are rendered to disabled students under federal requirements and are not required under Federal guidelines for gifted and talented students. ASPA supports a change of wording to: "Each district shall adopt written eligibility criteria for use in the district's identification of children eligible for gifted education services under Chapter 53.

4 AAC 53.140. Parental Participation Page 7 Line 7-9

The parent has the right to bring to the meeting an individual with knowledge or expertise regarding the child, as determined by the parent. Does not IDEA list attorneys as one person not to be brought to a meeting, unless a hearing is requested?

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child's cumulative record, they would be subject to photocopying. Test publishers and school psychologists' ethics prohibit this action. If test protocols containing test questions, child responses and the resulting item scores are placed in cumulative records then the integrity of the test would be violated.

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Services" negate other aspects? That is, if a parent is known and located does the child require not just become entitled to a surrogate parent?

Thank you for consideration of these comments.

Sincerely,

*Charlotte Vilee*

School Psychologist

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Fri, 24 Nov 2000 11:36:09 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse <charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Louise Parish  
email: bells@alaska.net  
Phone: 907-835-4231  
Regulation: Proposed 4 AAC 52 and 4 AAC 53  
Submit: Submit

comments:

INTRODUCTION

I am the parent of a language-disordered dyslexic child who attends a public school in the state of Alaska. I have tried to follow federal and state laws regarding exceptional children for many years now. I testified against HB 301 last year. I network with a number of other parents who are concerned about services for exceptional kids in Alaska.

MY BASIC CONCERNS

My first and basic concern is that these newly proposed regs often seem to conflict with or entirely leave out portions of IDEA 97 that I believe should be included. It appears AkDEED uses some of IDEA 97 to reduce services, yet completely neglects other items that increase services. I am also concerned that parents will not understand a number of these regulations. They should be clearly written out, with little to no confusing references.

SEPARATION OF GT FROM DISABLED

I do not believe the chapters should be separated into one for gifted and talented and one for disabilities. IDEA 97 does not require this. It seem to be motivated by lack of money. It will certainly disenfranchise gifted and talented kids from the procedural safeguard process. A new chapter that offers GT services, but no remedy for parents who disagree with the services (due process) is an empty one.

CHILDFIND

Childfind has been a problem for a long time. Identifying, evaluating and serving kids should be our priority. The earlier we find them and provide intervention, the cheaper it is in the long run, for otherwise their service needs triple and quadruple. Part of the problem is NOT FINDING the kids at a young age when it's easier to remediate their difficulties. Proposed 52.100 CHILDFIND needs to add language per IDEA 97 . The language should tell districts their public childfind notices MUST state that parents can refer their kids in for ANY suspected disability (not just those needing services because that's too hard to tell) and that the public notice MUST tell parents they can refer their child in for evaluation even though their child is advancing from grade to grade. Often kids go through school unidentified, falling farther and farther behind their peers. My daughter did. These changes are specifically set forth as required in IDEA 97. They should be in OUR regs too.

### FAPE & GRADE ADVANCEMENT

Proposed 52.105 FAPE & GRADE ADVANCEMENT states kids deserve FAPE even though they are advancing from grade to grade, but doesn't mention that the public CHILDFIND notices must include this fact. See above.

### EVALUATIONS

Proposed 52.120 EVALUATION is one paragraph long and makes parents go find out what the sentence, "a child who is referred under 4 AAC 52.110, in full conformance of 34 CFR 300.532 -300.533." means. I urge all board members to pretend they are new parents and go find out what that means without assistance. Please have the references written out long-hand, so parents can understand these important requirements.

IDEA 97 has a section about additional procedures for evaluating children with specific learning disabilities, at CFR 300.540-543. These must be included in this reg. My daughter is SLD. I know how hard it is as a parent to go through the evaluation process. The new regs must have these additional procedures listed in them, so parents can understand how to help their SLD children. The additional procedures describe seven areas of learning disability with additional criteria for determining existence of a specific learning disability: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation and mathematics reasoning. The vast majority of Alaskan kids needing sped services are SLD. Please add this important information. I went through heck and high water to find out about this stuff. I asked why my SLD daughter only qualified in reading. I was told it was because she was only discrepant in that area. Three years later she became qualified in reading and writing. One year later I took her to a private speech language pathologist and found that she was dyslexic and language disordered. Dyslexia is a language-based learning disability that affects all areas of learning. Now I know that if eight years ago I had been aware of these seven areas under the category of SLD and eligibility criteria, I could've asked her IEP team to give her services in all of the areas, including oral expression and listening comprehension (also language disorder issues). I believe this is a problem in Alaska. I think districts and the department may have been disqualifying SLD kids without considering the oral expression and listening comprehension components. At least, I was told more than once that oral expression and listening comprehension were not areas of academic concern and could not be categorized as SLD, but only as a language disorder which could only be served by becoming qualified as language impaired. A mouthful, I know. All I am saying is that real k

### ELIGIBILITY

Proposed 4AAC.52.125 ELIGIBILITY has the same problems. Please make 52.125 easier to understand by replacing the proposed section in ( C ) (1) that says "exhibits a specific learning disability defined in 34 CFR 307 ( C ) (10) and 34 CFR 300.541" to actually include the language it refers to. Please note that 300.541 states that the child is eligible if the child has a severe discrepancy in one or more of the following areas (see list of seven areas) it means that the child is SLD and may receive services in ALL of the areas if the team determines need, not just the one they have a severe discrepancy in

### CRITERIA FOR DETERMINING ELIGIBILITY

4AAC 52.130 CRITERIA FOR DETERMINING ELIGIBILITY has some areas I also want to talk about. I don't understand why the delayed eligibility criteria is so hard to qualify for. It seems that LD is the easiest to qualify for, then delayed, then mentally retarded. I thought that the delayed category was for districts to be able to identify kids earlier, instead of

waiting for them to become deficient enough to qualify for LD. I thought this was why IDEA made the new category - for six to nine year olds to have an easier route to getting services before they fall off the cliff into LD-land in third grade. Many kids including my daughter have been caught in a system that didn't identify them in first and second grade. NICHCY says that studies have shown that kids who can't read well in third grade generally can't read well in 10th grade. The delayed category as written may not be serving the kids well enough.

Proposed 52.130 ( C) needs to physically list out the learning disabilities that make them eligible for SLD instead of referring to 34 CFR again. It needs to clearly list 300.541 as well. All of the references in proposed 52.130 (j) need to include language therapy needs instead of just speech needs. All of the references to "speech" should be changed to speech/language. My daughter was not identified as needing language therapy until I took her to a private speech language pathologist in junior high school. We should fix this language so other kids don't suffer the same problem.

#### UNILATERAL PLACEMENTS

Proposed 4AAC 52.155....

I made a unilateral placement for a temporary period of time. The district and I had disagreed. We settled our differences eventually. My comment is that parents should have the reimbursement requirements clearly spelled out for them in this reg. If a district and a parent disagree and the parent makes a placement expecting reimbursement, as allowed for in IDEA 97, then the parent should be able to find what those pre-unilateral placement requirements are in Alaska regs or law. I found it difficult to understand the reimbursement requirement process without expensive legal assistance.

#### LEAST RESTRICTIVE ENVIRONMENT

Proposed 4 AAC 52.170 should have both 34 CFR 300.550 and 300.551 clearly listed in the reg, not just referred to. I especially want the 34 CFR 300.551 "Continuum of Placements" spelled out. I had been told years ago that I could not have my daughter pulled out for resource assistance because the state mandated "full" inclusion. Even though the pendulum is beginning to swing back regarding this idea of "full" inclusion, I feel you must include the entire reference to a continuum of placements in 300.551 written out so lay people understand that LRE is NOT "full" inclusion.

#### PARENTAL CONSENT

Proposed 4 AAC 52.200 also needs to have the referenced fed regs actually written out in the reg. Parents must understand what they are consenting too. The parent must give INFORMED consent. They can't if they can't even read the reg about it. Please spell this out in the reg.

#### PROTECTION OF RECORDS

Proposed 4AAC 52.505 should protect parents from destruction of records. I have had problems with my daughter's records in the past. Parents should always be notified if a record is removed or destroyed. Proposed 52.505 (b) says if a record ....is not needed by the district.....the district shall MAKE REASONABLE EFFORTS to notify the parent and offer the parent a copy. IDEA 97 says "SHALL notify the parent." It was also my understanding that the district was to keep a copy of everything for a minimum of five years. This is a good idea.

In proposed 52.505, ..."if INFORMATION IS NOT NEEDED by the district to provide educational services to the child....they may destroy it, etc....." I want this language

deleted. What if a parent thinks the information is pertinent and expects it to be there, but finds that the district decided they didn't need it anymore? For instance, past private evaluations, or past medical notes, or past correspondences? As a parent, I want utmost protection of ALL records. Please spell out exactly which types of documents districts do and do not have to keep for parents. I believe IDEA 97 covers all of my concerns. AkDEED regs should too.

#### PARENT ACCESS TO RECORDS

Regarding proposed 4 AAC 52.510, I believe that a parent should be able to request a list that contains information about the types and locations of documents SPECIFICALLY related to their kids, not just in general. Please change the language to reflect this. I believe IDEA 97 addresses this.

I found that my daughter's sped records were in about six or more different files, not just the main file. This allowed for mass confusion, at least on my part. I also learned that the district didn't have to keep all the documents that I thought they had to.

#### DUE PROCESS HEARING

The entire due process hearing proposed amendment has problems. The current two-tier process does not allow parents to compel witnesses with a subpoena, according to Alaska law, thereby denying them their rights to an appropriate hearing. We should move to a one-tier system. I also note that this is the longest proposed regulation. That again leaves some parents with the impression that the department is paying particular attention to protecting themselves, not families.

#### IMPARTIAL HEARING OFFICER

Proposed 4AAC 52.560 says hearing officers can't have been employed by a school district for 12 months prior to serving as a hearing officer. I'd prefer the reg to say ex-school district and ex-department employees may NOT serve. I am concerned because the last time I checked, it seemed a preponderance of the mediation and hearing officers were ex-school or dept. of ed folks. As a parent, I want an impartial mediator and hearing officer. People who used to work for the schools or education departments have innate biases caused by their experiences.

Also, (E) says the department will set class size at a level appropriate to maintain a sufficient number of hearing officers. I believe this allows too much leeway for the department. If I were suspicious, I could see the department excluding all but six to ten potential hearing officers, who could possibly be of a handpicked nature. The last list I saw contained ten or so names, with some hearing officers never serving. Class size should be open to all interested persons. A list of those who pass the test should be generated. A rotation of the list should be implemented. All of this should be written in the reg.

#### DEFINITIONS

In proposed 4 AAC 52.990 (1) appropriate education is defined as "personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." I request that you change it to be more in line with IDEA 97, which seeks to improve services and expectations for our children.

I suggest at least a change to, "personalized instruction with sufficient support services to permit the child to obtain, to the maximum extent appropriate, the same challenging expectations as his non-disabled peers."

#### COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

This one is non-existent in Alaska regs. I had recently planned to try to become involved with a continuous improvement plan team at my daughter's school, and was pleased to find that IDEA 97 supports parent involvement in such teams under their CPSD section. Where are the corresponding regs related to CPSD in Alaska? They should be in these regs.

Thank you for your time and consideration.

Louise Parish  
P.O. Box 1182  
Valdez, Alaska 99686  
(907) 835-4231  
bells@alaska.net



## Anchorage School District

4600 DeBarr Road  
P. O. Box 196614  
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(907) 742-4000

### SCHOOL BOARD

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### ACTING SUPERINTENDENT

Carol Comeau

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NOV 24 2000

Alaska Department of Education  
& Early Development

November 21, 2000

Mr. Rick Cross  
Commissioner of Education and Early Development  
Department of Education and Early Development  
Goldbelt Place  
801 West 10<sup>th</sup> Street, Suite 200  
Juneau, Alaska 99801

**Attention: Jesse Kiehl**  
Via FAX (907) 465-4156

Commissioner Cross:

In response to the request for review regarding proposed changes in regulations 4 AAC 52 and 53, Special Education and Gifted Education, the Anchorage School District forwards the attached comments. Please be advised that I am providing a copy of our remarks to the Anchorage School Board.

I appreciate the opportunity to forward our comments as they relate to the proposed changes in DEED regulations.

My staff and I are available to answer any questions regarding our responses and will forward any additional remarks to the proposed changes as you deem necessary.

Sincerely,

Carol Comeau  
Superintendent (Acting)

CC/LW  
Attachments

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Tue, 21 Nov 2000 09:55:47 -0800  
To: Sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse <charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Louise Parish  
email: bells@alaska.net  
Phone: 835-4231  
Regulation: proposed regs 4AAC 52.100 and 4AAC52.105  
Submit: Submit

comments:

PROPOSED AKDEED REGS 4 AAC 52.100 CHILDFIND and 4AAC 52.105 FAPE GRADE ADVANCEMENT UNACCEPTABLE

Forum: Akceptionalities  
Re: PROPOSED REGULATIONS FOR EXCEPTIONAL CHILDREN PUBLISHED (New Admin)  
Date: Oct 22, 17:19  
From: Louise Parish <bells@alaska.net>

My name is Louise Parish. I can be reached at bells@alaska.net  
I am trying, as a plain old parent, to comment on the proposed AkDEED regulations regarding special education. This is a time-consuming task, particularly since there are so many confusing references that one must look up. My first comment is to make your regulations easier for parents and districts to read and understand by writing clear regs instead of referencing so many other sites.

This comment is related to CHILDFIND. My child struggled for three years in school before being referred in for special education evaluation by her third grade teacher. I did not know I, as a parent, could refer her in myself. I saw the CHILDFIND ad. I saw no reference for parent-referral. I was not told I could make a referral. I have complained about CHILDFIND for a long time in many ways. This September, I wrote a letter to my daughter's district superintendent. I told him their Aug. 9, 2000 CHILDFIND ad was non-compliant again. I asked that the childfind ad be re-run compliantly. The new ad was just as bad as the first one. I have included references to both of these CHILDFIND ads at the bottom of this page.

MY SPECIFIC COMMENTS REGARDING AKDEED'S CURRENT PROPOSED AMENDMENT TO 4 AAC 52.100 CHILDFIND.....

4 AAC 52.100 is repealed and readopted to read:  
4 AAC 52.100. CHILD FIND. (a) Each district shall establish and implement written

procedures

for identifying all children with disabilities ages 3 through [-] 21 who reside in the district for whom the district is responsible to provide and who need special education and related services under 4 AAC 52.020. The procedures established must include

(1) annual public notice that states the type of disabilities that qualify as a disabling condition, the educational needs of children with disabilities, their right to a free appropriate public education, the special services available to them within the district, confidentiality protections, and the person to contact for information and how to contact that person;

(2) a screening program, which may be operated in cooperation with other public agencies,

to include health, vision, hearing, general development and basic skills, primary language and culture, and daily skills in home and community obtained through parental input; and

(3) referral for evaluation of children suspected, upon screening, to be children with disabilities.

(b) Annual public notice under (a)(1) of this section must be reasonably calculated to reach all persons within the district and all persons responsible for children who are enrolled in the district's statewide correspondence study program and must include, as appropriate, the dissemination of information through public meetings, posters, newspapers,

radio, and television. A district shall provide notice in each language in which a bilingual program must be offered in the district under AS 14.30.400 and 4 AAC 34.055. (Eff. 7/1/83, Register 86; am 6/9/85, Register 94; am 7/16/89, Register 111; am 11/26/93, Register 128; \_\_\_/\_\_\_/2000, Register \_\_\_)

Authority: AS 14.07.060 AS 14.30.274

MY COMMENTS:

I want the CHILDFIND notice to clearly tell districts to advertise about referrals and evaluations. I want the CHILDFIND notice to clearly tell parents they can refer their children in for evaluation themselves - at any time they suspect a problem - and particularly even if their child is advancing from grade to grade.

#1. The proposed 4 AAC 52.100 CHILDFIND and the next proposed amendment 4 AAC 52.105 related

to FAPE and GRADE ADVANCEMENT seem to be deliberately separated from each other, although

FAPE & GRADE ADVANCEMENT is under CHILDFIND in IDEA 97. I believe this separation may be

deliberate and/or illegal. I believe both amendments should be in 4 AAC 52.100 CHILDFIND. Or

at least 4 AAC 52.105 FAPE AND GRADE ADVANCEMENT must also be referenced and included in the

4 AAC 52.100 CHILDFIND notices.

#2. CHILDFIND should include public notice in all areas necessary to locate children suspected of having a disability.

Proposed 4 AAC. 52.100, CHILDFIND,(b) makes it seem that districts are only required to give

public notice on info in (a) (1). (b)needs to reference (a) (1) public notice , (a)(2) referrals and (a)(3)evaluations as well as an added (a)(4)FAPE AND GRADE

## ADVANCEMENT.

#3. Currently, districts may simply going by (a) (1) of the old language. This is not good enough. AGAIN, please change the current proposed language so it is quite clear that under 4

AAC 52.100 (b)(1) it clearly states that public notice under (a) (1) must include information about (a) (1), (a) (2) and (a) (3) and add an (a) 4 requirement about FAPE AND GRADE ADVANCEMENTS. Pull your proposed 4 AAC 52.105 FAPE AND GRADE ADVANCEMENT out of a separate regulation, and into 4 AAC 52.100. Or in addition to it. (I'm not a lawyer or regulation-writer. But I can spot what looks like a bait and switch when I see one.)

PLEASE read the following from IDEA 97 34 CFR 300.125: in support of my contentions.

Under 34 CFR 300.125 CHILDFIND, it states this:

(a) General requirements: (1) The state must have in effect policies and procedures to ensure

that:

(i) All children with disabilities residing in the State, including children with attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated; and  
(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(2) The requirements of paragraph (a) (1) of this section apply to

(i) highly mobile children with disabilities (such as migrant and homeless children); and  
(ii) Children who are suspected of being a child with a disability under 300.7 and in need of special education, even though they are advancing from grade to grade.

MY COMMENTS: It seems that your state policies and procedures do not currently ensure that

all children with disabilities are identified, located and evaluated, and that they still won't with your proposed 4 AAC 52.100 CHILDFIND.

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### ADDITIONAL BACKGROUND INFORMATION

Ad my district ran:

\*\*\*VCS CHILDFIND AD, Aug. 9, 2000 Valdez Vanguard, page 13).

#### CHILDFIND FOR SPECIAL EDUCATION:

By law, all school age children (3 to 21) in Alaska have the right to a free appropriate public education. Some children, however, are not in school. They may be developmentally delayed or just left out.

If you know of a child ages 3-21 who is not in school because of problems in the following areas:

- vision
- hearing
- language
- physical development or movement
- overall delayed development

Please call Valdez City Schools Special Education office at 835-4735. The district can help find proper diagnostic and evaluation services for children with special needs and will help parents find services to benefit their children.

###END OF AD

Ad that ran after I complained again.

###VCS CHILDFIND FOR SPECIAL EDUCATION, Oct. 4, 2000, Valdez Vanguard, page 11.

The Valdez City Schools in cooperation with parents and nonpublic school agencies engages in

Child Find services throughout the school year. Childfind activities are conducted to create public awareness of special education programs, to advise the public of students rights and to alert community residents of the need for identifying and serving children with disabilities from the age of 3 through 21.

If you know of a child who is 3 through 21 years of age who may have individual needs that result from disabilities or developmental delays, and who is not enrolled in a school program, please contact Janette Peterson, Director of Special Education at 835-4735 or the school district office at 835-4357. These children may have difficulty walking, talking, hearing, or learning, or may display behaviors that appear different from other children their age.

If you are part of a community or civic group that would like more information about educating

children with disabilities, or would like pamphlets to distribute to members, please call the school office or one of the above phone numbers.

#####END OF AD

Again, these ads do not do what was intended by IDEA. Note that the ad says, "If you know of

a child WHO IS NOT ENROLLED IN A SCHOOL PROGRAM..." New ads must have all of the information

needed for parents to understand their children's rights, including referrals, evaluations, and what to do if their child is IN school but may display a learning disability, and especially that they can do so even if their children are ADVANCING FROM GRADE TO GRADE.

FYI, I am aware of at least one OCR complaint re:CHLDFIND, and dozens of personal complaints

to me re:childfind. I imagine there are many state complaints re:childfind. I would think AkDEED would WANT to address this important issue better.

to:

"PROPOSED AKDEED REGS 4 AAC 52.100 CHILDFIND and 4AAC 52.105 FAPE GRADE

ADVANCEMENT UNACCEPTABLE"

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Tue, 21 Nov 2000 11:00:25 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Amy Keith  
email: amy.keith@qm.denali.k12.ak.us  
Phone: 907-683-2842  
Regulation: Chapter 52/53  
Submit: Submit

comments:

I do not want to see a separate chapter formed for GT. I worry that this is the start of getting rid of gifted education. I understand the need for clarification, therefore I could support the division of chapter 52 into two sections. Please keep gifted education inside of special education. The paperwork is weighty, but the IEP form does work and is a good document. Please continue to value gifted education. Gifted kids are high risk for suicide, dropping out of school, teen pregnancy and penal institutions as adults. We must serve this population in our public schools.

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Tue, 21 Nov 2000 11:45:27 -0800  
To: sheila Box <Sheila\_Box@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*  
NAME: Barbara Lefler  
email: lefler@alaska.net  
Phone: 907-243-1539  
Regulation: Proposed reg's in general  
Submit: Submit

comments:

I would like to comment on a few specific points concerning the proposed state regulations. I am speaking as a parent of a child with a reading disability.

It is imparitive that the state follow the federal guidlines while implimenting child find procedures. I speak to parents daily who's children, like mine, have slipped through the cracks. The federal law is very clear concerning the child find out reach and assessment standards.

FERPA states clearly that parents must be informed before records are destroyed. A 'reasonable effort' by the state is far to vague to protect our rights.

As a parent who requested mediation, I understand the process one must go through to protect the rights of a child under the law. If a district requests a due process hearing, 10 days is not enough time for a parent to prepare, this must be changed.

Please, address in more detail, 'personal development' as outlined in the IDEA. Also, address the issue regarding garrentees of special education funding as stated in the law.

Anchorage School District benchmark and HSGQE test results show students with disabilities did very poorly on the tests. No sophomores at the Whaley Center passed the HSGQE, only 7% of McLaughlin sophomores passed the HSGQE, and all students at the Alaska State School for the Deaf were "not proficient" on the benchmark tests. The state has not reported the required data, and has not proposed regulations requiring it to do so.

It is important for you to understand that parents are becoming more educated regarding the rights of their children under the IDEA. Although we have seemed reluctant to exercise our rights in the past, we are gaining momentum in the effort to make sure our children receive an appropriate education. We stand firm that we would rather see educational funds go to our childrens education and not in the pockets of attornys, for either side. Please, define the regulations so we can avoid the legal battle. Spend our children's funds wisely.

RECEIVED

NOV 20 2000

Alaska Department of Education  
& Early Development

3343 Seawind Cir.  
Anchorage, AK 99516  
November 15, 2000

Department of Education & Early Development  
Bruce Johnson, Deputy Commissioner

Dear Sir,

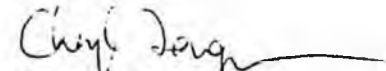
I have received information concerning the proposed changes to Chapter 52 regarding exceptional children. I wish to protest the proposed changes.

I have experience with gifted education in two ways; as a teacher I have taken classes in gifted education and taught gifted children, and as a parent I have a gifted child. The two experiences have led me to believe that gifted children are different from other children and need different services in school. I am afraid that the proposed changes to Chapter 52 may put those children in jeopardy.

The current legislature seems to lean towards the "cut-the-budget", "less government" philosophy. If they think that gifted services are not necessary, they'll cut state payment for them. And many local school districts would end up cutting back on gifted education or dropping it altogether. I'm afraid that changing Chapter 52 now would inadvertently send that message and start that process. Let's keep gifted services where they are now, protected with other services for exceptional children.

As you know, gifted children will not develop their potential without help. Left on their own, they often become underachievers who drop out of school, even become criminals. Keeping them in school is in all our best interest. If our future is in our children, then a brighter future is in our gifted children. Let's help them now so we'll have more productive citizens and a better future.

Sincerely,

  
Cheryl Lovegreen

To: Bruce Johnson, Dept of Educ + Early Development

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NOV 16 2000

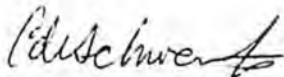
To: Parties interested in Special and Gifted Education  
From: Liz de Schweinitz, Parent  
Date: 11-13-00

Alaska Department of Education  
& Early Development

I understand there may be new legislation separating special and gifted education funding, which could remove the mandate for funding of gifted education services in public schools. I am a parent of two children who qualified for the gifted "pull-out" program in the Anchorage School District, and have several comments on the experience:

1. It was very hard to get accurate information about the availability of gifted services from teachers and other ASD staff, probably because there has been little stability to the program. Every year, it seemed, the eligibility and availability changed, let alone the location, teachers, and bus schedules.
  - Please create a consistently funded and administered gifted education program statewide.
2. It took persistent parental pressure to get my children tested in a timely fashion, and thus able to qualify for services.
  - Please protect the right of parents to know what services their children are eligible for, and make access easy.
3. These services help prevent boredom in the classroom for those children who learn faster than others, keeping them from becoming disruptive or just tuning out altogether.
  - Please help produce future leaders for our communities by encouraging excellence and challenging the gifted, not teaching to the average.
4. Really smart kids who regard school as a waste of time often find other things to do with their talent and time - and we don't need bright kids wasting their talents and/or trashing our community by turning to substance abuse or delinquent behavior. Smart drop-outs can make smart criminals.
  - Please challenge our students to THINK, not memorize. Allow our teachers to teach the love of learning and problem solving, not how to get the highest score on a test.

Sincerely,



Liz de Schweinitz  
8621 Swiss Place  
Anchorage, AK 99507

From: "Reitz" <reitz@ak.net>  
To: "Dept of Ed." <bruce\_johnson@eed.state.ak.us>  
Subject: New Regulation Proposal for Gifted Education  
Date: Wed, 15 Nov 2000 01:37:06 -0900  
X-Mailer: Microsoft Outlook IMO, Build 9.0.2416 (9.0.2911.0)  
Importance: Normal

Dear Mr. Johnson:

I would like you to take into account my opinion about the proposed regulation which would separate the gifted students from the students with disabilities. I understand the reasoning behind it but I still oppose it because of the possibility in the future for the state to decide that it would no longer fund gifted education.

Students who are "gifted" are an "at risk" population when they are not appropriately challenged and motivated. They have the right to an education that is based on their needs, as any student does. Besides living with 3 gifted children, I am a special education teacher. I see the picture from both sides and if the regulation passes, you will find that the gifted program becomes an easy target for budget cuts. These students will most likely become our community's future leaders, doctors, lawyers, scientists, etc. Are we willing to jeopardize our future, let alone theirs? There must be another way to make it work under one umbrella, so there is federal assurance of upholding the gifted education student's rights.

Thank you for taking the time to consider my opinion.

Tina Reitz

From: "Cherie Gojenola" <ttms4@alaska.com>  
To: <bruce\_johnson@eed.state.ak.us>  
Subject: Input on DOE regs for Gifted Services  
Date: Mon, 13 Nov 2000 10:43:49 -0900  
X-Mailer: Microsoft Outlook IMO, Build 9.0.2416 (9.0.2910.0)  
Importance: Normal  
X-MS-TNEF-Correlator: <PEEGIPAKMJFEPOMAGEOCIEAJCAAA.ttms4@alaska.com>

I oppose any separation of services for gifted and special education services. I understand that children with disabilities are supported by federal funds and the gifted children are supported by state funds however I think by separating these two services you are setting up the gifted program for cuts under the state budget.

Alaska's gifted students need more of the state education department's time, attention and resources - not less.

I appreciate your consideration of my comments.



winmail3.dat

RECEIVED

NOV 03 2000

8400-B McGuire Avenue  
Elmendorf AFB, AK 99506  
October 31, 2000

Alaska Department of Education  
& Early Development

Ms. Beth Norland  
Dept of Education and Early Development  
801 W. 10th Street, Suite 200  
Juneau, Alaska 99801

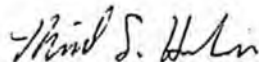
Dear Ms. Norland:

I would like to voice my concerns over the proposed regulatory changes to Chapter 52, "Education for Exceptional Children." Our son, Ethan, has been enrolled in the gifted education program, "Ignite," since April 2000. He has always been very excited about the program and looks forward to going every week. Last year Ethan was fortunate to have an exceptional 2<sup>nd</sup> grade teacher who took the time to ensure he was challenged with the day-to-day schoolwork. I believe his teacher was an exception and not the rule. For that very fact, I strongly support the gifted education program.

I am very concerned that gifted education will lose funding once separated from special education. It would be very easy to dismiss these bright girls and boys, and assume their teachers would provide the extra challenge they need. The teachers already have a full plate dealing with 25-30 students, and I would certainly not expect my child to get special treatment in that environment.

If the Legislature does pass the bills, some provision needs to be in effect to mandate the district's continued funding of gifted education programs. Achievement should be encouraged and just getting by from grade to grade is not good enough. America's future walks through the doors of our schools each day; let's keep the door for gifted education open.

Sincerely yours,



Michael Hulin

To: Sheila Box <Sheila\_Box@eed.state.ak.us>  
Subject: Comments on Regs

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NAME: Darrell J. Sanborn  
email: dsanborn@ucsd.net  
Phone: 581-3151  
Regulation: 4 AAC 52 & 53  
Submit: Submit

*see page 3*

comments:

Thanks much for the opportunity to comment on these regulations dealing with special education issues.

Page 1-2, With the handful of districts that do their correspondence programs within the boundaries of other districts, there is much concern of the level of service being provided to special education students with this model. The district of residence may have a different level of expectation of special education services than the district with the correspondence program. I would also hate to see that we move backward concerning access to different programs. Many years ago, it appeared that it was very difficult to impossible to have a child with disabilities gaining admittance to Mt. Edgecumbe. Year's back, DOE had supervised/monitored the Home School programs. When DOE got out of that business and approved the concept of correspondence schools, I am not sure that we took a good look at what this would mean for special needs students.

Page 4, I feel that "qualified professionals" needs to be spelled out. Most special education teachers are trained in a specific area of expertise. What does a "qualified professional" mean in making the eligibility determination for a MR placement needs to have an endorsement in MR and so on with the other disabilities? And then in the development of an annual IEP, and providing the services, program supervision/administration are many questions that may need to be addressed.

Page 5, LD- may be good to bring in the severe discrepancy issues, as it has been an issue in the past.

Page 6, ED, I wasn't sure if we had started to license psychiatrists (type C) for work in school or this was the intent of the State Board at this time, in addition to school psychologists. This may also be a good time to clean this up? I have found that many times working with the psychiatrist to be not as productive as working with an individual licensed in school psychology. Although providing some excellent services, psychiatrists have a tendency to put too much faith in the DSM-IV as I have seen with the case of AYI.

Page 9, OHI, I worry about the large increase of ADD/ADHD labels. I don't have an answer, but just think that many folks are too quick to use this label, along with the medication issues. Also, there has been much discussion about FAS/FAE fitting under the OHI label. If this has been discussed, great, but I would think that now is the time to discuss this, bring it out in the open, as then we can move on from this issue. Right now, all I think that we sometimes do is to hope that these students qualify under some other category.

Page 11, Early childhood developmental delay at age three, I have had times where we have picked up children at age 2 1/2 with high needs. This might also be a good place to bring up the concern about ADM and how children under the age of five are to be counted in the foundation formula. I am hearing different things coming out of DOE that Quality Schools intended that the additional 20% be used to service these children. I would hope

that the foundation includes these children in this age group since they are receiving services, and some of these do meet the criteria as intensive. Really happy to see the age raised to eight, better for children.

Page 12, A, In the federal regulations I thought that I saw, included in this, "lack of instruction" which I think is important to remain there. Attendance issues.

Page 13, TBI and "external physical force" I would hope that this be expanded a bit to include other brain injuries, i.e. lack of oxygen, etc, and other medical issues.

Page 15, IFSP stuffs, let me take the very unpopular stand that the ILP program should be moved to DOE from Health & Social Services. I am just astounded by the lack of consistency on how the program operates from region to region, and district to district.

Page 17, Placement, this may be a good opportunity to evaluate AYI and look at some alternatives with this program.

Page 22, six hours of annual training sounds like a good thing, but in reality, we many times have as much turnover in our aide positions as we do in special education teachers. The cost may an issue for districts. If this is going to be implemented, it may be good for DOE to go back to where they were developing training modules for teachers and aides.

Page 30, Discipline issues continue to remain an issue with special needs children in many schools. I feel much of this concern would be handled if the issue of various social services and law enforcement services were equal around the State. In many rural communities teachers, administrators have children that may at times, conduct themselves in an way that if this same act were committed in Town, the law enforcement and court system would step in for some natural consequences. In short, support services/social services are not equal around the State, and needs to be addressed. If only in a matter of agreeing that things are not equal. If these services were available in all communities, it would assist so many children and their families, this assistance comes in many ways, including natural consequences.

Page 39, Surrogate parents many times are difficult to recruit in rural communities, it would be beneficial if members of the Tribal offices, & ICWA folks were eligible to serve in this capacity. I think that this may be a federal issue and we may not be able to do much with this.

Page 40, funding issues, again, going back to the pre-school issues, I am not sure that the whole effects of SB 36, Quality Schools have been seen to date.

With the Exit Exam now in affect, I would hope that DOE include in these regulations some guidance on if, when and how a district leaves the regular education curriculum to provide a more meaning program for the individual child. Johnny may never have a chance to pass the math portion of the exam, it may be better for the child to learn something on the lines of life skills math. IDEA appears to be very clear about remaining with the general education curriculum as much as possible. If districts are to leave the regular education curriculum, are there concerns for the child having no opportunity to receive a diploma. The statistics are not yet available on how our special education students did on the exit exam as a whole and in comparison to the other categories of students. There also has been no guidance on a variety of certificate programs of employability skills that a child may leave high school with in lieu of a diploma. At the present time, the only certificate that DOE gives out is the Certificate of Attendance. It would be nice for DOE to develop certificate programs using State standards in a variety of areas in vocational education. Examples such as welding, computer technology & programs, carpentry, work place basics, framing, etc following the State standards in employability and vocational education.

Concerning Chapter 53, dealing with Gifted and Talented, I would hope that DOE not mix

special education with the GT question. I would think that it be most appropriate if DOE wishes to supervise the GT program that they set a single criteria and definition for eligibility for being labeled "Gifted" or "Talented." Yes, districts do have the requirement to develop their own GT Plan, but then we have students, and their families transferring to other districts, which create the expectation that education, programs, and services are equal across the State. I am well aware that this is a political issue for you.

Thanks much

Darrell J. Sanborn

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Fri, 13 Oct 2000 10:25:05 -0700  
To: Jesse Kiehl <jesse\_kiehl@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse  
<charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

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NAME: Clark K. Brown  
email: cbrown@crsd.k12.ak.us  
Phone: 907-822-5680  
Regulation: Gifted Education  
Submit: Submit

comments:

I strongly believe that Gifted education need to be pulled out from under the Special Education umbrella! Parents and students I have worked with do not like the "stigma" of being in special education! Even the idea of having an IEP is not agreeable. Some students have opted not to be in the gifted program for these reasons. As a teacher the added paper work for the SPED staff is not needed, considering the "portfolio's" that have been added to the papermill for the Alternate Assessment. This paper work takes more time for me to do and gives me less time with the students in the classroom. I find I rely more on my aides to deliver instruction with me in the supervisory role, than modeling and having their assistance. Thank you for your time and consideration on this topic.

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Wed, 11 Oct 2000 13:39:10 -0700  
To: Jesse Kiehl <jesse\_kiehl@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse <charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

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NAME: B. Rice  
email: brice@crsd.k12.ak.us  
Phone: 822-5356  
Regulation: Special Ed and Gifted Ed  
Submit: Submit

comments:

I do feel it important to seperate gifted education services from special education services for several reasons. There is confusion among practitioners, parents and community members over which rights apply to children with disabilities and which apply to gifted children. Special education teachers already have a huge work load and tremendous responsibilities. Considering the fact that many gifted and talented students (especially at the High School level) excell in core academic areas (math, science, lantage, etc...)as well as the fine arts, it would seem logical to have regular education personnel who are directly involved in these areas be directly involved in and responsible for the development of a gifted plan of service for an individual child. This seperation of gifted responsibilities from under the umbrella of special education is long over due.

RECEIVED

OCT 10 2000

**interoffice**  
M E M O R A N D U M

Alaska Department of Education  
& Early Development

**to:** To Whom it may concern  
**from:** Michael Olberding  
**subject:** Gifted Student Education Legislation  
**date:** October 5, 2000

I'am very interested in seeing funding and legislation continue for the Gifted Students of Alaska. I currently have a son and two step daughters who are in the program at Oceanview, O'Malley elementary schools and at Service High. I feel their involvement in these programs has been very benifical in their educational growth and has encouraged them to develop their potential even further. I believe this funding should continue and legislation move forward to assure this valuable and worthwhile program continues. As a registered voter and tax payer I hope you take this letter and recommendation to heart.

Thank You

*Michael Olberding*

X-Sender: cfmorehouse@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.2.0.58  
Date: Mon, 02 Oct 2000 15:04:16 -0700  
To: Jesse Kiehl <jesse\_kiehl@eed.state.ak.us>  
From: IUSR\_WEBSERVER@webserver (by way of Charito Morehouse <charito\_morehouse@eed.state.ak.us>)  
Subject: Comments on Regs

\*\*\*\*\*

NAME: Constance K. Quinley  
email: quinley@alaska.net  
Phone: 563-8569  
Regulation: 4 AAC 52 and 4AAC 53  
Submit: Submit

comments:

I am writing to comment on proposed regulatory changes to Chapter 52, entitled "Education for Exceptional Children."

My children, now in 5th and 8th grades, are identified as gifted and have for years benefited from the programs provided under Chapter 52. As a result of gifted identification, they have been challenged in the classroom and in IGNITE programs; they are enthusiastic about learning and fully engaged in the process.

I am fearful that proposed changes to Chapter 52 will change this, both for my children and others who are similarly identified.

By removing "gifted children" from Chapter 52, and placing them in the proposed Chapter 53, I fear that needs of gifted children will be seen as "extra" or dispensable, especially to those legislators looking for ways to cut the budget. I would argue that meeting the needs of gifted children is critical to the development of productive, problem-solving adults who will be assets to our community.

I'm also concerned that establishing Chapter 53 will open the door for the state to one day abdicate the provision of gifted services to individual school districts. I believe it's the state's job to provide the framework for distributing gifted services. Gifted children around the state should be provided an equal level of gifted service.

To ensure financial accountability while protecting the needs of gifted children, I suggest that the proposed regulation be modified so that the two groups--special education and gifted services-- are split into sections A and B while remaining under Chapter 52.

Sincerely,

Constance Quinley  
1812 Bowdoin Circle  
Anchorage, AK 99508

X-Sender: bfjohnson@jnumail1.state.ak.us  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.1  
Date: Mon, 02 Oct 2000 08:16:20 -0800  
To: Jesse\_Kiehl@eed.state.ak.us  
From: Bruce Johnson <Bruce\_Johnson@eed.state.ak.us>  
Subject: Fwd:

>To: Jerry Koenig <jerry.koenig@juno.com>  
>From: Bruce Johnson <Bruce\_Johnson@eed.state.ak.us>  
>Subject: Re: Gifted Education

>

>At 05:15 PM 10/1/00 -0400, you wrote:

>>My wife and I would like to express our concern about the proposed changes  
>>to the gifted education legislation this year. We are concerned that the  
>>separation of gifted education from special needs education is the first  
>>step in eliminating programs for the gifted.

>>

>>We understand that budget cuts force difficult decisions to be made but  
>>gifted education is a bargain. Our school, for example has three special  
>>education teachers, a half dozen teacher assistants, and is served by a  
>>speech therapist, psychologist, physical therapist, and an adaptive physical  
>>education teacher. Include the time devoted to special needs children by  
>>the school nurse and you can see the enormous expense of special needs  
>>children. Our school's gifted program shares two teachers with three other  
>>schools and our son is bussed to another school to receive services. While  
>>we agree that special needs education is vital to education as a whole, and  
>>these children have the same right to education as every other student, we  
>>believe that our gifted children have the same right to be educated at their  
>>level. The amount spent on gifted education per child is decided lower than  
>>that spent on special needs.

>>

>>It is the responsibility of a school and district to educate every child at  
>>his/her level. Special needs children are given great resources to ensure  
>>that federal guidelines are met. Our fear is that a separation of the  
>>program into two distinct programs, with different rules and budgeting, will  
>>ultimately see the decline of gifted education. This trend serves nobody  
>>involved in our educational system. It only serves bean counters interested  
>>in money rather than results.

>>

>>Please do your part to help us keep these special children under the same  
>>protective umbrella. Education is what we are all interested in.

>>

>>Jerry J. Koenig  
>>Eagle River, Alaska

>>

>>

>>

RECEIVED

SEP 29 2000

Alaska Department of Education  
& Early Development

Margo W. Waring  
1215 Fifth Street  
Douglas, Alaska 99824  
(907) 364-3155

Bruce Johnson, Deputy Commissioner  
Department of Education & Early Development  
Juneau, Alaska 99801

Dear Mr. Johnson,

I have had an opportunity to review the Department of Education and Early Development's proposed regulations, Chapter 52 and 53. I understand the intention to separate out the disabled from the gifted regulations and to correctly mirror what is currently in the Alaska Statutes regarding gifted education. I have had an opportunity to review the draft and have the following comments.

It has taken me some time to review these materials. As I read the proposed regulations, I found myself frequently surprised by what the current law provides, but which is frequently observed only in the breach, at least here in Juneau and other Southeast communities with which I am familiar. I also found myself having to return to the statutes, a process which was sometimes confusing. Having acknowledged my confusion, let me share some of my observations.

First, I think that a careful job has generally been done to represent the current state of law about gifted children. I had a few questions and exceptions to raise.

4 AAC 53.250 Availability of Due Process Hearing. In the list of disagreements for which a parent may request a due process hearing, no mention is made of failure to provide a service specified in an IEP or for which the child is otherwise qualified. This provision should be added.

4 AAC 53.330 Program Review. The phrase "Subject to the availability of funding," is an unnecessary addition, as it is not a condition identified in the statute. We may recognize that failure to provide services has at least part of its cause in lack of funding, but the statute does not require this language, as gifted education is an entitlement.

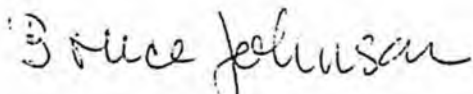
Old 4 AAC 52.740 Approval of Programs for Gifted Children. I must say that I was distressed to learn that the enabling statute, AS 14.30.315, had been repealed. I am sure that many other parents of gifted children were unaware that this action was under consideration. There is a misstatement here—section 315(a) was repealed in 1998, not 1999. Section 315(b) still exists and gives the department the authority to approve gifted programs. Since the public school

10.4.2000  
copies to  
Phil Re  
Jesse

foundation program requires districts to file a plan related to services for gifted students, there should be a new section 4 AAC 53. 320 which specifies the minimal contents for such a plan of service, similar to specifications for services for which other special education students are eligible.

Again, thank you for your assistance regarding these newly proposed regulations.

Sincerely,

A handwritten signature in cursive script that reads "Margo Waring".

Margo Waring

November 20, 2000

Richard Cross  
Department of Education and Early Development  
800 West Tenth Suite 200  
Juneau, AK 99801-1894

RECEIVED  
NOV 27 2000  
Alaska Department of Education  
& Early Development

The Alaska School Psychologist Association (ASPA) is pleased to offer the following comments on the proposed regulations for Chapters 52 and 53 Education for Exceptional Children.

ASPA supports separating regulations pertaining to individuals with disabilities as defined by federal law and those pertaining to gifted and talented children. We are hopeful this will decrease the paperwork and cumbersome procedures required for documenting the evaluation and service to gifted and talented students.

**4 AAC 52.020 (b)** Districts offering correspondence programs shall administer a program offering special education and related services shall coordinate its provision with the district of residence in conformance with 4 AAC 33.432.

This provision needs to be spelled out to indicate how documentation, eligibility determination, service plan creation and funding will be handled.

**Page 7 Comparison Chart**

(4) Maintains old language about preschool developmental delays and the age 6 cut-off. New language provides the option of up to age 9. This is confusing wording and is at variance from new language found on page 11. How are we to know which you mean? ASPA supports the extension of early developmental delays up to the ninth birthday. ASPA supports wording of "on or before the ninth birthday."

**4 AAC 52.120 Evaluation Each** district shall conduct a "full individual evaluation"

ASPA recommends changing the wording to "full evaluation based on the educational needs of the child". "Full evaluations" can cause confusion for parents and teams. Is DOEED suggesting that every child needs an evaluation in every area (speech, occupational therapy, physical therapy, etc.) regardless of the presenting concerns? A "full evaluation" is not needed in every case and will create huge bottlenecks in the system. Evaluations should be based on the needs of the student as determined by the evaluation planning team and not by an arbitrary requirement of "full evaluation".

**4 AAC 52.125 (1) Eligibility ..** "and related service providers"

ASPA recommends a change in the wording to "may include (e.g. occupational and physical therapy, counseling, assistive technology, adaptive physical education etc.). The present wording suggests that all of these sources would be required to determine eligibility for special education. This is overkill for a student with solely a math disability.

**4 AAC 52.130 Mental Retardation**

ASPA recommends DOEED change the criteria for intellectual test performance to (1) score at or below a standard score of 75 on an individual standardized test of intelligence, (2) exhibit deficits in adaptive behavior, and (3) demonstrate commensurate delays in academic attainment. This definition brings the state of Alaska in line with the standards set for by the American Association of Mental Retardation. ASPA is concerned about the potential for pushing the 75 higher by using the standard error of measurement rationale. If DOEED does concur with ASPA's proposed changes we would also support a statement that indicates 75 is the absolute cap for IQ scores.

#### **4 AAC 52.130 (n) Criteria for Determination of Eligibility Early Childhood Developmental Delay**

ASPA supports the extension of Early Childhood Developmentally Delay Certification through age nine (9) as permitted by Federal Reauthorization of IDEA.

**4 AAC 52.120 (n) (iii)** "includes expressive and receptive language". ASPA recommends changing the wording to "speech/language development which includes expressive and receptive language articulation or fluency". Significant articulation and fluency problems in the absence of language related problems should continue to be part of Early Childhood Developmental Delay certification. Severely disordered oral communication can severely impact the child's progress.

**4 AAC 52.130 (n) (2) (C)** ASPA questions how feasible it will be to observe young children in multiple environments as required in this provision. Typically, preschool age children are evaluated in one session and may not be involved in a preschool program or even a daycare program. Home visits are excellent but are costly, time intensive and not practical given the shortages special education and related services are experiencing.

**Within this section is reference to 52.130 page 24 (d)** refers to early childhood developmental delay as a reevaluation before the child reaches age 8. Other sections refer to the child as "no more than 8". Page 12 refers to "through age 8". This language is inconsistent with other sections and is confusing. Does "no more than 8" mean up to age 9? Does "no more than 8" mean no more than 8 years 1 day? Please provide clarification to early developmental delay and the age guidelines.

ASPA supports wording that cannot be misinterpreted such as "on or before the 9th birthday".

#### **52.140 ...30 calendar days after eligibility**

The Federal wording allows for school days. If a student is assessed during the summer and determined eligible for service the IEP cannot reasonably be developed and implemented during the time school is not in session, ASPA supports the definition of "day" as school day.

#### **52.140 (e) In accordance with 52.150**

"It is the districts' responsibility to ensure that an IEP [for a child placed out of district] is developed and implemented". This statement confuses us. Does the sending district write the IEP? How does a district write an IEP for another location, especially one outside the district? Is the intent of this regulation to place responsibility on the sending district to ascertain the receiving district writes and implements an IEP? How is the sending district to manage supervision of another districts/placements action? ASPA requests clarification of the intent and implementation of this regulation.

#### **4 AAC 52.170 preschool children are covered by the least-restrictive environment**

Does this regulation mandate that preschool students with disabilities must be enrolled in a private preschool? At this point in time neither kindergarten nor preschool enrollment is mandated by the state. Federal or State law does not mandate preschool unless the student has disabilities. How does the state propose a student, who is not yet of school age, be educated in an environment with other non-handicapped peers? Does Alaska plan to mandate public preschool? Does the state propose to pay for enrollment of children with handicaps at private preschools? This regulation will be open to much misinterpretation and must be clarified. ASPA supports a notation for preschool aged children such that efforts to provide a least restrictive environment does not include enrollment in a private preschool at public expense.

#### **4 AAC 52.180 Reevaluation**

ASPA reads this as the job of the eligibility team to determine continued need for services within the context of the educational needs of the child. ASPA supports this change in the regulation. Needless time is spent on unnecessary and costly reevaluation to determine whether or not a specific IDEA handicapping condition continues to exist (i.e. discrepancy between ability and achievement for Learning Disabilities) rather than looking at the types of services the child requires to meet his/her educational needs. ASPA appreciates this adoption of the Federal changes and wishes further clarification that the purpose of the evaluation is not to continue to establish the presence of a disability through needless evaluation but rather determine the present need of the child and whether those needs must be met through special education services.

#### **4 AAC 52.510**

Does this request for records stating a 10 business day guideline with no more than 45 days hold during the summer when many school personnel, including records departments, are closed? ASPA requests a notation be made regarding exceptions for summer and extended holidays (Winter, Spring Breaks) or a reference to school days as the guideline.

#### **4 AAC 52.550 Due Process**

The Federal regulations for IDEA encourage mediation prior to due process hearings. ASPA supports the same for Alaska school districts. ASPA would like DOEED to provide for mediation as a prerequisite to due process hearings as a less costly and less antagonistic setting than due process hearings in order to problem solve school-parental disputes.

#### **4 AAC 52.590 (a) and (b) are amended (page 39-40)**

##### **(b) A child is entitled to a surrogate parent if**

Does (4) the child is committed to the department of Health and Social Services negate other aspects? That is, if a parent is known and located does the child require not just become entitled to a surrogate parent?

#### **4 AAC 52.990 Definitions**

##### **F (5) "days" means calendar days. (Page 47)**

Other federal special education regulations refer days with respect to evaluations and placement procedures to be school or business days. ASPA takes strong exception to this definition of day as calendar day. Many times consent for assessment is obtained just before the winter break from school. In this instance, seventeen to eighteen days of the time limit is lost to vacation. School psychologists and other related service personnel are often in a school one-to-two days per week. What provides a reasonable time line to conduct a thorough evaluation by all involved parties is lost with a count of calendar days.

Forty-five days is equivalent to seven weeks. That gives a psychologist or occupational therapist who is in a building once a week only seven opportunities to observe, assess, review records, consult with colleagues prior to arriving at placement decision. For evaluations of complex handicapping conditions those seven opportunities must be shared with resource teachers, speech pathologists, occupational and physical therapists plus planning meetings, eligibility meetings and IEP meetings. Given that these regulations focus on *children* it is inappropriate for them to be subjected to full days of total assessment. We don't do this with any other high stakes examinations. Benchmarks, IOWA's, graduation exams are all spread out across several days. Shouldn't children regarded as having possible handicaps be given the same consideration? Psychologists, so as to expedite portions of the evaluation, evaluate some children during the summer. There are no teams available to determine eligibility or IEP services during the summer. We would either be continually out of compliance in summer months or be faced with refusing summer service to parents in order not to violate criteria of calendar days rather than school days.

**4 AAC 52.990 - 13 informed consent (D) parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. Page 48)**

Current procedures are that consent is voluntary until the evaluation has begun. In practice, if a parent requests us to terminate an evaluation that request is honored. This regulation puts special education teams in an ethical and legal bind. We are required to protect the child's rights to special education. How do we do that if parents withdraw consent "at any time"? If a child has been deemed eligible for special education and requiring specialized instruction what are we to do if a parent removes the child from the program because he or she does not like the handicapping label? How do we balance the needs/rights of the child against this provision? ASPA respectfully requests DOE modify this wording to match Federal Statutes. Parents can voluntarily remove consent prior to the onset of the evaluation and prior to initial placement in special education. Once a child has been placed in special education, the child's rights should become paramount with the option of parties going to mediation or hearing to determine the appropriateness of withdrawal of the student from special education when the two parties do not agree.

**(24) "severely" emotionally disturbed. Page 50**  
Has this not been changed to "emotionally disturbed"?

Citation Referenced Proposed Changes to Title 4 Chapter 42 page  
**300.532. Evaluation Procedures (f)**

**No single procedure is used as the sole criterion...**

Is the term "procedure" to be considered the same as "test" or "measure"? A procedure [*method, plan, process*] often describes the necessary steps or components of an evaluation. Different procedures are established for determining eligibility for Learning Disabilities, Emotional Disturbance, Other Health Impairments, etc. Different tests [measures, exams] are also used within certification categories. No single "test/measure" is allowable for determining presence of a disability. Clarification on meaning of the term "procedure" is desired here. ASPA supports replacing the word "procedure" with the term "test" or "measure".

**Chapter 53 Education for Gifted Children**

**4 AAC 53.080 Criteria for Determination of Eligibility as Gifted**

ASPA recommended deleting the requirement of Related Services as these services are rendered to disabled students under federal requirements and are not required under Federal guidelines for gifted and talented students. ASPA supports a change of wording to: "Each district shall adopt written eligibility criteria for use in the district's identification of children eligible for gifted education services under Chapter 53.

**4 AAC 53.140. Parental Participation Page 7 Line 7-9**

**The parent has the right to bring to the meeting an individual with knowledge or expertise regarding the child, as determined by the parent.**

Does not IDEA list attorneys as one person *not* to be brought to a meeting, unless a hearing is requested?

**4 AAC 53.160 Cost of Services**

(a) It is the experience of the Anchorage School District that children referred to the Advanced and Accelerated (gifted) program request repeated evaluations when the child does not meet criteria. School Psychologists are known to test a child twice within a given year and some children are tested annually at parent request. This is inappropriate for students to be repeatedly tested; knowing

the pressure they are under to score well enough to gain admittance to a desired program. ASPA requests that the regulation include opportunity for districts to limit the number of times a child should be tested, at public expense, within a given time period. Children under consideration for a handicapping condition are not re-tested by parental request at a level demanded by parents who desire their child to be provided gifted education services.

#### **4 AAC 53.230 Parental Consent for Release of Records**

Does this exception include the Office of Public Advocacy and Guardian ad Litem?

#### **4 AAC 53.250 Availability of Due Process Hearings 6 (e) page 17**

**Current proposed state requirements for a hearing officer is a high school diploma or equivalent education.**

This low standard of training astounds the Alaska School Psychologists Association. You are granting extensive decision making powers to an individual regarding appropriateness of assessments, eligibility decisions and special education placement decisions to someone with a high school education when the *professionals* involved with the assessment and eligibility have a minimum of a Master's degree in their specialty area. It is ludicrous that someone is vested with such far-reaching authority with so little background required in education, special education, child development, legal rights etc. At the minimum, ASPA requests the state raise the standard to attainment of a Bachelor's degree from a recognized college or university. It behooves parents and the state to involve someone who has had advanced education over that of a high school diploma.

#### **4 AAC 53.320 Maintenance of Records**

**(6) class and grade attendance records.**

What is meant by class records? All the previously required information would reasonably be found in a special education record. Much of this information is inappropriate for a cumulative record. Tests and other documents for determining eligibility are highly protected in order to maintain integrity of the test. If test protocols were to be found in a child's cumulative record, they would be subject to photocopying. Test publishers and school psychologist's ethics prohibit this action. If test protocols containing test questions, child responses and the resulting item scores are placed in cumulative records then the integrity of the test would be violated.

### **Article 5. General Provisions**

#### **4 AAC 53.990 Definitions (2) "days" means calendar days.**

Other federal special education regulations refer days with respect to evaluations and placement procedures to be school or business days. ASPA takes strong exception to this definition. Many times consent for assessment is obtained just before the winter break from school. In this instance, seventeen to eighteen days of the time limit is lost to vacation. School psychologists and other related service personnel are often in a school one-to-two days per week. What provides a reasonable time line to conduct a thorough evaluation by all involved parties is lost with a count of calendar days.

Forty-five days is equivalent to seven weeks. That gives a psychologist who is in a building once a week only seven opportunities to observe, assess, review records, consult with colleagues prior to arriving at placement decision. Given that we deal with children it is inappropriate for them to be subjected to full days of total assessment. We don't do this with any other high stakes examinations. Benchmarks, IOWA's, graduation exams are all spread out across several days. Shouldn't all children being tested receive those the same considerations? Some children are evaluated during the summer by psychologists. There are no teams available to determine eligibility or IEP services during the summer. We would either be continually out of compliance in summer months or be faced with refusing summer service to parents in order not to violate criteria of calendar days rather than school days.

**(6) informed consent (D) parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.**

Current procedures are that consent is voluntary until the evaluation has begun. In practice, if a parent requests us to terminate an evaluation that request is honored. This regulation puts special education teams in an ethical and legal bind. We are required to protect the child's rights to special education. How do we do that if parents withdraw consent "at any time"? If a child has been deemed eligible for special education and requiring specialized instruction, what are we to do if a parent removes the child from the program because he or she does not like the handicapping label? How do we balance the needs/rights of the child against this provision? ASPA respectfully requests DOE modify this wording to match Federal Statutes. Parents can voluntarily remove consent prior to the onset of the evaluation and prior to initial placement in special education. Once a child has been placed in special education, the child's rights should become paramount with the option of parties going to mediation or hearing to determine the appropriateness of withdrawal of the student from special education when the two parties do not agree.

**(b) A child is entitled to a surrogate parent if**

Does (4) "the child is committed to the department of Health and Social Services" negate other aspects? That is, if a parent is known and located does the child require not just become entitled to a surrogate parent?

Thank you for consideration of these comments.

Sincerely,



Susan Hooker  
School Psychologist  
Anchorage School District

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

**(6) informed consent (D) parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.**

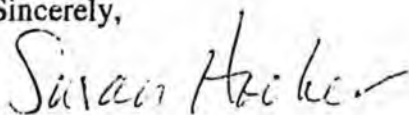
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Thank you for consideration of these comments.

Sincerely,



Susan Hooker  
School Psychologist  
Anchorage School District



## Anchorage School District

4600 DeBarr Road  
P.O. Box 196614  
Anchorage, Alaska 99519-6614  
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### SUPERINTENDENT

Carol Comeau

March 15, 2001

Dr. Shirley Holloway  
Commissioner of Education and Early Development  
Department of Education and Early Development  
Goldbelt Place  
801 West 10<sup>th</sup> Street, Suite 200  
Juneau, Alaska 99801

**Attention: Shelia Box**  
Via FAX (907) 465-4156

Commissioner Holloway:

In response to the request for review regarding proposed changes in regulation 4 AAC 52, Special Education, Gifted Children, the Anchorage School District forwards the attached comments. Please be advised that I am providing a copy of our remarks to the Anchorage School Board.

I appreciate the opportunity to forward our comments as they relate to the proposed changes in DEED regulations.

My staff and I are available to answer any questions regarding our responses and will forward any additional remarks to the proposed changes as you deem necessary.

Sincerely,

Carol Comeau  
Superintendent

CC/LW  
Attachments



ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

SUBJECT: Comments on the proposed DEED regulation 4 AAC 52, Special Education, Gifted Children:

Chapter 52 regulation changes are complex and multiple. A primary concern in the proposed language is the lack of detail in the regulations with continual reference to the federal regulations. It is not possible for an individual to read and understand the proposed state regulations unless there is a set of federal regulations utilized concurrently. This makes compliance with state law cumbersome at best and impossible for many reading the proposed regulations. The department states that the Alaska Special Education Handbook will be updated annually and will provide districts with the information that is needed to interpret and implement federal and state regulations. There are specific concerns regarding this statement as the state handbook is not a legal document and does not set a standard that is legally acceptable in a court of law as a state statute or regulation does. An example of this is 4AAC 52.120 EVALUATION. This regulation does not detail the components of an appropriate evaluation but rather references federal regulation 34 CFR 300.532-533.

Extension of the ages for early childhood developmental delay from 3-6 years of age to 3-8 years of age, will allow districts the discretion that is needed to adequately provide services to students according to their developmental levels. Many times it is difficult to properly evaluate young children ages six and seven with the standardized assessments utilized for many of the disabilities such as learning disabilities, mental retardation or emotional disturbances. This latitude will assist many IEP teams to appropriately evaluate and provide services to young children.

**4AAC52140-Individualized Education Program**

*(g)-This change requires districts to have the complete responsibility to assure that an IEP for a child placed in out of district residential is developed and implemented. The state needs to have joint responsibility and assist the district in the implementation. The districts are not aware of the quality of operations or compliance issues regarding out of state residential programs. Assistance from the state is very important.*

#### **4 AAC 52.142-Individualized Family Service Plan-**

*(a)-The ability to accept an IFSP for children transitioning from Infant Learning to the LEA is going to assist districts and families. We advocate that the language be clarified to add an explanation of the differences between the IFSP and the IEP. School teams and parents may then make a decision as to which plan is best for the child and when it is best to change from one plan to another.*

#### **4 AAC 52.144-Extended School Year**

The language of this regulation is confusing in reference to the federal regulation. It will be difficult for districts and parents to implement as the conditions an IEP team needs to consider for ESY are not stipulated.

#### **4AAC 52.150 Placement**

The language of this regulation clarifies the process for determining placement options to include options out of district and out of state. This language is appreciated and will be helpful.

#### **4AAC52.155-Unilateral Placement by Parents or Other Custodians**

This language needs to reflect federal regulations by adding the need for parents to give a district 10 days prior notice before removing a student from a public school. The parent may also advise the public school during an IEP meeting that they intend to make this placement and why they believe the district cannot provide FAPE. This language needs to be added.

#### **4AAC52.160-Application For Assistance From the State**

This option needs to be available for districts to apply for assistance for extraordinary costs for students certified for special education. If a student requires out of state residential service this is extremely costly at over \$100,000 per year. If the parents qualify for Medicaid or if the child is in state custody, then cost sharing is available. If these supports are not available, the total cost rests with the district. This is an unfair burden and may inappropriately influence an IEP team's decision regarding appropriate residential supports needed for a child with disabilities. The intensive funding for a child in residential does not begin to cover the total costs for this placement.

#### **4AAC52.240-Provision of Services**

Language needs to be added to this section that reflects federal language referring to third party payee. The federal regulations, 30CFR300-142-Methods of ensuring services, encourages interagency agreements, obligations of non-educational public agencies, Medicaid reimbursements and coverage by public insurance. LEAs are challenged to fund the necessary supports and services needed to provide educational benefit for students with disabilities. Any and all assistance in funding of these services will assist the districts.