

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Eric Fry, Department of Education and Early Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: August 22, 2016

RE: Filed Permanent Regulations: Board of Education and Early Development

Board of Education and Early Development Regulation re: 4 AAC 06.065(a):
Challenging Courses (4 AAC 06.065(a))

Attorney General File:	JU2015200754
Regulation Filed:	August 19, 2016
Effective Date:	September 18, 2016
Print:	219, October 2016

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE STATE BOARD OF EDUCATION
& EARLY DEVELOPMENT

The attached page of regulations, dealing with challenging courses, is certified to be a correct copy of the regulation changes that the State Board of Education & Early Development adopted at its December 11, 2015, meeting, under the authority of AS 14.07.020 and AS 14.07.060 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the State Board of Education & Early Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 1/22/16



Mike Hanley, Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

August 19, 20 16 at 855A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: September 18, 2016

Register: 219, October 2016

Register 219, October 2016 EDUCATION AND EARLY DEV.

4 AAC 06.065(a) is amended to read:

(a) ^{ALL CAPS} [Not later than July 1, 2015, ^{to bold/ol} a district shall provide students in grades nine through
12 [SECONDARY STUDENTS] with the opportunity to challenge courses offered in
mathematics, language arts, science, social studies, and world languages by demonstrating
mastery of the course material. A district shall provide this opportunity at least twice annually. A
district shall develop standards regarding the degree of mastery necessary to successfully
challenge a course. The method of assessment used by a district must include a written
assessment. A district shall develop a written policy regarding the grading or evaluation of
successfully challenged courses. A district may charge a fee to cover the costs of development
and administration of the assessment.

(Eff. 12/26/2014, Register 212; am 9 ^{18/2016} Register 219)

Authority: AS 14.03.073

AS 14.07.020

AS 14.07.060

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Byron Mallott
Lieutenant Governor

Date: August 17, 2016

File No.: JU2015200754

Tel. No.: 465-3600

From: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Board of Education and Early
Development Regulation re: 4 AAC
06.065(a): Challenging Courses

We have reviewed the attached State Board of Education and Early Development changes to this regulation.

The Department of Law has reviewed the attached regulation against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum and the attached memorandum constitute the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulation.

The regulations were adopted by the board after the close of the public comment period. The regulation concerns a school district's duty to provide an opportunity for students in grades 9-12 to challenge certain courses.

The public notice and the certification of adoption both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP:jc

cc: Hon. Dr. Michael Johnson, Commissioner
Department of Education and Early Development

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Dr. Michael Johnson
Commissioner
Department of Education and Early
Development

Date: August 17, 2016

File No.: JU2015200754

Tel. No.: 465-3600

From: Susan R. Pollard 
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Board of Education and Early
Development Regulations re: 4 AAC
06.065(a): Challenging Courses

Under AS 44.62.060, we have reviewed the State Board of Education and Early Development changes to this regulation and approve the changes for filing by the lieutenant governor.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The public notice and the certification of adoption both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SRP:jc

Enclosures

cc: Eric Fry, Regulations Contact
Department of Education and Early Development

Shawn Sypeck, Executive Secretary
State Board of Education and Early Development

Luann B. Weyhrauch, Assistant Attorney General
Labor and State Affairs Section

NOTICE OF PROPOSED CHANGES ON CHALLENGING COURSES
IN THE REGULATIONS OF
THE DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

The Department of Education & Early Development proposes to adopt regulation changes in 4 AAC 06.065(a) of the Alaska Administrative Code, dealing with challenging courses, including the following:

1. 4 AAC 06.065(a) is proposed to be changed by replacing “secondary students” with “students in grades nine through 12” to conform the regulation to the similar change in state law under Secs. 2-3, ch. 2, SSSLA 2015. Under that legislation, school districts are required to provide an opportunity to challenge courses only to students in grades 9-12, rather than to “secondary school” students. Under state law, a “secondary school” may include grades seven or eight.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Commissioner’s Office, Department of Education & Early Development, Attn: Regulations Review, 801 West Tenth Street, Suite 200, PO Box 110500, Juneau, Alaska 99811-0500. Additionally, the Department of Education & Early Development will accept comments by facsimile at (907) 465-4156; by electronic mail at shawn.sypeck@alaska.gov; and at <https://education.alaska.gov/regs/comment.cfm>. Comments also may be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on October 30, 2015.

Oral comments may be submitted at a hearing to be held on December 10, 2015, at the Anchorage School District’s board room at 5530 E. Northern Lights Blvd., Anchorage, Alaska. The hearing will be held from 8:15 a.m. to 9:00 a.m. and might be extended to accommodate those present before 7:55 a.m. who did not have an opportunity to comment.

You also may comment at this hearing, during this time only, via the Legislative Information Office streaming by calling **1-844-586-9085 if you are outside of Juneau. For participation from Juneau, call 586-9085. This meeting will be streamed through the Legislative Information Office over <http://www.alaskalegislature.tv/> beginning at 8:00 a.m. December 10, 2015, and 8:30 a.m. December 11, 2015 (audio only).**

Persons also may comment at the oral hearing via the following Legislative Information Offices: Anchorage, 716 W 4th Ave., Suite 100; Barrow, 119 Bank Building.; Bethel, 301 Willow Street; Fairbanks, 1292 Sadler Way, Suite 308; Juneau, Suite 111, Terry Miller Building, State Capitol; Kenai, 145 Main Street Loop, Suite 217; Ketchikan, 1900 First Avenue, Suite 310; Kodiak, 305 Center Ave., Suite 1; Kotzebue, 373 2nd Street, Pillautuq Centre; Mat-Su, 600 East Railroad Ave.; Nome 103 Front Street; Seward, 302 Railway, Suite 107; Sitka, 201 Katlian Street, Suite 103; Unalaska, 029 Airport Beach Road., No. 03-01.

You may submit written questions relevant to the proposed action to Shawn Sypeck at

shawn.sypeck@alaska.gov or Department of Education & Early Development, Attn: Shawn Sypeck, 801 West Tenth Street, Suite 200, PO Box 110500, Juneau, Alaska 99811-0500. The questions must be received at least 10 days before the end of the public comment period. The Department of Education & Early Development will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and <https://education.alaska.gov/regs/comment.cfm>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Shawn Sypeck at (907) 465-2802 or shawn.sypeck@alaska.gov not later than December 4, 2015, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System, at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Shawn Sypeck at shawn.sypeck@alaska.gov or 907-465-2851.

After the public comment period ends, the Department of Education & Early Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 14.07.020, AS 14.07.060

Statutes being implemented, interpreted, or made specific: AS 14.03.073

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: 9/23/15



Les Morse, Deputy Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Education & Early Development
2. General subject of regulation: Challenging courses
3. Citation of regulation (may be grouped): 4 AAC 06.065(a)
4. Department of Law file number, if any: JU2015200754
5. Reason for the proposed action:

() Compliance with federal law or action (identify): _____
(X) Compliance with new or changed state statute
() Compliance with federal or state court decision (identify): _____
() Development of program standards
() Other (identify): _____

6. Appropriation/Allocation: None
7. Estimated annual cost to comply with the proposed action to:

A private person: No cost
Another state agency: No cost
A municipality: No cost

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>16</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ _____
Capital Cost	\$ <u>0</u>	\$ _____
1002 Federal receipts	\$ <u>0</u>	\$ _____
1003 General fund match	\$ <u>0</u>	\$ _____
1004 General fund	\$ <u>0</u>	\$ _____
1005 General fund/ program	\$ <u>0</u>	\$ _____
Other (identify)	\$ <u>0</u>	\$ _____

9. The name of the contact person for the regulation:

Name: Marcy Herman
Title: Legislative Liaison
Address: 801 W. 10th Street, Suite 200, Juneau, Alaska
Telephone: 907-465-2803
E-mail address: marcy.herman@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☐ Other (identify): _____

11. Date: September 10, 2015 Prepared by: Eric Fry

Name (printed): Eric Fry
Title (printed): Public Information Officer
Telephone: 907-465-2851

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Shawn Sypeck, Executive Secretary to the State Board of Education & Early Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed repeal of 4 AAC 06.065(a) challenging courses has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Education Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

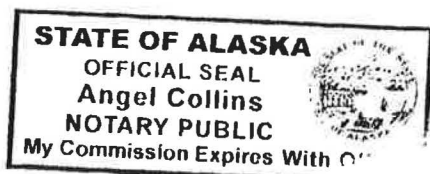
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 12/21/15

Shawn Sypeck
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on 12/21/15

Angel Collins
Notary Public in and for the State of Alaska



AFFIDAVIT OF ORAL HEARING

I, Shawn Sypeck, Executive Secretary to the State Board of Education & Early Development, being sworn, state the following:

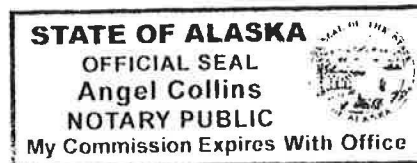
On December 10, 2015, at 8:15 a.m. in the Anchorage School District's board room at 5530 East Northern Lights Boulevard in Anchorage, Alaska, a public hearing was held under AS 44.62.210 for the purpose of taking oral testimony in connection with the adoption of changes to 4 AAC 06.065(a) challenging courses, and via telephone by 1-844-586-9085, and through the following LIO sites: Anchorage, 716 W 4th Ave., Suite 100; Barrow, 119 Bank Building.; Bethel, 301 Willow Street; Fairbanks, 1292 Sadler Way, Suite 308; Juneau, Suite 111, Terry Miller Building, State Capitol; Kenai, 145 Main Street Loop, Suite 217; Ketchikan, 1900 First Avenue, Suite 310; Kodiak, 305 Center Ave., Suite 1; Kotzebue, 373 2nd Street, Pillautuq Centre; Mat-Su, 600 East Railroad Ave.; Nome 103 Front Street; Seward, 302 Railway, Suite 107; Sitka, 201 Katlian Street, Suite 103; Unalaska, 029 Airport Beach Road., No. 03-01.

Date: 3/18/16

Shawn Sypeck
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on
3/18/16

Angel Collins
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Shawn Sypeck, Executive Secretary to the State Board of Education & Early Development, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Education & Early Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Education & Early Development regulation on student assessment.

Date: 12/21/15

Shawn Sypeck

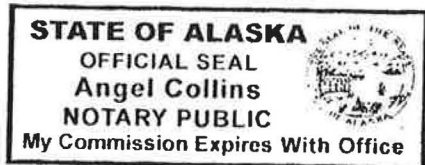
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on

12/21/15.

Angel Collins

Notary Public in and for the State of Alaska



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OCT 03 2015

Commissioner's Office
AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

KAYLA LAVEA

being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

September 26, 2015

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Kayla Lavea

Subscribed and sworn to before me
this 28th day of September, 2015

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019

Notary Public
BRITNEY L. THOMPSON
State of Alaska

My Commission Expires Feb 23, 2019

**NOTICE OF PROPOSED CHANGES ON CHALLENGING COURSES
IN THE REGULATIONS OF
THE DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT**

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1. 4 AAC 06.065(a) is proposed to be changed by replacing "secondary students" with "students in grades nine through 12" to conform the regulation to the similar change in state law under Secs. 2-3, ch. 2, SSSLA 2015. Under that legislation, school districts are required to provide an opportunity to challenge courses only to students in grades 9-12, rather than to "secondary school" students. Under state law, a "secondary school" may include grades seven or eight.

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Oral comments may be submitted at a hearing to be held on December 10, 2015, at the Anchorage School District's board room at 5530 E. Northern Lights Blvd., Anchorage, Alaska. The hearing will be held from 8:15 a.m. to 9:00 a.m. and might be extended to accommodate those present before 7:55 a.m. who did not have an opportunity to comment.

You also may comment at this hearing, during this time only, via the Legislative Information Office streaming by calling 1-844-586-9085 if you are outside of Juneau. For participation from Juneau, call 586-9085. This meeting will be streamed through the Legislative Information Office over <http://www.alaskalegislature.tv/> beginning at 8:00 a.m. December 10, 2015, and 8:30 a.m. December 11, 2015 (audio only).

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System, at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Shawn Sypeck at shawn.sypeck@alaska.gov or 907-465-2851.

After the public comment period ends, the Department of Education & Early Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 14.07.020, AS 14.07.090

Subject to prior sale. Pricing subject to factory incentives.

AFFIDAVIT OF BOARD ACTION

I, Shawn Sypeck, Executive Secretary to the State Board of Education & Early Development, being duly sworn, state the following:

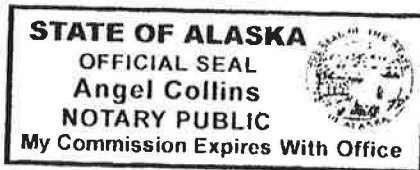
The attached motion dealing with challenging courses was passed by the State Board of Education & Early Development during its December 11, 2015, meeting.

Date: 12/21/15

Shawn Sypeck
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on

12/21/15.



Angel Collins
Notary Public in and for the State of Alaska

State Board of Education and Early Development Meeting

December 11, 2015

Excerpt from Unapproved Minutes

Board member Barbara Thompson moved and member John Harmon seconded the following motion:

After considering all public comment, I move the State Board of Education & Early Development adopt the proposed amendments to 4 AAC 06.065 Challenging courses.

The motion carried unanimously.