

Byron Mallott
Lieutenant Governor
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Anchorage, Alaska 99501
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Eric Fry, Department of Education and Early Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: August 30, 2016

RE: Filed Permanent Regulations: Board of Education and Early Development
Repeal of educator pilot program (4 AAC 19.010(k))

| | |
|------------------------|--------------------|
| Attorney General File: | JU2016200062 |
| Regulation Filed: | August 30, 2016 |
| Effective Date: | September 29, 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 AND EARLY DEVELOPMENT

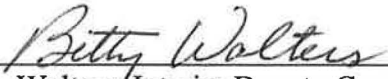
The attached one page of regulations, dealing with educator evaluation, is certified to be a correct copy of the regulation changes that the state Board of Education and Early Development adopted at its March 22, 2016, meeting, under the authority of AS 14.07.020, 14.07.060, and AS 14.20.149 and after 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 and 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: August 23, 2016



Betty Walters, Interim Deputy Commissioner
Department of Education and Early Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on August 30, 2016, at 1145 A .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: September 29, 2016

Register: 219, October 2016

Register 219 October 2016 EDUCATION AND EARLY DEV.

4 AAC 19.010(k) is repealed: *(((Because 4 AAC 19.010(k) is being repealed, the repealed language need not be displayed.)))*

(k) ~~A SCHOOL DISTRICT SHALL IMPLEMENT A PILOT PROGRAM FOR THE INCORPORATION OF STUDENT LEARNING DATA. DURING THE 2015 - 2016 SCHOOL YEAR, STUDENT LEARNING DATA WILL NOT BE INCORPORATED INTO THE DISTRICT'S EVALUATION SYSTEM. UNDER THE PILOT PROGRAM, THE DISTRICT SHALL~~

(1) DEVELOP PILOT STANDARDS FOR PERFORMANCE BASED ON STUDENT LEARNING DATA;

(2) CONFER WITH EDUCATORS WHO ARE SUBJECT TO THE EVALUATION SYSTEM;

(3) DEVELOP PROCEDURES BASED ON OBJECTIVE AND MEASURABLE CRITERIA TO ENSURE THAT DATA USED TO MEASURE PERFORMANCE UNDER THE STANDARDS ACCURATELY REFLECT STUDENT GROWTH BASED ON EDUCATOR PERFORMANCE; AND

(4) EVALUATE WHETHER A TEACHER'S OR ADMINISTRATOR'S PERFORMANCE ON THE DISTRICT'S STANDARDS FOR STUDENT LEARNING DATA IS EXEMPLARY, PROFICIENT, BASIC, OR UNSATISFACTORY AND SHARE THIS EVALUATION WITH THE EDUCATOR.]

Repealed 9/29/2016. (Eff. 8/30/75, Register 55; am 2/16/2013, Register 205; am 10/9/2015, Register 216; am 9/29/2016, Register 219)

Authority: AS 14.07.020

AS 14.07.060

AS 14.20.149

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: August 30, 2016

File No.: JU2016200062

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Repeal of educator evaluation pilot
program (4 AAC 19.010(k))

We have reviewed the attached regulations from the State Board of Education and Early Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated August 30, 2016 from the Regulations Attorney. The regulations repeal a provision that had established a pilot program that would develop a system for the incorporation of student learning data in educator evaluations.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The January 26, 2016 public notice and the August 23, 2016 certification of adoption order 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 a technical correction to conform the regulations in accordance with AS 44.62.125. The correction is shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

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 30, 2016

File No.: JU2016200062

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Repeal of educator evaluation pilot
program (4 AAC 19.010(k))

Under AS 44.62.060, we have reviewed the attached changes by the State Board of Education and Early Development and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated August 30, 2016 from the Regulations Attorney.

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

The January 26, 2016 public notice and the August 23, 2016 certification of adoption order 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 a technical correction to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Eric Fry, Regulations Contact
Department of Education and Early Development

Paul Prussing, Acting Director
Division of Teaching and Learning Support
Department of Education and Early Development

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

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: August 30, 2016

FILE NO.: JU2016200062

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
& Regulations Attorney
Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority
regarding regulations review on
State Board of Education and
Early Development regulations
re: repeal of educator evaluation
pilot program (4 AAC 19.010(k))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General
Legislation/Regulations Section—Juneau

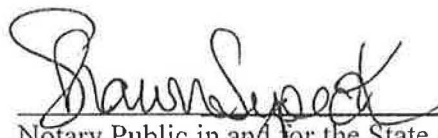
DELEGATION OF AUTHORITY

Under as 44.17.010, the authority and responsibility for adopting regulations of the Department of Education & Early Development under the Alaska Administrative Procedure Act are delegated to Betty Walters, Interim Deputy Commissioner.

Date: 7/16/16


Dr. Michael Johnson, Commissioner

Subscribed and sworn to before me at Juneau, AK on
July 6, 2016


Notary Public in and for the State of Alaska

STATE OF ALASKA
OFFICIAL SEAL
Shawn Sypeck
NOTARY PUBLIC
My Commission Expires:



with office

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 educator evaluations was passed by the State Board of Education & Early Development during its March 22, 2016, meeting.

Date: 4/5/16

Shawn Sypeck

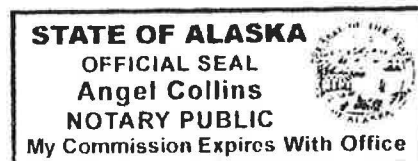
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on

April 5, 2016

Angel Collins

Notary Public in and for the State of Alaska



State Board of Education and Early Development Meeting

March 22, 2016

Excerpt from Unapproved Minutes

Board member Sue Hull moved and member Rebecca Himschoot seconded the following motion:

After considering all public comment, I move the State Board of Education & Early Development repeal 4 AAC 19.010(k) Purpose and scope of evaluations.

The motion passed unanimously.

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 19.010(k) educator evaluations 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.

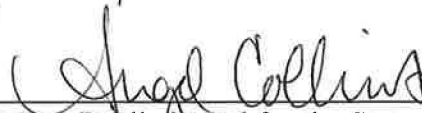
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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

Date: 4/5/16

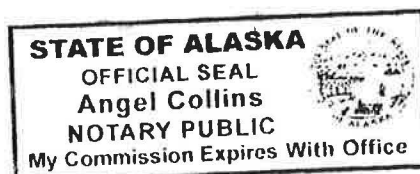


Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on April 5, 2016.



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 March 21, 2016, at 8:15 a.m. in the state board room at 801 West 10th Street, Juneau, 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 educator evaluations, 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; Cordova, 418 First Street, Suite A; Delta Junction, Colombo Building, Suite 204, 1380 Richardson Highway; Dillingham, Kangliqutaq Building; Fairbanks, 1292 Sadler Way, Suite 308; Glennallen, 186 Glenn Highway; Homer, 270 West Pioneer Avenue, Suite B; 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; Petersburg, 11B Gjoa Street; Seward, 302 Railway, Suite 107; Sitka, 201 Katlian Street, Suite 103; Tok, West First Street, UAF-Tok Unit 1; Unalaska, 029 Airport Beach Road., No. 03-01; Valdez, State Office Building, Room 13; Wrangell, 223 Front Street.

Date: _____

4/5/16

Shawn Sypeck

Shawn Sypeck, Executive Secretary

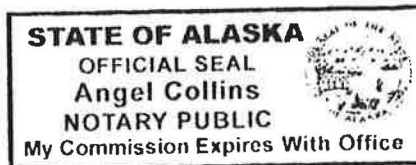
Subscribed and sworn to before me at _____ on _____

Juneau, Ak

April 5, 2016

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 and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Education & Early Development regulation on educator evaluation.

Date: 4/5/16

Shawn Sypeck

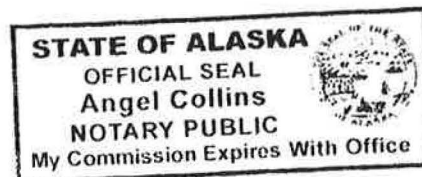
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Juneau, AK on

April 5, 2016.

Angel Collins

Notary Public in and for the State of Alaska



NOTICE OF PROPOSED CHANGES RELATED TO EDUCATOR EVALUATIONS IN
REGULATIONS OF THE DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

The Department of Education & Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code to repeal the requirement that districts implement a pilot program related to the incorporation of student learning data in educator evaluations.

Currently, 4 AAC 19.010(k), which took effect October 9, 2015, requires districts to implement a pilot program to develop a system for the use of student learning data in educator evaluations. The intent of this change is to repeal the pilot program requirement under 4 AAC 19.010(k), with the repeal taking effect for the 2015-2016 school year.

The Department of Education & Early Development invites the public to submit written comments during the written comment period which begins with the date of this notice and ends on February 26 at 4:30 p.m. The written comment period closes in advance of the meeting of the State Board of Education and Early Development at which the board will consider the adoption of the proposed regulations. This allows the Department of Education & Early Development an opportunity to prepare changes based on written comment and to distribute any proposed changes to the board for its consideration prior to the meeting.

You may comment in writing 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.

You may also submit written comments by facsimile at (907) 465-4156; by electronic mail to eric.fry@alaska.gov; and online at the website of the Department of Education and Early Development at <https://education.alaska.gov/regs/comment.cfm>. Written comments also may be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link.

All written comments must be received not later than 4:30 p.m. on February 26.

After the written comment period has ended, you may submit oral comments to the State Board of Education & Early Development at a hearing to be held by the board on March 21, 2016, at the State Board of Education & Early Development's first floor board room at 801 West 10th Street, Juneau, Alaska. The hearing will be held from 8:15 a.m. to 9:00 a.m. but may be extended to accommodate those present before 7:55 a.m. who have not had an opportunity to comment before 9:00 a.m.

You also may submit oral comments 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. March 21, 2016, and 8:30 a.m. March 22, 2016 (audio only).

You also may submit oral comments at this hearing via the following Legislative Information Offices: Anchorage, 716 W 4th Ave., Suite 100; Barrow, 119 Bank Building.; Bethel, 301 Willow Street; Cordova, 418 First Street, Suite A; Delta Junction, Colombo Building, Suite 204, 1380 Richardson Highway; Dillingham, Kangliqutaq Building; Fairbanks, 1292 Sadler Way, Suite 308; Glennallen, 186 Glenn Highway; Homer, 270 West Pioneer Avenue, Suite B; 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; Petersburg, 11B Gjoa Street; Seward, 302 Railway, Suite 107; Sitka, 201 Katlian Street, Suite 103; Tok, West First Street, UAF-Tok Unit 1; Unalaska, 029 Airport Beach Road., No. 03-01; Valdez, State Office Building, Room 13; Wrangell, 223 Front Street.

You may submit written questions relevant to the proposed action to Eric Fry at eric.fry@alaska.gov or the Department of Education & Early Development, Attn: Eric Fry, 801 West 10th Street, Suite 200, PO Box 110500, Juneau, Alaska 99811-0500. If a question is relevant to the proposed change in the regulations and the question is received by February 17, 2016, which is 10 days before the end of the public comment period, the department will make a good-faith effort to answer the question 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 on the website of the Department of Education and Early Development at <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 March 11, 2016, to ensure that any necessary accommodation can be provided.

Copies of the proposed regulation changes are available on the Alaska Online Public Notice System, on the website of the Department of Education and Early Development at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Eric Fry at eric.fry@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 14.07.060

Statutes being implemented, interpreted, or made specific: AS 14.07.020, AS 14.20.149

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

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Education & Early Development
2. General subject of regulation: teacher evaluation
3. Citation of regulation: 4 AAC 19.010(k)
4. Department of Law file number: JU2016200062
5. Reason for the proposed action:
 - ☐ Compliance with federal law or action
 - ☐ Compliance with new or changed state statute
 - ☐ Compliance with federal or state court decision
 - ☒ Development of program standards
 - ☐ Other:
6. Appropriation/Allocation: 0
7. Estimated annual costs in the aggregate to comply with the proposed action to:
 - Private Persons: 0
 - Other State Agencies: 0
 - Municipalities: 0.
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

| | Initial Year FY 2017 | Subsequent Years |
|-------------------------------------|-------------------------|---------------------|
| Operating Cost | \$ 0 | \$ 0 |
| Capital Cost | \$ 0 | \$ 0 |
| 1002 Federal receipts | \$ 0 | \$ 0 |
| 1003 General fund match | \$ 0 | \$ 0 |
| 1004 General fund | \$ 0 | \$ 0 |
| 1005 General fund/ program | \$ 0 | \$ 0 |
| 1037 General fund/ mental health | \$ 0 | \$ 0 |
| Other | \$ 0 | \$ 0 |

9. Contact person for the regulations:
 - Name: Susan McCauley
 - Title: Director of Teaching & Learning Support
 - Address: Department of Education & Early Development, 801 W. 10th Street, Suite 200, P.O. Box 110500, Juneau, Alaska 99811-0500

Telephone: (907) 465-2857

E-mail address: susan.mccauley@alaska.gov

10. The origin of the proposed action:
- (X) Staff of state agency
 - Federal government
 - General public
 - Petition for regulation change
 - Other:

11. Date: January 26, 2016

Prepared by:



Name: Les Morse
Title: Deputy Commissioner
Telephone: 907-465-8691

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0001378913
\$625.01

JAN 29 2016

Commissioner's Office

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

Emma Dunlap
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

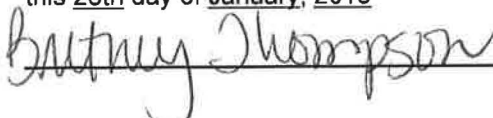
January 26, 2016

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



Subscribed and sworn to before me
this 26th day of January, 2016



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 RELATED TO EDUCATOR EVALUATIONS IN REGULATIONS OF THE DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT

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Currently, 4 AAC 19.010(k), which took effect October 9, 2015, requires districts to implement a pilot program to develop a system for the use of student learning data in educator evaluations. The intent of this change is to repeal the pilot program requirement under 4 AAC 19.010(k), with the repeal taking effect for the 2015-2016 school year.

The Department of Education & Early Development invites the public to submit written comments during the written comment period which begins with the date of this notice and ends on February 26 at 4:30 p.m. The written comment period closes in advance of the meeting of the State Board of Education and Early Development at which the board will consider the adoption of the proposed regulations. This allows the Department of Education & Early Development an opportunity to prepare changes based on written comment and to distribute any proposed changes to the board for its consideration prior to the meeting.

You may comment in writing 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.

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All written comments must be received not later than 4:30 p.m. on February 26.

After the written comment period has ended, you may submit oral comments to the State Board of Education & Early Development at a hearing to be held by the board on March 21, 2016, at the State Board of Education & Early Development's first floor board room at 801 West 10th Street, Juneau, Alaska. The hearing will be held from 8:15 a.m. to 9:00 a.m. but may be extended to accommodate those present before 7:55 a.m. who have not had an opportunity to comment before 9:00 a.m.

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You may submit written questions relevant to the proposed action to Eric Fry at eric.fry@alaska.gov or the Department of Education & Early Development, Attn: Eric Fry, 801 West 10th Street, Suite 200, PO Box 110500, Juneau, Alaska 99811-0500. If a question is relevant to the proposed change in the regulations and the question is received by February 17, 2016, which is 10 days before the end of the public comment period, the department will make a good-faith effort to answer the question 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 on the website of the Department of Education and Early Development at <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 Syeck at (907) 465-2802 or shawn.syeck@alaska.gov not later than March 11, 2016, to ensure that any necessary accommodation can be provided.

Copies of the proposed regulation changes are available on the Alaska Online Public Notice System, on the website of the Department of Education and Early Development at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Eric Fry at eric.fry@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 14.07.060

Statutes being implemented, interpreted, or made specific: AS 14.07.020, AS 14.20.149

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

Published: January 26, 2016