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Lieutenant Governor  
State Capitol  
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Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Eric Fry  
Department of Education & Early Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor   
465.4081

**DATE:** July 21, 2017

**RE:** Filed Permanent Regulations: Department of Education & Early Development  
  
State Board of Education and Early Development regulations re: repeal of state requirements for physical examinations of school employees (4 AAC 06.050)

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Attorney General File:	JU2017200190
Regulation Filed:	7/20/2017
Effective Date:	8/19/2017
Print:	223, October 2017

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

The attached one page of regulations, dealing with physical examinations, are certified to be a correct copy of the regulation changes that the State Board of Education and Early Development adopted at its June 8, 2017, 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 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: June 21, 2017

Sana Efird  
Sana Efird, Deputy Commissioner

Claire Richardson for FILING CERTIFICATION

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

July 20, 2017 at 3:04 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Claire Richardson for  
Lieutenant Governor Mallott

Effective: August 19, 2017

Register: 223, October 2017

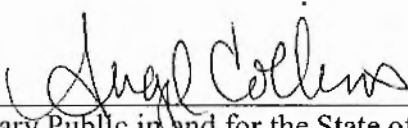
## DELEGATION OF AUTHORITY

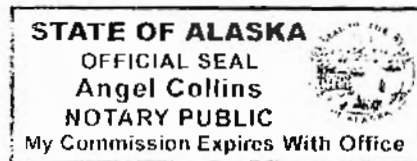
Under AS 44.17.010, the authority and responsibility for adopting regulations of the Department of Education & Early Development under the Alaska Administrative Procedure Act are delegated to Sana Efird, Deputy Commissioner.

Date: 12/13/16

  
\_\_\_\_\_  
Dr. Michael Johnson, Commissioner

Subscribed and sworn to before me at Juneau, AK on  
December 13, 2016.

  
\_\_\_\_\_  
Notary Public in and for the State of Alaska




**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**Claire Richardson, Special Assistant**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7<sup>th</sup> 2015.**



  
.....

**BYRON MALLOTT  
LIEUTENANT GOVERNOR**

4 AAC 06.050 is repealed:

*111 margins should be left-justified; rather than full-justified*

**4 AAC 06.050. Physical examinations of school employees.** Repealed. (Eff. 10/9/66, Register 24; am 10/10/69, Register 29; am 5/30/71, Register 38; am 7/9/72, Register 42; am 10/4/73, Register 47; am 5/10/78, Register 66; am 6/10/83, Register 86; am 8/30/86, Register 99; am 9/1/2006, Register 179; repealed 8/19/2017, Register 223)

~~Authority: AS 14.07.020 AS 14.07.060~~

# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: July 19, 2017

File No.: JU2017200190

Tel. No.: 465-3600

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

Re: State Board of Education and Early  
Development regulations re: repeal of  
state requirements for physical  
examinations of school employees  
(4 AAC 06.050)

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 general delegation dated December 5, 2014 from the Regulations Attorney. Reflecting that AS 14.30.075 (physical examinations for teachers)--enacted under sec. 17, ch. 54, SLA 2016--gives school districts the discretion to require physical examinations of teachers as conditions of employment, the regulations repeal state-level requirements for physical examinations of school employees.

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 April 12, 2017 public notice and the June 21, 2017 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.

Hon. Byron Mallott, Lieutenant Governor  
Our file: JU2017200190

July 19, 2017  
Page 2

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

SCW

cc w/enc: (via email)

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

Shawn Syeck, Regulations Contact  
Department of Education and Early Development

Rebecca E. Hattan, Assistant Attorney General  
Labor and State Affairs Section

# MEMORANDUM

State of Alaska  
Department of Law

**To:** The Honorable Byron Mallott  
Lieutenant Governor

**Date:** December 5, 2014

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

**Tel. No.:** 465-3600

**Re:** Delegation of Authority for  
Regulations Matters

In my absence, when I am traveling or otherwise out of the office, Senior Assistant Attorney General and Assistant Regulations Attorney Steven C. Weaver is designated as Acting Regulations Attorney. Under this delegation, Steve Weaver has my full authority under AS 44.62 to conduct the legal review of regulations or take necessary actions as Acting Regulations Attorney.

This delegation is effective immediately and is in effect until revoked by me.

If you have any questions, please let me know.

SRP/pav

cc: Scott Meriwether, AAC Coordinator  
Office of the Lt. Governor

Jim Cantor, Deputy Attorney General  
Civil Division

Nancy Gordon, Statewide Office Chief  
Civil Division

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

Cori Mills, Assistant Attorney General  
Legislation and Regulations Section

Linda Miller, Legal Editor  
Legislation and Regulations Section

Lisa Rickey, Legal Editor  
Legislation and Regulations Section



NOTICE OF PROPOSED CHANGES TO PHYSICAL EXAMINATIONS  
IN THE REGULATIONS OF  
THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

**BRIEF DESCRIPTION:** Repeals a state requirement that school district employees undergo a physical examination once every three years.

The Department of Education and Early Development proposes to adopt regulation changes to Title 4 of the Alaska Administrative Code dealing with physical examinations, including the following:

4 AAC 06.050 is proposed to be repealed, to conform to a new state statute, AS 14.30.075. The intended effect of the repeal is that the state will not require school district employees to undergo physical examinations. School districts, however, are allowed to require such physical examinations as a condition of employment.

The Department of Education and 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 May 12, 2017, 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 and 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 and Early Development, Attn: Regulations Review, 801 West Tenth Street, Suite 200, PO Box 110500, Juneau, Alaska 99811-0500.

You also may submit written comments by facsimile at (907) 465-4156; by electronic mail to [eric.fry@alaska.gov](mailto: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 May 12, 2017**

**After the written comment period has ended, you may submit oral comments to the State Board of Education and Early Development at a hearing to be held by the board on June 7, 2017, by audio-conference.** The hearing will be held from 9:15 a.m. to 10:15 a.m. but may be extended to accommodate those present before 9:00 a.m. who have not had an opportunity to comment before 10:15 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 9:00 a.m. June 7, 2017, (audio only).

You also may submit oral comment by visiting your local Legislative Information Office (LIO). The following LIO's will participate: Anchorage, 716 W 4<sup>th</sup> Ave., Suite 100; Bethel, 301 Willow St.; Fairbanks, 1292 Sadler Way, Suite 308; Juneau, Room 111 Terry Miller Bldg.; Kenai, 145 Main St. Loop, Suite 217; Ketchikan, 1900 First Ave., Suite 310; Kodiak, 305 center Ave., Suite 1; Mat-Su, 600 E Railroad Ave.; Nome 103 Front St.; Seward, 302 Railway Suite 107; and Sitka, 201 Katlian St., Suite 103.

You may submit written questions relevant to the proposed action to Eric Fry at [eric.fry@alaska.gov](mailto:eric.fry@alaska.gov) or the Department of Education and 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 May 3, 2017, 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 and 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/regg/comment.cfm>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Shawn Sypeck at (907) 465-2802 or [shawn.sypeck@alaska.gov](mailto:shawn.sypeck@alaska.gov) not later than June 1, 2017, 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/regg/comment.cfm>, and by contacting Eric Fry at [eric.fry@alaska.gov](mailto:eric.fry@alaska.gov) or 907-465-2851.

After the public comment period ends, the Department of Education and 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 14.07.020, AS 14.07.060

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

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Education and Early Development
2. General subject of regulation: physical exams
3. Citation of regulation (may be grouped): 4 AAC 06.050
4. Department of Law file number, if any: JU2017200190

5. Reason for the proposed action:

- ☐ Compliance with federal law or action (identify):  
☒ 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: none.  
Another state agency: none.  
A municipality: none.

8. Cost of implementation to the state agency and available funding (in thousands of dollars): none

	Initial Year FY 18	Subsequent Years
Operating Cost	\$ 0	\$
Capital Cost	\$ 0	\$
1002 Federal receipts	\$ 0	\$
1003 General fund match	\$ 0	\$
1004 General fund	\$ 0	\$
1005 General fund/ program	\$ 0	\$
Other (identify)	\$ 0	\$

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

Name: Sondra Meredith  
Title: Administrator, Teacher Quality and Certification  
Address: 801 W. 10<sup>th</sup> Street, Suite 200, Juneau, Alaska  
Telephone: 907-465-2803  
E-mail address: Sondra.meredith@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: April 10, 2017

Prepared by: Eric Fry

Name: Eric Fry  
Title: Information Officer/Regulations Contact  
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 and Early Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed regulation changes to 4 AAC 06.050 physical examinations 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: 6/16/17

Shawn Sypeck

Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at

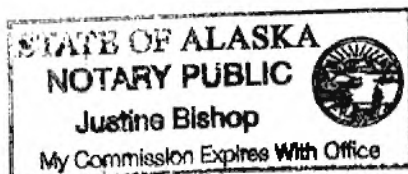
Juneau, Alaska

on

June 16, 2017

Justine Bishop

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 June 7, 2017, at 9:15 a.m. by audio conference and in the state board room at 801 West 10<sup>th</sup> 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 physical examinations, and via telephone by 1-844-586-9085, and through the following LIO sites: Anchorage, 716 W 4<sup>th</sup> Ave., Suite 100; 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; Mat-Su, 600 East Railroad Ave.; Nome, 103 Front Street; Seward, 302 Railway, Suite 107; and Sitka, 201 Katlian Street, Suite 103.

Date: \_\_\_\_\_

6/16/17

Shawn Sypeck

Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at \_\_\_\_\_ on

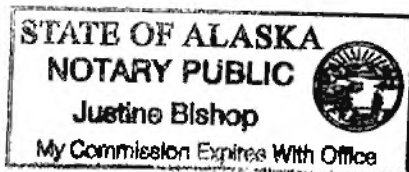
Juneau, Alaska

\_\_\_\_\_

June 16, 2017.

Justine Bishop

Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

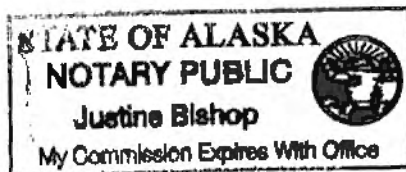
I, Shawn Sypeck, Executive Secretary to the State Board of Education and Early Development, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Education and 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 and Early Development regulation on physical examinations. The Department of Education and Early Development did not receive any factual or other substantive information that was submitted orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Education and Early Development regulation on physical examinations.

Date: 6/21/17

Shawn Sypeck  
Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at Tuneau, Alaska on  
June 21, 2017



Justine Bishop  
Notary Public in and for the State of Alaska



# AFFIDAVIT OF PUBLICATION

This meeting will be streamed through the legislative information office over <http://www.alaskalegislature.tv/> beginning at 9:00 a.m. June 7, 2017 (audio only).



AFFIDAVIT OF BOARD ACTION

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

The attached motion, dealing with physical examinations, was passed by the State Board of Education and Early Development during its June 8, 2017, meeting.

Date:

6/16/17

Shawn Sypeck

Shawn Sypeck, Executive Secretary

Subscribed and sworn to before me at

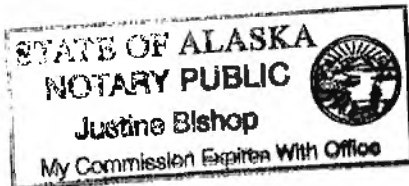
Juneau, AK

on

June 16, 2017.

Justine Bishop

Notary Public in and for the State of Alaska



# State Board of Education and Early Development Meeting

June 8, 2017

## Excerpt from Unapproved Minutes

Barbara Thompson moved and Rebecca Himschoot seconded the following motion: After considering all public comment, I move that the State Board of Education and Early Development repeal 4 AAC 06.050 Physical examinations of school employees. The motion passed unanimously.