

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Linda Mattson
Department of Education and Early Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081 

DATE: October 29, 2019

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

Department of Education and Early Development Regulation re: Accountability System
Sub-Interval Scores (4 AAC 06.822(b))

| | |
|------------------------|-------------------|
| Attorney General File: | 2019200168 |
| Regulation Filed: | 10/29/2019 |
| Effective Date: | 11/28/2019 |
| Print: | 232, January 2020 |

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

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

The attached two pages of regulations, dealing with the grade nine math sub-interval scores within the new accountability system, are certified to be a correct copy of the regulation changes that the State Board of Education and Early Development adopted at its March 29, 2019, 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 AS 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: _____

4/3/19



Michael Johnson, Commissioner

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

October 29, 2019 at 10:39 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Kevin Meyer

Effective: November 28, 2019.

Register: 232, January 2020.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

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

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

4 AAC 06.822(b) is amended to read:

(b) The department will assign the appropriate sub-level to each student based on the student's score. For purposes of determining whether students made adequate growth on the English language arts or mathematics test under 4 AAC 06.737, the subject matter achievement levels defined in 4 AAC 06.739 are divided into sub-levels of advanced high, advanced low, proficient high, proficient low, below proficient high, below proficient low, far below proficient high, and far below proficient low. The sub-levels are set out in the following tables:

English/language arts

| Achievement Level | Grade 3 | Grade 4 | Grade 5 | Grade 6 | Grade 7 | Grade 8 | Grade 9 |
|---------------------------|---------|---------|---------|---------|---------|---------|---------|
| Advanced High | 558-600 | 554-600 | 564-600 | 567-600 | 562-600 | 557-600 | 551-600 |
| Advanced Low | 542-557 | 538-553 | 548-563 | 551-566 | 546-561 | 541-556 | 535-550 |
| Proficient High | 521-541 | 519-537 | 524-547 | 526-550 | 523-545 | 521-540 | 518-534 |
| Proficient Low | 500-520 | 500-518 | 500-523 | 500-525 | 500-522 | 500-520 | 500-517 |
| Below Proficient High | 482-499 | 484-499 | 482-499 | 487-499 | 486-499 | 485-499 | 486-499 |
| Below Proficient Low | 464-481 | 468-483 | 464-481 | 473-486 | 471-485 | 469-484 | 471-485 |
| Far Below Proficient High | 448-463 | 452-467 | 448-463 | 457-472 | 455-470 | 453-468 | 455-470 |
| Far Below Proficient Low | 400-447 | 400-451 | 400-447 | 400-456 | 400-454 | 400-452 | 400-454 |

Math

| Achievement Level | Grade 3 | Grade 4 | Grade 5 | Grade 6 | Grade 7 | Grade 8 | Grade 9 |
|---------------------------|---------|---------|---------|---------|---------|---------|-----------------------------|
| Advanced High | 570-600 | 575-600 | 584-600 | 570-600 | 575-600 | 578-600 | <u>578-600</u> [586-600] |
| Advanced Low | 554-569 | 559-574 | 568-583 | 554-569 | 559-574 | 562-577 | <u>562-577</u> [570-585] |
| Proficient High | 527-553 | 530-558 | 534-567 | 527-553 | 530-558 | 531-561 | <u>531-561</u> [535-569] |
| Proficient Low | 500-526 | 500-529 | 500-533 | 500-526 | 500-529 | 500-530 | <u>500-530</u> [500-534] |
| Below Proficient High | 479-499 | 480-499 | 481-499 | 477-499 | 476-499 | 474-499 | <u>476-499</u> [475-499] |
| Below Proficient Low | 458-478 | 460-479 | 462-480 | 454-476 | 451-475 | 448-473 | <u>451-475</u> [450-474] |
| Far Below Proficient High | 442-457 | 444-459 | 446-461 | 438-453 | 435-450 | 432-447 | <u>435-450</u> [434-449] |
| Far Below Proficient Low | 400-441 | 400-443 | 400-445 | 400-437 | 400-434 | 400-431 | <u>400-434</u> [400-433] |

(Eff. 10/20/2018, Register 228; ^{am} 11 / 20 / 2019, Register 232)

Authority: AS 14.03.123 AS 14.07.060 AS 14.50.080

AS 14.07.020

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: October 22, 2019

File No.: 2019200168

Tel. No.: 465-3600

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

Re: Department of Education and Early
Development Regulation re: 4 AAC
06.822(b): Accountability System
Sub-Interval Scores

The Department of Law has reviewed the attached regulations of the Department of Education and Early Development against the statutory standards of the Administrative Procedure Act. Based upon our review, 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 regulations were adopted by the Department of Education and Early Development after the close of the public comment period. The regulations concern the grade nine math sub-interval scores within the new accountability system.

The February 24, 2019, public notice and the June 3, 2019, 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 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:sjw

cc: Honorable Michael Johnson, Commissioner
Department of Education and Early Development
Linda Mattson, Executive Secretary
Department of Education and Early Development
Luann Weyhrauch, Assistant Attorney General
Department of Law

NOTICE OF PROPOSED CHANGES TO
ACCOUNTABILITY SYSTEM SUB-INTERVAL SCORES IN THE REGULATIONS OF
THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

BRIEF DESCRIPTION: The proposed amendments would update the sub-interval scores on the Performance Evaluation for Alaska's Schools (PEAKS) assessments for grade 9 math that are used to calculate student growth within the System for School Success, Alaska's new accountability system.

The Department of Education and Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code dealing with the sub-interval scores within Alaska's new accountability system, including the following:

4 AAC 06.822(b), with proposed changes, would update the sub-interval scores on the Performance Evaluation for Alaska's Schools (PEAKS) assessments for grade 9 math that are used to calculate student growth within the accountability system. Changes to the PEAKS grade 9 math assessment in 2018 required new score ranges to determine student performance. The revised score ranges require an adjustment to the sub-interval score ranges in the student growth indicator under 4 AAC 06.822 so that the sub-interval ranges are aligned with the newly adopted score ranges.

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 March 25, 2019, 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 linda.mattson@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 March 25, 2019.

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 March 29, 2019, by audio-conference or in person. The oral hearing will be held from 8:00 a.m. to 9:00 a.m. but may be extended to accommodate those present before 8:00 a.m. who have not had an opportunity to comment before 9:00 a.m.

You 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 or Anchorage. For participation from Juneau, call 586-9085. For participation from Anchorage, call 563-9085.

You also may submit oral comment by visiting your local Legislative Information Office (LIO). The following LIO's will participate: Anchorage, 716 W 4th Ave., Suite 100; Barrow, 119 Bank Bldg.; Bethel, 301 Willow St.; Cordova, 418 First St., Suite A; Delta Junction, Colombo Building, Suite 204, 1380 Richardson Hwy.; Dillingham, Kangiiqutaq Bldg.; Fairbanks, 1292 Sadler Way, Suite 308; Glennallen, 186 Glenn Hwy.; Homer, 270 West Pioneer Ave., Suite B; 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; Kotzebue, 373 2nd St., Pillautuq Centre; Mat-Su, 600 E Railroad Ave.; Nome 103 Front St.; Petersburg, 11B Gjoa St.; Seward, 302 Railway Suite 107; Sitka, 201 Katlian St., Suite 103; Tok, W 1st St., UAF-Tok Unit 1; Unalaska, 029 Airport Beach Rd. Space No. 03-01; Valdez, State Office Building, Room 13; and Wrangell, 223 Front St.

This meeting will be streamed through the Legislative Information Office over <http://www.akl.tv/> beginning at 8:00 a.m. March 29, 2019 (audio only).

You may submit written questions relevant to the proposed action to Linda Mattson at linda.mattson@alaska.gov or the Department of Education and Early Development, Attn: Linda Mattson, 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 March 15, which is ten 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/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 Linda Mattson at 907-465-2802 or linda.mattson@alaska.gov not later than March 15, 2019 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 Linda Mattson at linda.mattson@alaska.gov or 907-465-2802.

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 14.07.060

Statutes being implemented, interpreted, or made specific: AS 14.03.123, AS 14.50.080, AS 14.07.020

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: Grade 9 Math Sublevel Scores
3. Citation of regulation (may be grouped): 4 AAC 06.822(b),
4. Department of Law file number, if any: 2019200168

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
 - (X) Development of program standards
 - () Other

6. Appropriation/Allocation: None

7. Estimated annual costs in the aggregate to comply with the proposed action to:
 - Private Persons: none.
 - Other State Agencies: none.
 - Municipalities: none.

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

| | Initial Year FY 19 | 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 |
| Other | \$ 0 | \$ 0 |

9. The name of the contact person for the regulations:
Name: Deb Riddle
Title: Division Operations Manager, Student Learning
Address: Department of Education & Early Development
801 W. 10th Street, Suite 200, Juneau, AK 99811-0500
Telephone: (907) 465-2892
E-mail address: Deborah.riddle@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: February 19, 2019

Prepared by: 

Name: Linda Mattson
Title: Regulations Contact
Telephone: (907) 465-2802

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Linda Mattson, Executive Secretary for the Department 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 06.822(b) sub-interval scores has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

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 those in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

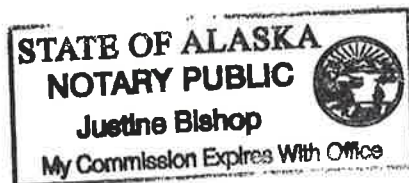
Date: 6/3/19

Linda G. Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on

June 3, 2019.

Justine Bishop
Notary Public in and for the State of Alaska



AFFIDAVIT OF ORAL HEARING

I, Linda Mattson, Executive Secretary for the Department of Education and Early Development, being sworn, state the following:

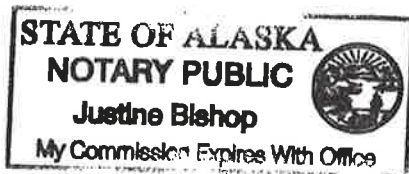
On March 29, 2019, at 8:10 a.m. by audio conference and in the state board room at 801 West 10th Street, Juneau, Alaska, a public hearing was held under AS 44.62.210 for the purpose of taking oral testimony in connection with the adoption of changes to grade nine sub-interval scores, and via telephone by 1-844-586-9085, and through the following Legislative Information Office (LIO) sites: Anchorage, 716 W 4th Ave., Suite 100; Barrow, 119 Bank Bldg.; Bethel, 301 Willow St.; Cordova, 418 First St., Suite A; Delta Junction, Colombo Building, Suite 204, 1380 Richardson Hwy.; Dillingham, Kangiiqutaq Bldg.; Fairbanks, 1292 Sadler Way, Suite 308; Glennallen, 186 Glenn Hwy.; Homer, 270 West Pioneer Ave., Suite B; 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; Kotzebue, 373 2nd St., Pillautuq Centre; Mat-Su, 600 E Railroad Ave.; Nome 103 Front St.; Petersburg, 11B Gjoa St.; Seward, 302 Railway Suite 107; Sitka, 201 Katlian St., Suite 103; Tok, W 1st St., UAF-Tok Unit 1; Unalaska, 029 Airport Beach Rd. Space No. 03-01; Valdez, State Office Building, Room 13; and Wrangell, 223 Front St.

Date: 6/3/19

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
June 3, 2019.

Justine Bishop
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Linda Mattson, Executive Secretary for the Department of Education and Early Development, being sworn, state the following:

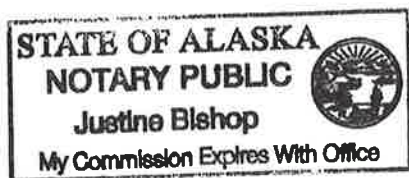
The Department of Education and Early Development did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Education and Early Development regulation on grade nine math sub-interval scores.

Date: 6/3/19

Linda G. Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
June 3, 2019.

Justine Bishop
Notary Public in and for the State of Alaska



State Board of Education and Early Development Meeting
March 29, 2019
Excerpt from Unapproved Minutes

Second Vice-Chair Van Deist moved and First Vice-Chair Hamilton seconded the following motion: After considering all public comment, I move the State Board of Education & Early Development to adopt the proposed amendment to 4 AAC 06.822(b), relating to the measurement of student growth in Alaska's new accountability system (the System for School Success). The motion passed unanimously in a roll call vote.

ANCHORAGE DAILY NEWS

Alaska Department of Education
& Early Development

MAR 13 2019

AFFIDAVIT OF PUBLICATION

Commissioner's Office

Account #: 270220

ST OF AK/EDUCATION AND EARLY DEV
OFFICE OF THE COMMISSIONER
PO BOX 110500
JANUARY 11 AK 008110500

Order# 0001434937
Cost \$657.38

Product ADN-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Sarah Jennett

being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily 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

February 24, 2019

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 _____
Sarah Jennett

Subscribed and sworn to before me
this 25th day of February, 2019.

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

MY COMMISSION EXPIRES

7/14/2020

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

NOTICE OF PROPOSED CHANGES TO ACCOUNTABILITY SYSTEM SUB-INTERVAL SCORES IN THE REGULATIONS OF THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

BRIEF DESCRIPTION: The proposed amendments would update the sub-interval scores on the Performance Evaluation for Alaska's Schools (PEAKS) assessments for grade 9 math that are used to calculate student growth within the System for School Success, Alaska's new accountability system.

The Department of Education and Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code dealing with the sub-interval scores within Alaska's new accountability system, including the following:

4 AAC 06.822(b), with proposed changes, would update the sub-interval scores on the Performance Evaluation for Alaska's Schools (PEAKS) assessments for grade 9 math that are used to calculate student growth within the accountability system. Changes to the PEAKS grade 9 math assessment in 2018 required new score ranges to determine student performance. The revised score ranges require an adjustment to the sub-interval score ranges in the student growth indicator under 4 AAC 06.822 so that the sub-interval ranges are aligned with the newly adopted score ranges.

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 March 25, 2019, 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 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 Linda Mattson at 907-465-2802 or linda.mattson@alaska.gov not later than March 15, 2019 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 Linda Mattson at linda.mattson@alaska.gov or 907-465-2802.

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 14.07.060

Statutes being implemented, interpreted, or made specific: AS 14.03.123, AS 14.50.080, AS 14.07.020

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

Published: February 24, 2019

AFFIDAVIT OF BOARD ACTION

I, Linda Mattson, Executive Secretary for the Department of Education and Early Development, being sworn, state the following:

The attached motion regarding the proposed amendment of 4 AAC 06.822(b) dealing with measurement of student growth in Alaska's new accountability system (the System for School Success), was passed by the State Board of Education and Early Development during its March 29, 2019, meeting.

Date: 6/3/19

Linda J Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on

June 3, 2019.

Justine Ghyss
Notary Public in and for the State of Alaska