

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**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: AdvancED Standards
(4 AAC 04.300)

Attorney General File:	2019200277
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 page of regulations, dealing with state accreditation of schools for Alaska, are certified to be a correct copy of the regulation changes that the State Board of Education and Early Development adopted at its June 7, 2019, meeting, under the authority of AS 14.07.060 and AS 14.07.020, 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: 8/22/19



Michael Johnson, Commissioner Department of
Education and Early Development

FILING CERTIFICATION

April Simpson for

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

October 29, 2019 at 10:33 a..m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson
to 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 04.300(b) is amended to read:

(b) The standards for state accreditation for a public or private school in this state are set out in AdvancED Performance Standards for Schools and AdvancED Performance Standards for School Systems [STANDARDS FOR QUALITY SCHOOLS], published by AdvancED in 2017 [AS OF 2011,] and adopted by reference.

4 AAC 04.300(c) is amended to read:

(c) A public or private school in this state will be accredited by the department under AS 14.07.020(a)(6) if the school is accredited by the Northwest Accreditation Commission, a division of AdvancED ^{bold u.e.} [NORTHWEST] after completion of the accreditation process, including the internal review and the external review. (Eff. 10/25/98, Register 148; am 10/16/²⁰¹³2021, Register 204; am 4/4/2013, Register 206; am 11/28/2019, Register 232)

Authority: AS 14.07.020 AS 14.07.060

The editor's note for 4 AAC 04.300 is changed to read:

Editor's note: A copy of the AdvancED Performance Standards for Schools and AdvancED Performance Standards for School Systems [STANDARDS FOR QUALITY SCHOOLS], adopted by reference in 4 AAC 04.300(b), may be obtained by writing to the Department of Education and Early Development, 801 West 10th Street, Suite 200, P.O. Box 110500, Juneau, AK 99811-0500 or by contacting AdvancED at <http://www.advanced.org/managing-office-locations/alaska-office> [HTTP://WWW.ADVANCED.ORG/WEBFM_SEND/288].

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: October 22, 2019

File No.: 2019200277

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
04.300: AdvancED Standards

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 would update the standards for state accreditation of schools using publications by AdvancED.

The April 14, 2019, public notice and the August 22, 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.

Please note that the statute being implemented by these regulations states that the department shall

"...accredit those public schools that meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house...."

AS 14.07.020(a)(6). Typically, a regulation becomes effective on the 30th day after filing; alternative effective dates may be prescribed by statute. AS 44.62.180. Here, the alternative effective date is tied to a legislative option to disapprove the regulations by resolution. Current case law suggests that this provision may be considered unconstitutional. The Alaska Supreme Court reviewed the question of whether the legislature has, or can grant itself, the general power to veto agency regulations through an informal legislative action, such as a resolution. The Court stated that the Legislature may not "exercise its legislative power without following

[constitutional] enactment provisions." *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769, 772 (1980). If the legislature wishes to act in more than an advisory capacity, it must introduce a bill and follow the procedure laid out in Article II of the Alaska Constitution. *Id.* at 773.

The legislative review provided for here appears to give the legislature the opportunity to stop the regulations from becoming effective, which can only be done by passing a preemptive statute using the constitutionally mandated process. There does not appear to be any other reason to provide for a delayed effective date. Additionally, incumbent legislators are sent notice of all proposed regulations to provide an opportunity to comment. Under these circumstances, we suggest that these regulations be considered effective 30 days after filing.

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: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
SCHOOL ACCREDITATION STANDARDS IN THE REGULATIONS OF
THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

BRIEF DESCRIPTION: The proposed amendments would adopt updated standards for school accreditation.

The Department of Education and Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code dealing with the standards for state accreditation of schools. Under the proposed changes in 4 AAC 04.300, the department would adopt by reference two new AdvancED published documents, *AdvancED Performance Standards for Schools* and *AdvancED Performance Standards for School Systems* in place of the outdated *Standards for Quality Schools* currently adopted by reference. The regulation changes would also update the name of the accrediting entity.

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 14, 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](mailto:Linda.Mattson@edea.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 14, 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 June 7, 2019, by audio-conference or in person at the Anchorage School District Board Room, 5530 East Northern Lights Boulevard, Anchorage, Alaska 99504. The hearing will be held from 9:10 a.m. to 11:10 a.m. but may be extended to accommodate those present before 9:00 a.m. who have not had an opportunity to comment before 11:10 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; 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.

This meeting will be streamed through the Legislative Information Office over <http://www.akl.tv/> beginning at 9:00 a.m. June 7, 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 May 4, 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 May 27, 2019 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes and the material proposed for adoption by reference is 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. A copy of the material proposed for adoption by reference may also be viewed at the offices of the Department of Education and Early Development, 801 West 10th Street, Juneau, Alaska 99801.

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. Written comments received are public records and are subject to public inspection.

Statutory authority AS 14.07.020, AS 14.07.060

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

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

Date: 4/11/19

Karen Melin
Karen Melin, Deputy Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Education & Early Development
2. General subject of regulation: Revise standards for accreditation of schools
3. Citation of regulation (may be grouped): 4 AAC 04.300
4. Department of Law file number, if any: 2019200277
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: 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: Brad Billings
Title: Administrator for School Improvement
Address: Department of Education & Early Development
801 W. 10th Street, Suite 200, Juneau, AK 99811-0500
Telephone: (907) 465-8720
E-mail address: brad.billings@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: April 11, 2019

Prepared by: Linda J. Mattson

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 04.300 state accreditation of schools for Alaska students 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).

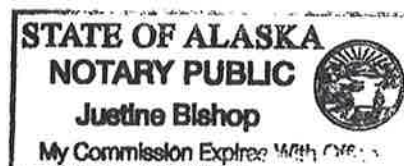
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to those in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 8/23/2019

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on August 23, 2019.

Justine Bishop
Notary Public in and for the State of Alaska



ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270220

ST OF AK/EDUCATION AND EARLY DEV
OFFICE OF THE COMMISSIONER
PO BOX 110500
JANUARY 11 AK 995110500

Order#
Cost

0001436911
\$622.52

Product ADN-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Joleesa Stepetin

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

April 14, 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

Joleesa Stepetin
Joleesa Stepetin

Subscribed and sworn to before me
this 15th day of April, 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
Jodie L. Nowling

NOTICE OF PROPOSED CHANGES TO SCHOOL ACCREDITATION STANDARDS IN THE REGULATIONS OF THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

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ANCHORAGE DAILY NEWS
CLASSIFIED
DEPARTMENT
OFFICE HOURS:
Mon-Fri: 8:00am-5:00pm
Sat-Sun: Closed
Call 257-4444

Published: April 14, 21, 28, 2019
Dated: 4/12/2019
S/ Elisha Powell
Personal Representative

You are notified that the court appointed Elisha Powell as personal representative of the above named estate. All persons having claims against the decedent are required to present their claims within four (4) months after the date of the first publication of this notice or said claims will be forever barred. Claims must be presented to Elisha Powell 1100 N. Pinion Dr. Wasilla, AK 99654 or filed with the court.

NOTICE TO CREDITORS

Case No. 3AN-19-00771PR

In the Matter of the Estate of Richard C. Pagel, Deceased.
FOR THE STATE OF ALASKA
THIRD JUDICIAL
DISTRICT AT ANCHORAGE

Notice To Creditors
302

Dated this 10th day of April, 2019
the Court.
claim can be filed directly with Alaska 99501. Alternatively, a Street, Suite 600, Anchorage, Kaufman, LLC, 1029 W. Third Solis, c/o Shafel Delman of the Estate of Michael Francis Claus, Personal Representative presented to Elisha Powell Ann barred. Claims must be said claims will be forever first publication of this notice or (4) months after the date of the present their claims within four decedent are required to having claims against the named estate. All persons representative of the above-appointed Elisha Powell has been Elisha Ann Claus has been

NOTICE TO CREDITORS

Case No. 3AN-18-01729PR

Deceased.
Michael Francis Solis,
Estate of

In the Matter of the Estate of Michael Francis Solis, deceased.
DISTRICT AT ANCHORAGE
THIRD JUDICIAL
FOR THE STATE OF ALASKA
IN THE SUPERIOR COURT

Notice To Creditors
302

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AFFIDAVIT OF ORAL HEARING

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

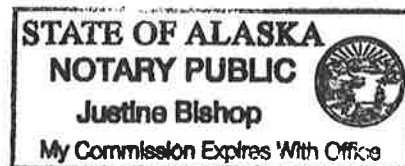
On June 7, 2019, at 9:10 a.m. in the Anchorage School District Board Room at 5530 East Northern Lights Boulevard, Anchorage, Alaska, and by teleconferencing at the following Legislative Information Office (LIO) sites: Anchorage, 716 W 4th Ave., Suite 100; Bethel, 301 Willow St.; Fairbanks, 1292 Sadler 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, a public hearing, presided over by the State Board of Education and Early Development, was held under AS 44.62.210, for the purpose of taking oral testimony in connection with the adoption of changes to regulations regarding standards for state accreditation of schools for Alaska students.

Date: 8/23/2019

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
August 23, 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:

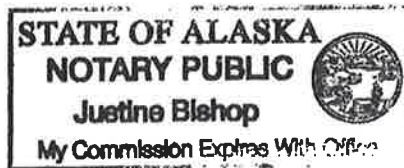
The Department of Education and Early Development did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspects of the Department of Education and Early Development regulation on standards for state accreditation of schools for Alaska students.

Date: 8/23/2019

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
August 23, 2019.

Justine Bishop
Notary Public in and for the State of Alaska



State Board of Education and Early Development Meeting
June 7, 2019
Excerpt from Unapproved Minutes

Member Van Diest moved and Member Kowalski seconded the following motion: I move the State Board of Education and Early Development adopt the amendments to 4 AAC 04.300, Standards for state accreditation of schools. The motion passed unanimously in a roll call vote.

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 to adopt the amendments to 4 AAC 04.300, Standards for state accreditation of schools was passed by the State Board of Education and Early Development during its June 7, 2019, meeting.

Date: 8/23/2019

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on

August 23, 2019.

Justine Bishop
Notary Public in and for the State of Alaska

