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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 *AS*
465.4081

DATE: June 18, 2020

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

Department of Education and Early Development Emergency Regulations re: Funding
for Increased Internet Service for Schools (4 AAC 33.600 - 4 AAC 33.690)

Attorney General File:	Emergency Regulations
Regulation Filed:	6/18/2020
Effective Date:	6/23/2020
Expiration Date:	October 20, 2020 unless made permanent by the adopting agency
Print:	235, October 2020

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

FINDING OF EMERGENCY

The State Board of Education and Early Development finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

For the schools that need increased Internet access under for the upcoming school year (those with the least access currently), the denial of increased access during the COVID-19 public health disaster emergency presents a threat to the general welfare of the students first, but also to the general welfare of the schools, districts, and communities that most need distance learning this fall. Delivery of educational services via the Internet during the current pandemic and statewide public health disaster emergency is essential to the general welfare of those students, schools, districts, and communities.

ORDER CERTIFYING ADOPTION

I certify that the State Board of Education and Early Development, under the authority of AS 14.03.127, as amended by ch. 5, SLA 2020, and AS 14.07.020 and AS 14.07.060, adopted at its June 10-11, 2020 meeting the attached seven pages of regulation changes as an emergency regulation to take effect June 23, 2020, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: 6/18/2020



Michael Johnson, Commissioner

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April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on June 18th, 2020, at 3:16 p.m., I filed the attached regulation according to the provisions of AS 44.62.

for 

Kevin Meyer, Lieutenant Governor

Effective: June 23, 2020

Register: 235, October 2020.

Expires October 20, 2020
unless made "permanent"
by the adopting agency

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**

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4 AAC 33.605(a) is amended to read:

(a) A district in which one or more schools qualify for a discounted rate for Internet services under the federal universal services program may apply to the department for funding under AS 14.03.127 to increase the download speed of the Internet to up to 25 [10] megabits per second (Mbps) for the [A] Internet service available [CIRCUIT OR CONNECTION THAT IS ACCESSIBLE TO STUDENT INTERNET USERS] at a school operated by the district. All circuits or connections reported by a district in its federal universal services program application that provide Internet service to a school must be included in the calculation of available Internet service at the school for funding under AS 14.03.127.

4 AAC 33.605(e) is amended to read:

(e) An applicant must provide information in the application regarding Internet services available to a school in [FOR USE BY THE STUDENTS OF] the district, including

(1) a list of each circuit or connection that serves a school operated by the district and provides Internet access [FOR STUDENTS] at an initial negotiated capacity of less than 25 [10] Mbps;

(2) the Internet speed measured in Mbps of download for each circuit or connection listed under (1) of this subsection, verified in writing by the Internet service provider for the district;

(3) the current cost and the applicant's share of the current cost for each Internet circuit or connection listed under (1) of this subsection in monthly recurring charges to the

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district, with the current cost verified in writing by the Internet service provider for the district;
and

(4) the total cost and the applicant's share of the total cost in monthly recurring charges for increasing the Internet speed to up to 25 [10] Mbps of download at the [EACH] Internet circuits [CIRCUIT] or connections [CONNECTION] listed under (1) of this subsection, with the total cost verified in writing by an Internet service provider qualified under the federal universal services program.

(Eff. 11/13/2014, Register 212; am 6/23/2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.610 is repealed:

4 AAC 33.610. Application deadline for fiscal year 2015. Repealed. (Eff. 11/13/2014, Register 212; repealed 6/23/2020, Register 235)

4 AAC 33.620(a) is amended to read:

(a) A district that is a successful applicant in the federal universal services program is eligible for funding under AS 14.03.127 to increase the amount that the district shall contribute as the applicant's share to the cost of Internet service, so that funding will be sufficient to provide an Internet download speed of up to [AT LEAST] 25 [10] Mbps for [STUDENT INTERNET USERS] each school in the district.

(Eff. 11/13/2014, Register 212; am 6/23/2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

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4 AAC 33.620(b) is amended to read:

(b) A district is eligible for a pro rata share of the available funding under AS 14.03.127 based on a calculation that takes into account

(1) the number of Internet circuits or connections that serve a school in the district [THAT

(A) PROVIDE INTERNET ACCESS FOR STUDENT USERS; AND

(B) OPERATE] at an initial negotiated capacity of less than 25 [10]

Mbps; and

(2) the applicant's share of the cost of increasing the initial negotiated capacity to up to 25 [10] Mbps for the [EACH] circuits [CIRCUIT] or connections [CONNECTION] under (1) of this subsection.

(Eff. 11/13/2014, Register 212; am 6 / 23 / 2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.620(d) is amended to read:

(d) The department will calculate a district's need under AS 14.03.127 by multiplying the eligible circuits or connections under (b)(1) of this section by the applicant's share of the cost of increasing the initial negotiated capacity under (b)(2) of this section to up to 25 [10] Mbps for the eligible circuits or connections [EACH CONNECTION] that serve a school.

(Eff. 11/13/2014, Register 212; am 6 / 23 / 2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

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4 AAC 33.630 is amended to read:

4 AAC 33.630. Eligible costs. A district must include only monthly recurring costs for eligible circuits or connections in its calculation of current Internet service cost and the projected cost of increasing the eligible circuit or connection speed to **up to 25** [10] Mbps under 4 AAC 33.605. (Eff. 11/13/2014, Register 212; am 6 /23 /2020, Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.640 is amended to read:

4 AAC 33.640. Notice of funding. The department will notify an applicant of its eligibility for funding and the amount of the available funding under AS 14.03.127 not later than **July 1** [MAY 15] of each year. If an applicant has provided an electronic mail address to be used for communications under AS 14.03.127, the department may notify the applicant of its eligibility and funding under this section by electronic mail. The notice is a final action for purposes of appeal under 4 AAC 40. (Eff. 11/13/2014, Register 212; am 6 /23 /2020, Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.645 is repealed:

4 AAC 33.645. Notice of funding for fiscal year 2015. Repealed. (Eff. 11/13/2014, Register 212; repealed 6 /23 /2020, Register 235)

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4 AAC 33.650 is amended to read:

4 AAC 33.650. Distribution of funding. The department will distribute funding under AS 14.03.127 to districts not later than August 15 of each year. A district shall use funding distributed under AS 14.03.127 to pay for Internet service for circuits or connections that serve schools [ARE ACCESSIBLE TO STUDENTS]. If a district files an appeal under 4 AAC 40 and in the final resolution of that appeal is accorded an increased allocation for funding under AS 14.03.127, payment in accordance with the final decision will be provided from the following year's appropriation, if any, under AS 14.03.127. (Eff. 11/13/2014, Register 212; am 6 / 23 / 2020, Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.655 is repealed:

4 AAC 33.655. Distribution of funding for fiscal year 2015. Repealed. (Eff. 11/13/2014, Register 212; repealed 6 / 23 / 2020, Register 235)

4 AAC 33.665(a) is amended to read:

(a) Not later than April 15 of the fiscal year that a district receives funding under AS 14.03.127, a district shall file a year-end report with the department on a form provided by the department. The district shall report

(1) the total of paid invoices for Internet circuits or connections that serve schools [STUDENT USERS] for the current fiscal year, including the applicant's share and the total cost;

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(2) anticipated costs, including the applicant's share and the total cost for Internet circuits or connections that serve schools [STUDENT USERS] for the remainder of the fiscal year; and

(3) the negotiated capacity in Mbps for each circuit or connection listed in the district's application under 4 AAC 33.605 as reported by the Internet service provider at the time of the most recent invoice.

(Eff. 11/13/2014, Register 212; am 6 / 23 / 2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.670 is amended to read:

4 AAC 33.670. Return of unexpended funds. Not later than August 15 [30] of each year, a district shall return to the department funding received under AS 14.03.127 and unexpended for eligible costs for Internet services during the prior fiscal year. (Eff. 11/13/2014, Register 212; am 6 / 23 / 2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.690(b)(4) is amended to read:

(4) "initial negotiated capacity" means the cost of Internet services for the [AN] eligible circuits [CIRCUIT] or connections [CONNECTION] for a school that a district reports on Federal Communications Commission Form 471 (Description of Services Ordered and Certification Form) filed with the Universal Service Administrative Company under the federal

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universal services program and submits in support of the application for state funding under AS 14.03.127, as of [FOR THE LATER OF]

(A) November 1, 2014, for a school that has continuously received funding under AS 14.03.127 for up to 10 Mbps of Internet service through state fiscal year 2020 [FISCAL YEAR 2015; OR];

(B) March 1, 2020, for a school that receives funding under AS 14.03.127 for up to 25 Mbps of Internet service starting in state fiscal year 2021;

(C) March 1 of the year of the application for the first year the district applies on behalf of a new school under both the federal universal services program and AS 14.03.127; or

(D) for a school that has reopened, March 1 of the most recent year in which the district applied on behalf of the reopened school under both the federal universal services program and AS 14.03.127;

4 AAC 33.690(b) is amended by adding a new paragraph to read:

(6) “school” means a facility at which a school district provides instruction to students in elementary or secondary grades and includes the geographically contiguous grounds where the instructional buildings of a single eligible school are located; a facility at which a school district provides instruction for both elementary and secondary grades is a single school; (Eff. 11/13/2014, Register 212; am 6 / 23 / 2020 Register 235)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

State Board of Education and Early Development Meeting

Excerpt from Unapproved Minutes

June 10-11, 2020

Member Hamilton made and Member Van Diest seconded the following motion:

I move the State Board of Education and Early Development adopt emergency regulation changes to 4 AAC 33.600 – 4 AAC 33.690, to take effect on June 23, 2020, the effective date of ch. 5, SLA 2020.

The motion passed unanimously in a roll-call vote.

AFFIDAVIT OF BOARD ACTION

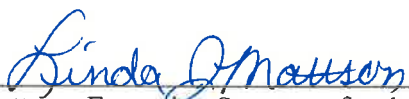
I, Linda Mattson, Executive Secretary for the State Board of Education and Early Development, under penalty of perjury, state the following:

The attached motion adopting emergency regulations related to funding for increased Internet service for schools was passed by the State Board of Education and Early Development during its June 10-11, 2020 meeting.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: June 18, 2020



Linda Mattson, Executive Secretary for the State
Board of Education and Early Development

State of Alaska
City and Borough of Juneau