

Kevin Meyer
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Joseph Felkl
Alaska Commission on Postsecondary Education

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: April 21, 2021

RE: Filed Permanent Regulations: Alaska Commission on Postsecondary Education

Alaska Commission on Postsecondary Education regulations re: dispute resolution process for postsecondary educational institutions denied participation in the W-SARA reciprocity program (20 AAC 17.018)

Attorney General File:	2020200710
Regulation Filed:	4/21/2021
Effective Date:	5/21/2021
Print:	238, July 2021

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

ORDER CERTIFYING THE CHANGES TO REGULATION
OF THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION

The attached two page[s] of the regulation, dealing with hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program, are certified to be a correct copy of the regulation changes that the Alaska Commission on Postsecondary Education adopted at its January 13, 2021, meeting under the authority of AS 14.48.020, AS 14.48.030, and AS 14.43.050, and in compliance with the Administrative Procedure Act (AS 44.62), including notice under AS 44.62.190 and 44.62.200 and public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Alaska Commission on Postsecondary Education 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 being filed by the Office of the Lieutenant Governor, as provided in AS 44.62.180.

Date:

January 26, 2021

Sana Efird
Sana Efird, Executive Director

April Simpson, for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on April 21, 2021, at 11:21 a..m., I filed the attached regulation.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective:

May 21, 2021.

Register:

238, July 2021

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**

Register 238, July 20 21 MISCELLANEOUS BOARDS

20 AAC 17.018(a) is amended to read:

20 AAC 17.018. Appeal Process [DENIAL OF EXEMPTION]. (a) If the commission
denies an application [AN APPLICANT WHO IS DENIED AN EXEMPTION] under 20 AAC
17.015 or 20 AAC 17.016, the applicant may appeal the denial [SUBMIT A REQUEST FOR
RECONSIDERATION] in writing to the executive director within 30 days of notification of
the denial. [THE REQUEST FOR RECONSIDERATION MUST BE POSTMARKED
WITHIN 30 DAYS AFTER THE MAILING OR DISTRIBUTION OF THE DENIAL OF
EXEMPTION.] The appeal [REQUEST FOR RECONSIDERATION] must clearly state each
objection to the denial, the justification for each objection, and the reasons why the applicant is
entitled to approval of the application [EXEMPTION] under AS 14.48 and this chapter. The
executive director may request additional information from the applicant and shall mail or
distribute a written determination within 30 days of receipt of the appeal.

20 AAC 17.018(b) is amended to read:

(b) Within 30 days after the mailing or distribution of the executive director's decision on
the appeal [REQUEST FOR RECONSIDERATION], the applicant may submit a written
request to the commission for a hearing [REGARDING THE DENIAL OF EXEMPTION
BEFORE THE COMMISSION]. The hearing shall be conducted in accordance with AS
44.62 (Administrative Procedure Act) by the office of administrative hearings (AS
44.64.010). The request for a hearing must clearly state each objection to the denial and the
justification for each objection. The appellant has the burden to prove by a preponderance of the
evidence that the appellant is entitled to the requested relief [EXEMPTION] under AS 14.48

Register 238, JULY 2021 MISCELLANEOUS BOARDS

and this chapter. [A HEARING UNDER THIS SUBSECTION IS SUBJECT TO AS 44.64

(HEARING OFFICERS AND OFFICE OF ADMINISTRATIVE HEARINGS). THE HEARING

WILL BE CONDUCTED ACCORDING TO AS 44.62 (ADMINISTRATIVE PROCEDURE

ACT).]

20 AAC 17.018 is amended by adding a new subsection to read:


(c) The appellant's status as a participant or non-participant under 20 AAC 17.016 ^{remains} ~~shall~~ reconsideration or remain unchanged during any appeal process. (Eff. 4/27/2001, Register 158; am 12/31/2005, Register 176; am 5/21/2021, Register 238)

Authority:	AS 14.48.020	AS 14.48.050	AS 14.48.110
	AS 14.48.030	AS 14.48.100	

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

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

Date: April 14, 2021

File No.: 2020200710

Tel. No.: (907) 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
Legislation and Regulations Section

Re: Alaska Commission on
Postsecondary Education regulations
re: dispute resolution process for
postsecondary educational
institutions denied participation in the
W-SARA reciprocity program
(20 AAC 17.018)

The Department of Law has reviewed the attached regulations of the Alaska Commission on Postsecondary Education 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 Alaska Commission on Postsecondary Education after the close of the public comment period. To meet requirements imposed on member states by the National Council for State Authorization Reciprocity Agreements (NC-SARA), the regulations take the existing dispute resolution process for postsecondary educational institutions denied exemption from AS 14.48, and offer that process, with program-specific variations, to institutions denied approval to operate under the Western Interstate Commission for Higher Education State Authorization Reciprocity Agreements (W-SARA).

The November 30, 2020 public notice and the January 26, 2021 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.

Honorable Kevin Meyer, Lieutenant Governor
File No. 2020200710; Hearing process; NC-SARA Program

April 14, 2021
Page 2 of 2

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.

SCW

cc w/enc: Sana Efird, Executive Director
Alaska Commission on Postsecondary Education

Joseph Felkl, Regulations Contact
Alaska Commission on Postsecondary Education

Linda Mattson, Regulations Contact
Department of Education and Early Development

Susan Greenlee Sonneborn, Assistant Attorney General
Public Corporations and Governmental Services Section

NOTICE OF PROPOSED CHANGES ON APPEAL PROCESS RELATED TO
PARTICIPATION IN THE NATIONAL COUNCIL FOR STATE AUTHORIZATION
RECIPROCITY AGREEMENTS (NC-SARA) PROGRAM IN THE REGULATIONS OF THE
ALASKA COMMISSION ON POSTSECONDARY EDUCATION

BRIEF DESCRIPTION

The Alaska Commission on Postsecondary Education proposes to change regulations on the appeal process related to participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program.

The Alaska Commission on Postsecondary Education (ACPE) proposes to adopt regulations changes in Title 20, Chapter 17 of the Alaska Administrative Code, dealing with hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program, including the following:

- (1) 20 AAC 17.018(a), Denial of exemption. The proposed change would set out an appeal process if the Commission denies an application for participation in NC-SARA.
- (2) 20 AAC 17.018(b), Denial of exemption. The proposed change would clarify the process for requesting a hearing in response to an appeal decision.
- (3) 20 AAC 17.018, Denial of exemption. Adding subsection (c) is proposed to make explicit the appellant's status as a participant or non-participant pending any appeal process decision.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Executive Director of the Commission at P. O. Box 110505, Juneau, Alaska 99811-0505. Additionally, the Commission will accept comments by facsimile at (907) 465-5316 and by electronic mail at EED.ACPE-ExecDirector@Alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on January 4, 2021.

You may submit written questions relevant to the proposed action to the Executive Director of the Commission at P. O. Box 110505, Juneau, Alaska 99811-0505, or by email at EED.ACPE-ExecDirector@Alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Commission will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and at www.acpe.alaska.gov.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Joseph Felkl at (907) 465-6718 or by email at Joseph.Felkl@alaska.gov no later than December 28, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Joseph Felkl at (907) 465-6718 or by email at Joseph.Felkl@alaska.gov.

After the public comment period ends, ACPE 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 regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 14.48.020; AS 14.48.030; AS 14.48.050.

Statutes being implemented, interpreted, or made specific: AS 14.48.100; AS 14.48.110.

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

Date: November 30, 2020



Stephanie Butler, Executive Director
Alaska Commission on Postsecondary Education

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Commission on Postsecondary Education.
2. General subject of regulation: dealing with hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program.
3. Citation of regulation (may be grouped): 20 AAC 17.018
4. Department of Law file number, if any:
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: Department of Education and Early Development / Alaska Commission on Postsecondary Education / Program Administration & Operation / 2738
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):

	Initial Year FY <u>2021</u>	Subsequent Years
Operating Cost	\$ <u>-0-</u>	\$ <u>-0-</u>
Capital Cost	\$ <u>-0-</u>	\$ <u>-0-</u>
1002 Federal receipts	\$ <u>-0-</u>	\$ <u>-0-</u>
1003 General fund match	\$ <u>-0-</u>	\$ <u>-0-</u>
1004 General fund	\$ <u>-0-</u>	\$ <u>-0-</u>
1005 General fund/ program	\$ <u>-0-</u>	\$ <u>-0-</u>

Other (identify) \$ -0- \$ -0-

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

Name: Joseph Felkl

Title: Executive Secretary

Address: P.O. Box 110505, Juneau, AK 99811

Telephone: (907) 465-6718

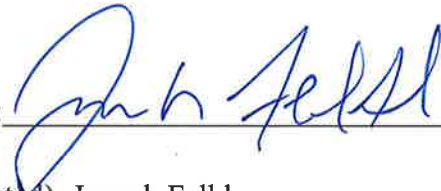
E-mail address: joseph.felkl@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☐ Other (identify):

11. Date: December 1, 2020

Prepared by:



Name (printed): Joseph Felkl

Title (printed): Executive Secretary

Telephone: (907) 465-6718

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270212
PO BOX 110505, Juneau, AK 99811

Order #: W0019237

Cost: \$393.46

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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

12/01/2020

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 1st day of December 2020.

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

MY COMMISSION EXPIRES

4/14/2021

ANGELA M SIMMONS
NOTARY PUBLIC
State of Alaska
My Commission Expires Apr. 14, 2021

NOTICE OF PROPOSED CHANGES ON APPEAL PROCESS RELATED TO PARTICIPATION IN THE NATIONAL COUNCIL FOR STATE AUTHORIZATION RECIPROCITY AGREEMENTS (NC-SARA) PROGRAM IN THE REGULATIONS OF THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION

The Alaska Commission on Postsecondary Education (ACPE) proposes to adopt regulations changes in Title 20, Chapter 17 of the Alaska Administrative Code, dealing with hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program, including the following:

(1) 20 AAC 17.018(a), Denial of exemption. The proposed change would set out an appeal process if the Commission denies an application for participation in NC-SARA.

(2) 20 AAC 17.018(b), Denial of exemption. The proposed change would clarify the process for requesting a hearing in response to an appeal decision.

(3) 20 AAC 17.018, Denial of exemption. Adding subsection (c) is proposed to make explicit the appellant's status as a participant or non-participant pending any appeal process decision.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Executive Director of the Commission at P. O. Box 110505, Juneau, Alaska 99811-0505. Additionally, the Commission will accept comments by facsimile at (907) 465-5316 and by electronic mail at EED.ACPE-ExecDirector@Alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on January 4, 2021.

You may submit written questions relevant to the proposed action to the Executive Director of the Commission at P. O. Box 110505, Juneau, Alaska 99811-0505, or by email at EED.ACPE-ExecDirector@Alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Commission will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and at www.acpe.alaska.gov.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Joseph Felkl at (907) 465-6718 or by email at Joseph.Felkl@alaska.gov no later than December 28, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Joseph Felkl at (907) 465-6718 or by email at Joseph.Felkl@alaska.gov.

After the public comment period ends, ACPE 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 regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 14.48.020; AS 14.48.030; AS 14.48.050.

Statutes being implemented, interpreted, or made specific: AS 14.48.100; AS 14.48.110.

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

Date: November 30, 2020
By: /s/ Stephanie Butler,
Executive Director
Alaska Commission on Postsecondary Education

Published: December 1, 2020

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Joseph Felkl, Executive Secretary, of the Alaska Commission on Postsecondary Education, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Title 20, Chapter 17 of the Alaska Administrative Code regarding hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program 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 interested persons and those in (2), (3), (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: January 26, 2021



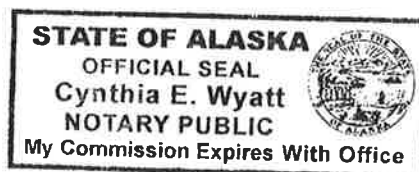
Joseph Felkl, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
Jan. 27, 2021

(date)



Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Joseph Felkl, Executive Secretary for the Alaska Commission on Postsecondary Education, being duly sworn, state the following:

The Alaska Commission on Postsecondary Education did not receive any factual or other substantive information that was submitted in writing and that was relevant to the accuracy, coverage, or other aspect of the Alaska Commission on Postsecondary Education regulations on hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program.

Date: January 26, 2021




Joseph Felkl, Executive Secretary

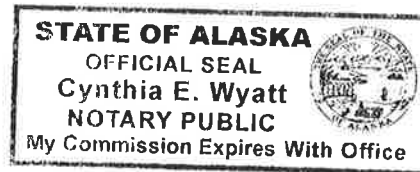
Subscribed and sworn to before me at _____ on
Jan. 27. 2021

(date)

Juneau, Alaska



Notary Public in and for the State of Alaska



Alaska Commission on Postsecondary Education Meeting
January 13, 2021
Excerpt from Unapproved Minutes

In response to staff's proposed motion:

**“Move to adopt regulations changes to Alaska Administrative Code Title 20
Chapter 17, to comply with NC-SARA, state authorization Reciprocity Agreements
Manual 20.2, Section 2.5(d).”**

Commission member Joshua Bichinella moved the adoption of the proposed regulation changes.
Member John Brown seconded the motion.

By roll call vote, all members present voted aye. The motion carried.

AFFIDAVIT OF BOARD ACTION

I, Joseph Felkl, Executive Secretary for the Alaska Commission on Postsecondary Education being duly sworn, state the following:

The attached motion dealing with hearing and resolving appeals from institutions that may be denied participation in the National Council for State Authorization Reciprocity Agreements (NC-SARA) program to comply with NC-SARA, state authorization Reciprocity Agreements Manual 20.2, Section 2.5(d) was passed by the Alaska Commission on Postsecondary Education during its January 13, 2021 meeting.


Date: January 26, 2021



Joseph Felkl, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on Jan. 27, 2021

(date)



Notary Public in and for the State of Alaska

