

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: Linda Mattson
Department of Education and Early Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: November 23, 2021

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

Department of Education and Early Development regulations re: English learner
assessment standards (4 AAC)

| | |
|------------------------|-------------------|
| Attorney General File: | 2021200144 |
| Regulation Filed: | 11/23/2021 |
| Effective Date: | 12/23/2021 |
| Print: | 240, January 2022 |

cc with enclosures: Joseph Felkl, Department of Law
Judy Herndon, LexisNexis

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

The attached 6 pages of regulations, dealing with amendments to 4 AAC 04.155 English language proficiency standards, 4 AAC 06.776 Assessment of a student that is an English learner, 4 AAC 06.820 Participation, 4 AAC 34.055 Plan of service, and 4 AAC 34.090 Definitions are certified to be a correct copy of the regulation changes that the State Board of Education and Early Development adopted at its June 10, 2021, meeting, under the authority of AS 14.07.020, AS 14.07.060 and AS 14.07.165, 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.

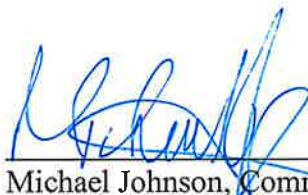
This action is not expected to require an increased appropriation.

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:

4/22/21



Michael Johnson, Commissioner Department of
Education and Early Development

April Simpson for

FILING CERTIFICATION

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

November 23, 2021 at 9:56 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: December 23, 2021.

Register: 240, January 2022.

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.**



K-Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

Register 240, January ²⁰²² ~~2021~~

EDUCATION AND EARLY DEV.

4 AAC 04.155 is amended to read:

4 AAC 04.155. English language proficiency standards. The [PERFORMANCE] standards for English language proficiency for grade levels **kindergarten** [PREKINDERGARTEN] through ¹² as set out in the publication **titled** [ENTITLED] **WIDA English Language Development (ELD) Standards Framework, 2020 Edition: Kindergarten – Grade 12**, [THE WIDA ENGLISH LANGUAGE PROFICIENCY STANDARDS, 2007 EDITION, PREKINDERGARTEN THROUGH GRADE 12] are adopted by reference. Eff. 8/29/2004, Register 171; am 5/18/2006, Register 178; am 10/3/2011, Register 200; am 12/23/2021, Register 240)

Authority: AS 14.07.060 AS 14.17.420 AS 14.30.410

^{Editor's note: ((bold)))}

[^] A copy of **WIDA English Language Development (ELD) Standards Framework, 2020 Edition: Kindergarten – Grade 12** [THE WIDA ENGLISH LANGUAGE PROFICIENCY STANDARDS, 2007 EDITION, PREKINDERGARTEN THROUGH GRADE 12], adopted by reference in 4 AAC 04.155, may be obtained by writing to the Department of Education and Early Development at 801 West 10th Street, Suite 200, P.O. Box 110500, Juneau, Alaska 99811-0500, [OR] at <https://education.alaska.gov/standards>, [WWW.EED.STATE.AK.US/STANDARDS/] **or at** ^{(((Hyperlinks should be in black text w/ no underlining in final published form)))} <https://wida.wisc.edu/sites/default/files/resource/WIDA-ELD-Standards-Framework-2020.pdf>.

4 AAC 06.776(a) is amended to read:

(a) Except as provided in 4 AAC 06.820(f), a [A] student identified as an English learner under 4 AAC 34.090(2) shall participate, either with or without an accommodation, in a test included in the statewide student assessment system under 4 AAC 06.700 - 4 AAC 06.790.

(Eff. 11/23/2003, Register 168; am 10/3/2011, Register 200; am 6/1/2018, Register 226; am 10/20/2018, Register 228; am 12 / 23 / 2021, Register 240)

Authority: AS 14.03.123 AS 14.07.060 AS 14.50.080
AS 14.07.020

4 AAC 06.820(f) is amended to read:

(f) Notwithstanding any provision in this chapter, if a district enrolls a student who ^{is identified ((base/s.l.))} ~~qualifies~~ as an English learner under 4 AAC 34.090(2)[^{and} ~~and~~] who has been enrolled [FIRST ENROLLS] in a school in one of the 50 states in the United States or the District of Columbia for less than 12 months [AFTER THE PREVIOUS SCHOOL YEAR'S ADMINISTRATION OF THE STATE STANDARDS-BASED ASSESSMENTS UNDER 4 AAC 06.737], the district shall exclude [MAY]

(1) ^{identified ((base/s.l.))} the English learner who is recently arrived under this subsection [EXCUSE THE STUDENT] from [PARTICIPATION IN] one administration of the state standards-based assessment in English language arts; and

(2) [ELECT NOT TO INCLUDE THE STUDENT'S SCORE IN] ^{identified ((base/s.l.))} the English learner's results on any state standards-based assessment under 4 AAC 06.737 or an English language proficiency assessment under 4 AAC 34.055(c) for the first year of the ^{student's ((base/s.l.))} English learner's enrollment in the school for the purposes [as part of measures] of the school and district accountability system under 4 AAC 06.800 - 4 AAC 06.899[, INCLUDING

MEASUREMENTS OF PARTICIPATION, ATTAINMENT OF A LONG-TERM GOAL OR MEASURE OF INTERIM PROGRESS, AND INCLUSION IN THE ALASKA SCHOOL PERFORMANCE SYSTEM].

(Eff. 11/23/2003, Register 168; am 10/24/2004, Register 172; am 10/16/2013, Register 208; am 10/9/2015, Register 216; am 4/6/2016, Register 218; am 10/20/2018, Register 228; am

12/23/2021, Register 240)

Authority: AS 14.03.123 AS 14.07.060 AS 14.50.080
AS 14.07.020 AS 14.30.410

4 AAC 34.055(a)(2) is amended to read:

(2) file a plan of service by June 30 [JULY 1] of the fiscal year in which the district enrolls eight or more English learners in a school or the year in which the existing plan of service expires. ^(note: this semi-colon is not new text; present in the original regulation))

4 AAC 34.055(b)(2) is amended to read:

(2) the district's plan of identification of all students who are or who may be English learners, according to the standardized statewide entrance procedures, which must include the use of a state-approved assessment for identification of English language proficiency; ^{an enrollment (bald/ul.)} ^{on (bald/ul.)} ^{not later than (bald/ul.)} a district must assess students who may be English learners for such status within 30 days of enrollment in a school in the state; ^{from the date of the student's (bald/ul.)}

4 AAC 34.055(d) is amended to read:

(d) If, under (b) and (c) of this section, a district identifies a student as an English learner eligible for services under this chapter, the [that] student [PUPIL] remains identified as an English learner until the student obtains an overall composite score of 4.5 or higher[.] on tier B ^{*Assessing Comprehension and Communication in English State-to-State for English Language Learners (CCLL/ELL)*} or tier C of ACCESS for ELLs, if that is the approved assessment [APPROVED BY THE COMMISSIONER] under (c) of this section.

[(1) AN OVERALL COMPOSITE SCORE OF 4.5 OR HIGHER; AND

(2) A SCORE OF 4.0 OR HIGHER IN EACH OF THE TESTED DOMAINS OF READING, SPEAKING, AND LISTENING, AND A SCORE OF 3.8 OR HIGHER IN THE TESTED DOMAIN OF WRITING.] ^{*identified (bold/ELL)*} If an English learner has a disability that precludes ^{*identified (bold/ELL)*} assessment in one or more domains of ACCESS for ELLs, the English learner is eligible for alternate scoring under the department's *Alternate Scoring Process Guide*, 2021 edition, adopted by reference.

4 AAC 34.055(e) is amended to read:

(e) A district shall monitor the academic progress of each student who had been identified as an English learner for four [TWO] years after the student is no longer identified as an English learner. A former English learner is not required to participate in the annual English language proficiency assessment unless the district determines that a student's failure to make academic progress may be a result of a lack of English language proficiency and the student may need to be re-identified as an English learner.

(Eff. 1/14/78, Register 65; am 8/15/78, Register 67; am 6/28/87, Register 102; am 5/4/2000, Register 154; am 11/23/2003, Register 168; am 8/29/2004, Register 171; am 12/7/2004, Register

172; am 2/18/2007, Register 181; am 7/13/2012, Register 203; am 10/16/2013, Register 208; am 10/20/2018, Register 228; am 12/23/2021, Register 240)

Authority: AS 14.07.060 AS 14.17.420 AS 14.30.410

Editor's note: ((bold)))

^ A copy of WIDA English Language Development ~~(ELD)~~ Standards Framework, 2020

Edition: Kindergarten – Grade 12 [THE WIDA ENGLISH LANGUAGE PROFICIENCY STANDARDS, 2007 EDITION, PREKINDERGARTEN THROUGH GRADE 12], adopted by reference in 4 AAC 04.155 and referred to in 4 AAC 34.055(c) [4 AAC 34.005(d)] may be obtained from the Department of Education and Early Development, [DIVISION OF TEACHING AND LEARNING SUPPORT,] 801 W. 10th Street, Suite 200, Juneau, Alaska 99811-0500, [OR] at <https://education.alaska.gov/standards> [WWW.EED.STATE.AK.US/STANDARDS/], or at

<https://wida.wisc.edu/sites/default/files/resource/WIDA-ELD-Standards-Framework-2020.pdf>.

((↑. Hypertlink should be in black text w/ no underlining in final polished form))

((Title in Italic))

4 AAC 34.090(a)(2) is amended to read:

A copy of the Alternate Scoring Process Guide, 2021 edition, adopted by reference in 4 AAC 34.055(d), may be obtained from the Department of Education and Early Development, 801 W. 10th Street, Suite 200, Juneau, Alaska 99811-0500, at <https://education.alaska.gov/assessments/elg>, or at <https://education.alaska.gov/assessments/elg/Alternate%20Scoring%20Process%20Guide.pdf>.

(2) "English learner" means an individual

((New text to be added as second paragraph to editor's note: bold & U.L.))

(A) who is between 3 and 21 years old;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C) who falls into one or more of the following categories of individuals:

((colon present in existing text))

(i) an individual not born in the United States or whose native language is a language other than English;

(ii) a Native American [AN AMERICAN INDIAN], Alaska

Native, or native resident of the outlying areas, who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) an individual who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the

(i) ability to obtain an achievement level that meets standards, as described in 4 AAC 06.739, on the state assessments in English language arts, mathematics, and science under 4 AAC 06.737;

(ii) ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) opportunity to participate fully in society;

^{TP} ~~(4) "Alaska Native" has the meaning given in 4 AAC 06.899;~~
~~4 AAC 34.090(a)(5) is amended to read:~~

(5) "Native American" ["AMERICAN INDIAN"] has the meaning given in

20 U.S.C. 7801(34) (Elementary and Secondary Education Act) [4 AAC 06.899], which is

^{TP} adopted by reference;

~~4 AAC 34.090(a)(6) is amended to read:~~

(6) "outlying area" has the meaning given in 20 U.S.C. 7801(36) (Elementary and

Secondary Education Act), [; THE DEFINITION OF "OUTLYING AREA" SET OUT IN 20

U.S.C. 7801(36), AS REVISED AS OF DECEMBER 10, 2015,] which is adopted by reference.

(EFF. 12/29/76, Registers 60; am 4/5/2000, Registers 134; am 11/23/2003, Registers 168; am 6/30/2013, Registers 206; am 4/6/2016, Registers 218; am 10/24/2018, Register 228; am 12/23, 2021, Registers 240)

Authority: AS 14.03.123

AS 14.07.060

AS 14.50.080

AS 14.07.020

AS 14.30.410

6

← (((Times New Roman)))


MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: November 17, 2021

File No.: 2021200144

From: Rebecca C. Polizzotto 
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 907-465-3600

Re: Department of Education and Early
Development; Amendment of
4 AAC: English learner assessment
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 and concern amendment of 4 AAC to update requirements for English learner standardized testing requirements and resources as well as update 4 AAC 34.090 to replace references to the term "American Indian" with the term "Native American."

A number of technical edits are suggested in accordance with AS 44.62.125 and the Drafting Manual for Administrative Regulations. These corrections are shown on the attached copy of the regulations and none are substantive in nature.

The May 3, 2021 public notice and the June 22, 2021 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.

bws:RCP

cc w/ attachments:

Linda Mattson, Executive Secretary
Department of Education and Early Development

Luann Weyhrauch, Assistant Attorney General
Department of Law

NOTICE OF PROPOSED CHANGES TO THE ASSESSMENT OF ENGLISH LEARNERS
IN THE REGULATIONS OF THE
DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

BRIEF DESCRIPTION: The proposed amendments would adopt changes regarding the assessment of English learners, including revised exit criteria for English learners and updated English language proficiency standards.

The State Board of Education and Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code dealing with the assessment of English learners under 4 AAC 04.155 English language proficiency standards, 4 AAC 06.820 Participation, and 4 AAC 34.055 Plan of service.

A copy of the proposed regulation changes and the *Alternate Scoring Process Guide*, 2021 edition, proposed to be adopted by reference, are available on the Alaska Online Public Notice System, at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Linda Mattson at (907) 465-2800 or at linda.mattson@alaska.gov.

The updated standards, *WIDA English Language Development (ELD) Standards Framework, 2020 Edition: Kindergarten – Grade 12*, proposed to be adopted by reference, are available at <https://wida.wisc.edu/sites/default/files/resource/WIDA-ELD-Standards-Framework-2020.pdf> and in the DEED Commissioner's Office located at 801 W 10th Street, Suite 200, Juneau, Alaska 99801. To schedule a time to review the standards in the Commissioner's Office, please call (907) 465-2800 or email deed.commissioner@alaska.gov.

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 June 2, 2021, 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 regulation change. 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 June 2, 2021.

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 10th at 9:00 a.m., by Zoom virtual platform. The teleconferencing facilities will be operated from the Department of Education and Early Development Commissioner's Office Conference Room, 801 West Tenth Street, Juneau, AK 99801. The public comment period will be held from 9:10 a.m. to 11:10 a.m. but may be extended. You may join the online Zoom meeting at <https://zoom.us/j/99391482721> or by calling 1-253-215-8782 and selecting *9 on your phone's keypad. To mitigate the spread of the COVID-19 virus, in-

person attendance will not be permitted. When public comment is over, the meeting will continue to be broadcast at the above website.

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, 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 21, 2021, 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>. The Department of Education and Early Development may, but is not required to, answer written questions received after the ten-day cut-off date and before the end of the comment period.

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)465-2800 or linda.mattson@alaska.gov not later than June 1, 2021, to ensure that any necessary accommodation can be provided.

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 14.03.123, AS 14.30.410, AS 14.17.420, AS 14.50.080

Fiscal information: The proposed regulation change is not expected to require an increased appropriation.

Date: 05/03/2021



Karen Melin, Deputy Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: State Board of Education & Early Development
2. General subject of regulation: Adopt Changes Regarding the Assessment of English Learners
3. Citation of regulation (may be grouped): 4 AAC 04.155, 4 AAC 06.820, 4 AAC 34.055
4. Department of Law file number, if any: 2021200144
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: Education Support and Administrative Services/Student and School Achievement
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 21 | 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

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: April 28, 2021

Prepared by: Linda Mattson

Name: Linda Mattson

Title: Regulations Contact

Telephone: (907) 465-2802

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 100866 ST OF AK/EDUCATION AND EARLY DEV
OFFICE OF THE COMMISSIONER, JUNEAU, AK 99811

Order #: W0022316

Cost: \$602.62

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 afore-said 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

05/03/2021

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 3rd day of May 2021.

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

MY COMMISSION EXPIRES

7/14/2024

NOTARY PUBLIC
JADA L. NOWLING
STATE OF ALASKA
MY COMMISSION EXPIRES JULY 14, 2024

NOTICE OF PROPOSED CHANGES TO THE ASSESSMENT OF ENGLISH LEARNERS IN THE REGULATIONS OF THE DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT

BRIEF DESCRIPTION: The proposed amendments would adopt changes regarding the assessment of English learners, including revised exit criteria for English learners and updated English language proficiency standards.

The State Board of Education and Early Development proposes to adopt regulation changes in Title 4 of the Alaska Administrative Code dealing with the assessment of English learners under 4 AAC 04.155 English language proficiency standards, 4 AAC 06.820 Participation, and 4 AAC 34.055 Plan of service.

A copy of the proposed regulation changes and the Alternate Scoring Process Guide, 2021 edition, proposed to be adopted by reference, are available on the Alaska Online Public Notice System, at <https://education.alaska.gov/regs/comment.cfm>, and by contacting Linda Mattson at (907) 465-2800 or at linda.mattson@alaska.gov.

The updated standards, WIDA English Language Development (ELD) Standards Framework, 2020 Edition: Kindergarten - Grade 12, proposed to be adopted by reference, are available at <https://wida.wisc.edu/sites/default/files/resource/WIDA-ELD-Standards-Framework-2020.pdf> and in the DEED Commissioner's Office located at 801 W 10th Street, Suite 200, Juneau, Alaska 99801. To schedule a time to review the standards in the Commissioner's Office, please call (907) 465-2800 or email deed.commissioner@alaska.gov.

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 June 2, 2021, 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 regulation change. 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 June 2, 2021.

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 10th at 9:00 a.m., by Zoom virtual platform. The teleconferencing facilities will be operated from the Department of Education and Early Development Commissioner's Office Conference Room, 801 West Tenth Street, Juneau, AK 99801. The public comment period will be held from 9:10 a.m. to 11:10 a.m. but may be extended. You may join the online Zoom meeting at <https://zoom.us/j/99391483271> or by calling 1-253-215-8782 and selecting *9 on your phone's keypad. To mitigate the spread of the COVID-19 virus, in-person attendance will not be permitted. When public comment is over, the meeting will continue to be broadcast at the above website.

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, 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 21, 2021, 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>. The Department of Education and Early Development may, but is not required to, answer written questions received after the ten-day cut-off date and before the end of the comment period.

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) 465-2800 or linda.mattson@alaska.gov not later than June 1, 2021, to ensure that any necessary accommodation can be provided.

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 14.03.123, AS 14.30.410, AS 14.17.420, AS 14.50.080

Fiscal Information: The proposed regulation change is not expected to require an increased appropriation.

Date: 05/03/2021

By: /s/ Karen Melin,
Deputy Commissioner

Pub: May 3, 2021

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 04.155 English language proficiency standards, 4 AAC 06.776 Assessment of a student that is an English learner, 4 AAC 06.820 Participation, 4 AAC 34.055 Plan of service, and 4 AAC 34.090 Definitions 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).

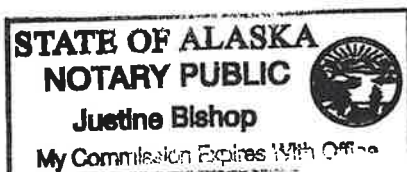
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to those in (2), (4), and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public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

Date: 6/23/2021

Linda Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on June 23, 2021

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:

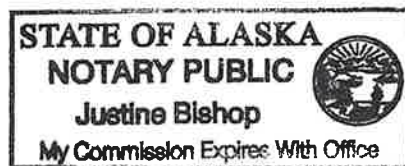
On June 10, 2021 at 9:00am via Zoom virtual platform, a public hearing presided over by the State Board of Education and Early Development, was held under AS 44.62.210 for the purpose of taking oral testimony in connection with the adoption of updates to 4 AAC 60.170: Department of Education and Early Development - Programmatic Requirements for Pre-Elementary Schools. To mitigate the spread of the COVID-19 virus, in-person testimony was not permitted.

Date: 6/23/2021

Linda J Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau Alaska on
June 23, 2021.

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:

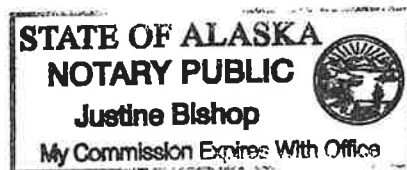
In compliance with AS 44.62.215, the Department of Education and Early Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Education and Early Development regulation amending 4 AAC 04.155 English language proficiency standards, 4 AAC 06.776 Assessment of a student that is an English learner, 4 AAC 06.820 Participation, 4 AAC 34.055 Plan of service, and 4 AAC 34.090 Definitions.

Date: 6/23/2021

Linda J. Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on
June 23, 2021.

Justine Bishop
Notary Public in and for the State of Alaska



State Board of Education and Early Development Meeting

June 10, 2021

Excerpt from Unapproved Minutes

Member Griffin motioned and Member Van Diest seconded the following motion: I move the State Board of Education and Early Development adopt the proposed amendments to 4 AAC 04.155 English language proficiency standards, 4 AAC 06.776 Assessment of a student that is an English learner, 4 AAC 06.820 Participation, 4 AAC 34.055 Plan of service, and 4 AAC 34.090 Definitions.

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 04.155 English language proficiency standards, 4 AAC 06.776 Assessment of a student that is an English learner, 4 AAC 06.820 Participation, 4 AAC 34.055 Plan of service, and 4 AAC 34.090 Definitions was passed by the State Board of Education and Early Development during its June 10, 2021, meeting.

Date: 6/23/2021

Linda J Mattson
Linda Mattson, Executive Secretary

Subscribed and sworn to before me at Juneau, Alaska on

June 23, 2021.

Justine Bishop
Notary Public in and for the State of Alaska

