



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Education
& Early Development

OFFICE OF THE COMMISSIONER

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April 15, 2024

Re: Superior Court Ruling in *Alexander v. Teshner* addressing Correspondence Study Programs

Dear Superintendents:

I understand there may be many questions and concerns about the recent Alaska Superior Court order addressing correspondence study programs. I am reaching out to provide some clarification on that order, explain some actions the State will be taking on this issue right away and review potential impacts on school districts with correspondence study programs.

The Superior Court's decision and order

On April 12, 2024, Superior Court Judge Zeman issued an order finding that two statutes passed in 2014, Alaska Statutes 14.03.300 -.310, must be struck down as violative of the Alaska Constitution. As you are likely aware, these two statutes built upon the existing correspondence study program. Specifically, AS 14.03.300 states that a correspondence study program will each year provide an "individual learning plan" for each student and sets out certain requirements for an individual learning plan. AS 14.03.310 describes a student allotment program through which a parent or guardian of a student in a correspondence study program may be provided with an annual allotment to "purchase nonsectarian services and materials from a public, private, or religious organization" so long as the services and materials are required under the individual learning plan and the textbooks, services, and other curriculum material are approved by the school district, aligned with state standards, and meet other specific requirements.

The superior court's decision focused on the ability to use allotments to purchase materials and services from a private or religious organization and whether that violated Article VII, section 1 of our state Constitution, which prohibits the expenditure of public funds "for the direct benefit of any religious or other private educational institution." The judge chose to strike down these two correspondence study statutes in their entirety.

Actions to be Taken by the State

I am very concerned about this ruling and how it could affect over 22,000 students currently enrolled in correspondence study programs. Alaska has a long history of providing correspondence study programs for Alaska children going back to its days as a Territory. The statutes at issue were enacted in 2014 but

the correspondence study programs were in place long before 2014. Correspondence programs are a critical part of public education in our state, and we intend to take every action possible to protect this public-school option for all correspondence students currently enrolled in the state.

The Alaska Department of Law will be taking several actions including further filings with the Superior Court as appropriate to seek to avoid unnecessary disruption of the correspondence program. Additionally, the Department of Law will seek a full review of this matter by the Alaska Supreme Court. Further, our department will be coordinating with our partners in state government – and local school districts - to avoid unnecessary disruption of the correspondence school program while the Alaska Supreme Court considers the important issues in this case. As you know, this decision was only issued late Friday afternoon and thus there will be a lot of further analysis of the decision and appropriate steps to be taken.

Immediate Impacts on School Districts

At this time the court order is not a final judgment, which means it does not have any immediate impact to school districts with correspondence study programs. As noted above, the Department of Law will be filing appropriate applications with the Superior Court and, if necessary, the Alaska Supreme Court to hopefully keep the status quo in place with no change in the correspondence study program until the Alaska Supreme Court has had a full opportunity to review this case. Therefore, your school district may continue to administer its correspondence study program, including paying outstanding invoices and other administrative duties at the present.

However, it is possible the Superior Court order could become effective before the Alaska Supreme Court fully reviews the case. If that should occur, we will inform you right away. You may also want to consult with your local school district counsel. Given the importance of this matter, I anticipate sending out frequent updates to you but of course please feel free to contact me with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Deena M. Bishop", with a stylized flourish at the end.

Deena M. Bishop, Ed.D.
Commissioner, Alaska Department of Education and Early Development