



Attorney General

To: Members of the State Board of Education & Early Development
From: Morgan Griffin
Date: June 4, 2026
Item: 13E

Standing General Report

Introduction

This memorandum describes the status of current litigation involving the Department of Education and Early Development.

Updates

- *Department Environmental Conservation Enforcement Matter related to Contamination at Joe Parent Vocational Education Center in Aniak.* No updates since March 2026 Report to SBOE.
- *Alexander et al. v. Acting Commissioner Heidi Teshner, State of Alaska, Department of Education & Early Development.* No updates since March 2026 Report to SBOE.
- *In the matter of Alaska Department of Education and Early Development, OHA Docket No. 25-36-I, Federal Impact Aid Proceeding.*

On May 16, 2025, the U.S. Department of Education (USDOE) notified the Department of Education and Early Development (DEED) that Alaska is not eligible to take into consideration federal impact aid payments when calculating state aid to school districts for FY2026 because the state's revenue disparity percentage is not within the 25% disparity allowed under the impact aid federal requirements.

The Department has retained outside counsel, with experience successfully challenging impact aid determinations, to represent the state in this matter. The Department, through counsel, filed a request for hearing, appealing USDOE's Impact Aid determination, on July 14, 2025. On July 29, 2025, USDOE referred the matter to ALJ Elizabeth Figueroa, who subsequently assigned opposing counsel and scheduled an initial status conference for September 11, 2025. Following that conference, after a request from the parties for additional time to explore a pre-hearing resolution, the ALJ stayed the proceedings.

While proceedings were stayed, the Department worked with outside legal counsel to consider arguments on appeal, review the data submitted to the Impact Aid Program, consider alternative data submissions and methodologies that may satisfy federal requirements, and explore options for alternative dispute resolution. However, since DEED and USDOE were unable to agree on a

pre-hearing resolution, the parties requested the ALJ lift the stay previously entered. As such, on March 18, 2026, the ALJ entered an order setting a briefing schedule for the parties to submit their cases in writing. Pursuant to this briefing schedule, DEED filed its initial brief on April 24, 2026. USDOE now has until May 22, 2026, to file any response brief, and DEED has until June 5, 2026, to file its brief in reply to USDOE’s response brief.

- *FNSBSD & Kuspuk SD v. DEED*; 3AN-26-04416CI

On January 23, 2026, Fairbanks North Star Borough School District and Kuspuk School District filed suit against DEED, Commissioner Bishop in her official capacity, and Governor Dunleavy in his official capacity, alleging they have violated both the Education Clause of the Alaska Constitution—Article VII, Section 1—and the substantive due process clause—Article I, Section 7—by failing to fund the public school system to the districts’ satisfaction. The districts’ suit asks Anchorage Superior Court Judge William Taylor to grant declaratory and injunctive relief in the form of declarations that DEED and the State’s Executive Branch have violated the Alaska Constitution “by failing to fund education at a level sufficient to provide each Alaska student with a sound basic education and a meaningful opportunity to achieve proficiency in core subjects” and an injunction “directing Defendants to remedy all of the foregoing constitutional violations.”

The Department of Law’s Special Litigation Section has been assigned this case and its section chief filed a motion to dismiss for failure to state a claim under Alaska Civil Rule 12(b)(6) on March 9, 2026, asserting that the amount money the State spends on public education is a political issue expressly committed to the discretion of the Alaska Legislature both by Art. 7, sec. 1 of the Alaska Constitution and Art. 9, sec. 13, and thus the districts’ suit presents a nonjusticiable political question that neither DEED or the superior court possess the power to resolve. The districts filed an opposition to the State’s motion to dismiss, following which Superior Court Judge Taylor ordered the parties to present their oral arguments on the issue of the State’s motion to dismiss on May 13, 2026, after which an order will be issued granting or denying the State’s motion. If granted, the case would be dismissed. If the motion to dismiss is denied, the case will continue on its regular course for the court’s consideration and ruling on the merits of the districts’ claims.