



Commissioner Roger Sampson
Department of Education
& Early Development
801 W. Tenth Street, Suite 200
Juneau, Alaska 99801-1894
www.eed.state.ak.us

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Contacts: **Harry Gamble, Alaska Department of Education (907) 465-2851**
 Mark Morones, Alaska Department of Law (907) 269-6393
 Stephen Tollafield, Disability Rights Advocates (510) 451-8644
 Dave Fleurant, Disability Law Center of Alaska (907) 565-1002

Parties Settle Disabilities Assessment Lawsuit

Class Action Settlement In Best Interests of Students and State, Say Officials

Parties in the Noon v. State class action lawsuit filed on behalf of students with disabilities who take the High School Graduation Qualifying Examination have reached a comprehensive settlement.

Under the settlement, (1) disabled students will be offered alternative ways to demonstrate they have achieved proficiency in math, reading, and writing, as measured against the same standards that apply to other students; (2) the exit exam will be a high stakes requirement for graduation for students with disabilities in the spring of 2005, but in certain cases it will be phased-in; and (3) the range of accommodations available to students with disabilities will be broadened. The settlement agreement is posted on the web at www.eed.state.ak.us/ under "Headlines."

Disability Rights Advocates of Oakland, California, the Disability Law Center of Alaska and Davis Wright Tremaine LLP filed the lawsuit in March 2004 against the Commissioner and the State Board of Education & Early Development and the Anchorage School District. The lawsuit questioned whether Alaska's exit exam violated various federal and state laws relating to students with disabilities.

Under a joint stipulation filed in March, high schools statewide issued diplomas to students with disabilities in the class of 2004 who had not passed the exit exam to give time for all sides to work out an agreement.

Said Education Commissioner Roger Sampson: "The provisions of the settlement will better serve Alaska's students with disabilities while maintaining the rigor, fairness and integrity of our assessment system. In addition, the settlement will make an already good assessment system one of the best in the nation."

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Sid Wolinsky, attorney for the plaintiffs, commented, “This settlement has resulted in a win-win situation for everybody. Students with disabilities gain a fair opportunity to participate on equal terms and the State benefits from a rigorous accountability system that considers the needs of all students. In reaching this important resolution, Disability Rights Advocates is pleased at the constructive approach taken by the State of Alaska and particularly Attorney General Gregg Renkes and Education Commissioner Roger Sampson. We all share the same interest: an educational system for all Alaskan children that prepares them to achieve their full potential.”

Attorney General Gregg Renkes, said: "I am confident that this is a fair settlement for disabled students seeking a high school diploma. The settlement and supporting regulatory changes acted upon by the state school board are consistent with state law that requires testing all students against the state standards and at the same time that students with disabilities be provided a true opportunity to show their proficiency. We all owe Commissioner Sampson and the school board members our thanks for finding a positive way through a very difficult and divisive problem."

Dave Fleurant, Disability Law Center of Alaska attorney, remarked, “We appreciate the efforts of the State and others to reach a solution that will be a step forward for children with disabilities in Alaska. These students will be better able to demonstrate their knowledge on the exit exam with the increased accommodations and modifications. We look forward to working with the State and others on behalf of the children that we all serve.”

Joan Wilson, an attorney with Davis Wright Tremaine LLP, said: “This agreement serves the interests of all students with disabilities in this State and does not lower the bar for disabled students. Rather, it more fairly includes them in the circle of a demand of higher accountability in education. I would like to applaud the State for coming to the table to reach a resolution for the benefit of Alaska students.”

Anchorage School District Superintendent Carol Comeau, said: “The agreement is very positive for students, teachers, parents and the State. Now we can all move forward with clear and fair rules to do our best for all students with disabilities.”

Meanwhile, the State Board of Education & Early Development on July 14 asked the public to comment on new regulations that will open more options for students with disabilities to demonstrate proficiency on the high school exit exam. The board will consider adopting the proposal at a special teleconference meeting on August 16.

Parties in the suit will file the settlement with U.S. District Court Judge James Singleton.

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