MEMORANDUM

TO: John Van Winkle  
FROM: Chris Cooke  
RE: Alaska Schools  

DATE: July 14, 1970

Sorry for the delay in responding to your memo of June 26, but as you can no doubt imagine, quite a lot has been going on recently.

I don’t have a model complaint such as you requested; however, many types of challenges are possible and we have several sets of pleadings from cases around the country attacking analogous problems.

Let me give you some examples though of the types of challenges that are possible:

1. A native student has a right to be educated within the State of Alaska. Under federal law he cannot be sent to school outside the state in which he lives without the consent of his parent or guardian. Therefore, if a parent does not want his child to go to Chena or Chilcoo he can withhold consent or revoke any previously given (I think the present form of the BIA consent form can be challenged too because it does not clearly indicate that the child will be sent out of state and in fact implies the opposite.).

2. A native student has the right to be educated in State schools. If a student does not wish to go to Mt. Edgecumbe or other BIA school within the state, he can assert his right to be educated in the school facilities of the state which are, under the Alaska Constitution, “open to all children of the state”.

3. If a native student does not wish to live away from home to attend school, either State or BIA, then he can assert his rights under the laws of Alaska to be educated in
the district (i.e., meaning state-operated school district, at least) in which he is a resident. If his village contains more than five secondary level pupils in any grade, then he can assert his right to have the state-operated school district and its school board provide classes for every such grade (or any elementary grade with more than three pupils).

4. In a somewhat more tenuous area, as far as the status of the law is concerned, native students and parents can assert their right to equal educational opportunity, preservation of their culture and language in the schools, and equitable procedures of educational testing (e.g., not in English language, not using while middle-class standards and stereotypes).

Another interesting problem to contemplate, and an increasingly serious one as the boarding home program expands, is the disconnection of parents of boarding home students from school board elections. In the columns of state-operated schools, the parents would elect an advisory board of parents at least theoretically non-policy-making functions with regard to their schools. With the development of the boarding home program now a great number of native students are being placed in schools in Anchorage, Fairbanks, Fairbanks, etc., where educational policies and priorities are not set by the local school board elected by the resident voters of those places. Arguably, these boards, as presently constituted, may be even less sensitive to the needs and desires of the native students than state-operated schools and the BIA. This situation should be corrected.

The enclosed materials from the Alaska statutes and Constitution should help clarify some of my statements.

CRC:jw
Enclosure
Section 1. Public Education. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions as established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

Words "or indirect" not included in last sentence. The words of the constitutional convention read that the operation of health, sanitation and welfare provisions be reviewed. The last sentence of the section, considering the words "direct" and "indirect" and that the words "or indirect" after the word "direct" should not be read for the reason that they would permit an indefinite practicality and allow the children in some schools from each town to be held under the state welfare department for all children.

Section 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it, its property shall be administered and disposed of according to law.

Section 3. Board of Regents of University. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

Section 4. Public Health. The legislature shall provide for the promotion and protection of public health.

Section 5. Public Welfare. The legislature shall provide for public welfare.

248
§ 14.03.070

"(3) This section does not prevent a high school from issuing a diploma to a student who has completed the 12th grade. (§ 14.03.080)"

Sec. 14.03.080. School age. A child who is in the years of age or who will become six years of age before November 2 following the beginning of the school year, and who is under the age of 70 and not enrolled the 12th grade, is not school age. (§ 14.03.080)

Sec. 14.03.082. Age requirements. "(a) A child of school age is entitled to attend public school without payment of fees during the school term in which he is a resident. This section shall not be construed to require the compulsory attendance of all children of school age.

(b) A person over school age may be admitted to the public school in the school district in which he is a resident at the discretion of the governing body of the school district. A person over school age may be changed from the governing body of the school district.

(c) A child under school age may be admitted to the public school in the school district in which he is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board of education that the child has the mental, physical, and emotional capacity to perform satisfactorily for the educational program being offered.

(d) A child who is five years of age or who will become five years of age before November 2 following the beginning of the school year, and who is under school age, may enter a public school kindergarten.

(e) A child under school age shall be admitted to school in the district in which he or she is a resident if immediately before he becomes a resident of the district, he was legally enrolled in the public schools of another district or state. (§ 14.03.082)

Sec. 14.03.084. Application for nonresident enrollment prohibited. No pupil, resident, or nonresident applicant may be admitted in a public school during the hours the school is in session. No teacher, or school board district; this section may recover public money. (§ 14.03.084)

Sec. 14.03.090. Use of school facilities. The governing body of a school district may allow the use of school facilities for any legal gathering or assembly. The governing body shall adopt rules that will ensure reasonable and responsible use of the facilities. (§ 14.03.090)"
Article I. Advisory School Boards.

Section

Sec. 565-566. [Reserved]

Sec. 567-568. [Reserved]

Repealed by § 52 ch 86 SLA 1965, effective July 1, 1965.

Section

Sec. 1410.355. Voter qualifications.

Section

Repealed by § 8 ch 52 SLA 1965.


Section

Sec. 1412.015. Districts of state public school system. The districts of the state public school system are as follows:

1. Each first, second, and third class city in the unorganized borough is a city school district;

2. Each second and third class city in the organized boroughs is a borough school district;

3. The area outside organized boroughs and outside first, second, and third class cities is the state-operated school district.

Effective date of chapter: Section 51, ch 26 SLA 1965, provided: "[Reserved]" Art. added effective July 1, 1965.

Sec. 1412.035. Support, management, and control. (a) Operation of the state-operated school district is under the management and control of the department.

(b) Each borough or city school district shall be operated on a district-wide basis under the management and control of a school board.

(c) The department shall provide the state money necessary to maintain and operate the state-operated school districts. The borough assembly for a borough school district, and the city council for a city school district, shall provide in the money which must be raised from local sources to maintain and operate the district. (§ 1 ch 28 SLA 1965)
cational program for each school-age child who is a resident of the district;

(2) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted an evaluation, statistics, and reports which the school board may request by law;

(4) transcripts, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings but a record of all proceedings of the school board in a separate form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours. (§ 3 ch. 98 SSA 1960)

Sec. 34.14.160. Bylaws and administrative rules. (a) The school board policies relating to management and control of the district shall be expressed in written bylaws formally adopted at regular school board meetings.

(b) Administrative rules which do not embody school district policy need not be promulgated as bylaws; however, the rules shall be in written form and readily available to all school personnel. (§ 1 ch. 98 SSA 1960)

Sec. 34.14.170. Cooperation with other districts. When necessary to provide more efficient or more economical educational services, a district may cooperate with other districts, state-operated schools, or the Bureau of Indian Affairs in providing educational services or in establishing boarding and tuition agreements, arrangements for the exchange of pupils or teachers, or other similar arrangements. However, if a cooperative arrangement results in the removal from daily school hours, the school board shall provide among the districts for any grade represented by more than five elementary pupils or five secondary pupils. (§ 1 ch. 98 SSA 1960)

Sec. 34.14.180. Inoperative district. (a) When there are fewer than eight children eligible to attend elementary and secondary schools in a district, the school board may declare the district inoperative for that school year.

(b) During the school year in which a district is inoperative, the school board shall perform those functions necessary to preserve the financial integrity of the district to preserve the property and assets of the district, and to otherwise protect against disruption of the continuity of the district's operation.

(c) An inoperative school board shall, if practicable, pay the tuition and handling costs necessary to enable the school age child-