IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT
AT ANCHORAGE

LUCILLE SAGE and STELLA SAGE, minors, by their mother and next friend, MILDRED SAGE; MYRA HAWLEY, a minor, by her parents and next friend, AMOS and LOUISE HAWLEY; and DOLLY HAWLEY, a minor, by her father and next friend, BOB T. HAWLEY,

Plaintiffs,

vs.

STATE BOARD OF EDUCATION OF THE STATE OF ALASKA; KATHERINE HURLEY, JAMES N. WANAMAKER, JOHN BORBRIDGE, JR., MARIE L. McDOWELL, BETTY J. CUDDY, FRANKLIN M. KING, JR., RUTH McLEAN, in their capacity as members of the State Board of Education; ALASKA STATE-OPERATED SCHOOL SYSTEM, a State Corporation; VINCENT L. SCHUERCH, ELIZABETH BEAHS, LT. COL. WAYNE C. HILL, DARRYL K. PEDERSON, JOHN RICHARD BENSON, SGT. ROBERT O. WEYBURN, and LUCILLE C. BRENWICK, in their capacity as members of the Board of Directors for State-Operated Schools, CLIFF R. HARTMAN, Commissioner of Education, State of Alaska; MERLE M. ARMSTRONG, Director, Division of State-Operated Schools, State of Alaska; G. LEE HAYES, Assistant Director, Division of State-Operated Schools, State of Alaska, GEORGE WHITE, Regional Administrator, Northwestern Area Schools, Division of State-Operated Schools, State of Alaska,

Defendants.

No. 71-1245

STIPULATION AND ORDER

The plaintiffs and Merle M. Armstrong, Director of State-Operated Schools, do hereby stipulate that from this day and continuing through the end of the Spring 1971, school term of the State-Operated School in Kivalina, Alaska, State-Operated Schools, through one or both of their teacher-employees in Kivalina, will continue to offer assistance with correspondence courses to plaintiffs at the ninth grade or other appropriate grade level, if requested by plaintiffs.

Plaintiffs are to be notified immediately of the continued availability of these courses, and are to be given reasonable instruction and assistance by defendants' teachers. The Division of State-Operated Schools will mail promptly

copies of this Order to one of the teachers at Kivalina, Alaska with instructions to carry out the Order.

This Stipulation obviates and renders moot an application for preliminary relief during the Spring 1971, school term.

DATED at Anchorage, Alaska this 4th day of May, 1971.

JOHN E. HAVELOCK
ATTORNEY GENERAL

By: Dorothy Awes Haaland
Dorothy Awes Haaland
Assistant Attorney General
Attorney for Merle M. Armstrong

Christopher R Cook
Attorney for Plaintiffs

O R D E R

IT IS SO ORDERED.

DATED: May 5, 1971

S/ James Fitzgerald
JUDGE OF THE SUPERIOR COURT

OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
300 "C" ST., SUITE 105
ANCHORAGE, ALASKA 99501
PHONE: 272-1552

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Defendants.

No.

COMPLAINT

NATURE OF ACTION

1. This is a civil action brought on behalf of several ~~school-age~~ children residing in Kivalina, Alaska, by their parents as next friends. These children should be attending school in the ninth grade; however, at present, they are not in school and are not being provided educational services of any kind. Plaintiffs claim they are entitled to public school classes where the live under State laws, the Constitution of

the State of Alaska, and the Constitution of the United States. They seek declaratory and injunctive relief to secure their right to educational services and to restrain defendants from failing to provide these services.

2. That plaintiffs are clients of an attorney employed by Alaska Legal Services Corporation. As such, they are exempt from filing fees otherwise required by the Alaska Court System, pursuant to Rule 13, Rules Governing the Administration of all Courts.

PARTIES

3. Plaintiffs LUCILLE SAGE and STELLA SAGE, ages 16 and 15 respectively, are citizens of the United States residing with their family in Kivalina, Alaska. This action is brought in their behalf by their mother and next friend, MILDRED SAGE.

4. Plaintiff MYRA HAWLEY, 16 years of age, is a citizen of the United States residing with her family in Kivalina, Alaska. This action is brought in her behalf by her parents and next friends, AMOS and LOUISE HAWLEY.

5. Plaintiff DOLLY HAWLEY, 16 years of age, is a citizen of the United States residing with her family in Kivalina, Alaska. This action is brought in her behalf by her father and next friend, BOB T. HAWLEY.

6. Kivalina, Alaska, is an incorporated fourth class city of approximately 188 persons.

7. Defendant STATE BOARD OF EDUCATION OF THE STATE OF ALASKA (STATE BOARD) is responsible for formulating state-wide educational policy and administering funds to provide educational services. Defendants KATHERINE HURLEY, JAMES N. WANAMAKER, JOHN BORBRIDGE, JR., MARIE L. McDOWELL, BETTY J. CUDDY, FRANKLIN M. KING, JR., and RUTH McLEAN are the individual members of the STATE BOARD. The responsibilities of these defendants include supervision of the activities of the State Department of Education.

8. The STATE BOARD is the operating school board for the State-Operated School District. Its By-Laws govern the organization and operation of the State-Operated School District. It also sets policy for the operation of the Boarding Home Program.

9. Defendant ALASKA STATE-OPERATED SCHOOL SYSTEM is a State Corporation created to provide public education in the State-Operated School District. Defendants VINCENT L. SCHUERCH, ELIZABETH BEANS, LT. COL. WAYNE C. HILL, DARRYL K. PEDERSON, JOHN RICHARD BENSON, SGT. ROBERT O. WEYBURN, and LUCILLE C. BRENWICK are the individual members of the Board of Directors for State-Operated Schools. This corporation and this Board exist pursuant to A.S., 14.08.010-150. When all sections of these statutes take effect, the Board of Directors will have exclusive management and control of all State-Operated School matters associated with the State's program of education at the elementary and secondary levels, subject to the State laws and the regulations promulgated by the Commissioner of Education and the State Board of Education.

10. Defendant CLIFF R. HARTMAN is the Commissioner of Education. He is the principal executive officer of the Department of Education. Among the current responsibilities of the Department of Education is the maintenance and operation of the State-Operated School District. (A.S. 14.12.020)

11. Defendant MERLE M. ARMSTRONG is the Director of the Division of State-Operated Schools within the Department of Education. Defendant G. LEE HAYES is Assistant Director, Division of State Operated Schools in the Department of Education. These defendants are responsible for the overall supervision and operations of schools within the State-Operated School District.

12. Defendant GEORGE WHITE is the Regional Administrator for Northwestern Area Schools within the Division of State-Operated Schools. Kivalina, Alaska, is within defendant WHITE's area of supervision.

STATEMENT OF THE CLAIM

13. Defendants presently operate a day school in Kivalina which provides public school classes for grades one through eight.

14. Plaintiffs LUCILLE SAGE, STELLA SAGE, MYRA HAWLEY and DOLLY HAWLEY all have completed the eighth grade and should be in the ninth grade; however, at present none are in school because no local school is available for them, and defendants are not providing them any educational services.

15. LUCILLE SAGE attended Mount Edgecumbe High School, a boarding school operated by the Bureau of Indian Affairs near Sitka, Alaska, for a brief period in 1969. She had not chosen Mount Edgecumbe and was assigned there against her wishes. Beltz High School, operated by defendants, had been her first choice for high school, but for reasons never explained to her she was assigned to Mount Edgecumbe. She was unhappy there and did not eat properly, so her parents allowed her to come home in September, 1969. Since then, she has not been in school, and no school is available at her home.

16. STELLA SAGE, MYRA HAWLEY and DOLLY HAWLEY were assigned to attend school in the Fairbanks public schools in the fall of 1970. They were placed in the Boarding Home Program. The girls were unhappy in the Boarding Home Program, and they and their parents felt they were not getting proper care and treatment. For these reasons each girl returned home to Kivalina during the fall of 1970. The fare of $81.00 from Fairbanks to Kivalina was paid by each girl's parents. None of these plaintiffs has attended school since returning home from the Fairbanks Boarding Home Program, and no school is available for them at their home.

17. In January, 1971, the principal teacher at the Kivalina Day School, Tom Troxell, began assisting the plaintiffs and two other high school children in Kivalina with high school correspondence courses. The students received assignments from him and he administered tests to them every week or so. However, these courses have been halted because on March 9, 1971, Tom

Troxell was transferred to Noorvik, Alaska, by defendants. To date, the correspondence courses have not been reinstated.

18. Presently, plaintiffs, LUCILLE SAGE, STELLA SAGE, MYRA HAWLEY, and DOLLY HAWLEY are all living in Kivalina, and are not attending high school or receiving educational services of any kind. Nora Swan is another ninth grader in Kivalina who is not in school. Also, there are four other ninth graders from Kivalina attending school outside the village through boarding arrangements maintained by defendants and the Bureau of Indian Affairs. Altogether, there are more than twelve eighth grade graduates under the age of twenty-one who would enroll and attend high school classes (grades 9-12) in Kivalina if there was a high school there.

19. All plaintiffs desire further education and want high school classes to be provided in Kivalina.

20. The plaintiffs are aware of no plans to provide high school courses to children residing in Kivalina. The failure of defendants to provide education for those children is continuing injury and irreparable harm of the most serious magnitude for which plaintiffs have no adequate remedy at law.

COUNT I

21. Article VII, §1 of the Constitution of the State of Alaska requires the legislature to establish and maintain a system of public schools open to all children of the State. Therefore, plaintiffs have the right to the educational services of the public schools, and defendants have the duty to provide such services.

22. A.S. 14.03.080 establishes the right of each child of school age to attend public school during the school term "in the school district in which he is a resident". Therefore, plaintiffs have the right to attend school in the school district where they reside and defendants have the duty to provide school services there.

23. Plaintiffs reside in the State-Operated School District, defined by A.S. 14.12.010(3) as "the area outside

organized boroughs and outside first, second, and third class cities". The State-Operated School District is one of the three types of districts of the State Public School System.

24. A.S. 14.14.110 authorizes school districts to cooperate with other districts and the Bureau of Indian Affairs to provide more efficient or more economical educational services when necessary. However, this statute requires the school board to provide class for any secondary grade represented by more than five pupils if a cooperative arrangement authorized by this section requires pupils to live away from their usual home.

25. In Kivalina, Alaska, there are more than five children who are or should be in the ninth grade, as described above in paragraph 18.

26. Under A.S. 14.14.110, plaintiffs have the right to attend ninth grade classes and live at their usual homes, and defendants have the duty to provide these classes. Cooperative arrangements may still be made available to plaintiffs or others in Kivalina, but A.S. 14.14.110 requires defendants to provide plaintiffs the option of attending ninth grade classes where they reside since there are more than five ninth grade pupils living there.

COUNT II

27. Plaintiffs incorporate by reference paragraphs 21 through 26 and further allege that the educational services described in those paragraphs are presently being provided to many, if not most, Alaskan children. A.S. 14.14.110, in particular, is clearly mandatory upon locally administered schools, such as borough and city school districts.

28. If A.S. 14.14.110 be deemed not to apply directly to residents of State-Operated School Districts, the right to local schools created thereby must apply to the State-Operated School District by operation of the equal protection guarantees of Article I, Section 1 of the Constitution of the State of Alaska and the Fourteenth Amendment to the Constitution of the United

States. Where the State has undertaken to provide education, it must be made available to all on equal terms. Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed 873 (1954); Griffin v. County School Board, 377 U.S. 218, 84 S.Ct. 1226, 12 L.Ed.2d 256 (1964).

WHEREFORE, plaintiffs pray for relief as follows:

1. That this Court enter judgment in favor of plaintiffs and against defendants declaring that:

(a) Plaintiffs have the right to, and defendants must provide, educational services in the form of public schools;

(b) Plaintiffs have the right to, and defendants must provide, educational services within the State-Operated School District in which plaintiffs reside;

(c) Plaintiffs have the right to, and defendants must provide, public school classes which do not require children to live away from their usual homes for every grade where there are more than five secondary pupils.

2. That a Temporary Restraining Order, Preliminary Injunction and Permanent Injunction issue restraining defendants from failing to provide public school classes for plaintiffs where they live.

3. That a Writ of Mandamus issue compelling defendants:

(a) to provide educational services in the form of public school classes for plaintiffs where they reside now and in the future and to submit a plan for doing so;

(b) that such plan be implemented faithfully and promptly; and

(c) that until such plan is fully implemented, if some delay is unavoidable, defendants provide plaintiffs the opportunity to attend public school classes in the high school closest to their home.

4. That the Court retain jurisdiction of this matter to insure that its orders are complied with without delay.

5. That plaintiffs, STELLA SAGE, MYRA HAWLEY, and DOLLY HAWLEY be awarded damages of $81.00 each, the cost of their plane fare from Fairbanks to Kivalina.

6. For such other and further relief as the Court may deem necessary and proper.

Dated at Anchorage, Alaska, this 27th day of April, 1971.

CHRISTOPHER R. COOKE
Attorney for plaintiffs
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THIRD JUDICIAL DISTRICT

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Defendants.

No. 71-1248

MEMORANDUM IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

A temporary restraining order is necessary in this case to prevent immediate and irreparable injury, loss and damage to the plaintiffs.

The standards for granting preliminary relief in the form of a temporary restraining order are set forth in Rule 65(b), Rules of Civil Procedure, and A.S. 09.40.230. A temporary restraining order will be granted where the facts, as shown by affidavit or verified complaint, indicate "immediate and

irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon". Ak. R. Civ. P. 65(b).

A temporary restraining order is an exercise of injunctive power. Exercise of this power is authorized by state statute and rests with the sound discretion of the Court. Miller v. Atkinson, 365 P.2d 550 (Ak. 1961).

A.S. 09.40.230 authorizes injunctive relief where, 1) plaintiff is entitled to relief and the relief would include restraining of continuing acts of defendant which would produce injury to plaintiff during the litigation, or 2) defendant is doing or is about to do some act in violation of plaintiff's personal rights, or 3) defendant is doing or is about to do some act in violation of plaintiff's property rights.

Also federal judicial standards regarding temporary injunctive relief must be considered because of the close similarity of Alaska Civil Rule 65 and Rule 65, Federal Rules of Civil Procedure. Annot., Ak. R. Civ. P. 65.

Application of the appropriate standards and balancing the equities in this case forces the conclusion that the Application for Temporary Restraining Order must be granted.

THE FAILURE OF DEFENDANTS TO PROVIDE SCHOOL-AGE CHILDREN WITH SCHOOL CLASSES OR COURSES OF ANY KIND CONSTITUTES IRREPARABLE INJURY AND REQUIRES ISSUANCE OF A TEMPORARY RESTRAINING ORDER.

A temporary restraining order seeks to preserve the status quo between parties concerning matters in litigation, Stewart v. Dunn, 363 F.2d 591 (5th Cir. 1966). Preliminary relief may actually change the status quo where the person seeking relief clearly establishes that he is being denied a constitutional right. Henry v. Greenville Airport Comm'n,, 284 F.2d 631 (4th Cir. 1960). In the Court's discretion, granting a temporary restraining order requires, 1) a showing of probable ultimate success on the merits by the applicant, and 2) the need to prevent

immediate and irreparable injury. Ak. R. Civ. P. 65(b); A.S. 09.40.230.

Also, in determining whether to grant preliminary relief, courts will weigh the relative hardships to each party and consider the public interest. American Motorists Ins. Co. v.City Wide Transp Co., 308 F. Supp. 1080 (S.D.N.Y. 1969); Liberty Lobby, Inc. v. Pearson, 390 F.2d 489 (D.C. Cir. 1968); Central Louisiana Elec. Co. v. Rural Electrification Administration, 236 F. Supp. 271 (W.D. La. 1964).

In the present case the circumstances demanding relief are urgent, the plaintiffs will suffer immediate and irreparable injury if defendants are not restrained, the balance of hardships favors the applicants, plaintiffs' likelihood of success on the merits is great, and the public interest will be best served by granting the relief requested by plaintiffs.

Plaintiffs are four school-age children who are not in school. The primary reason they are not in school is that the defendants do not provide classes for them where they live.

Defendants operate a day school in Kivalina which provides classes through the eighth grade. To go beyond the eighth grade plaintiffs were forced to leave their homes and attend school in places such as Fairbanks (over 500 miles from Kivalina) and Sitka (over 1,000 miles from Kivalina). Three out of the four plaintiffs were assigned to schools they had not even chosen to attend. The circumstances of these boarding arrangements and the ensuing difficulties are described in full detail in the attached affidavits of Mildred Sage, Bob T. Hawley, and Amos and Louise Hawley. In the end, chronic homesickness and unsatisfactory conditions led each of these children to withdraw from school and return home.

Although there are no formal ninth-grade classes offered at Kivalina, these children did continue their education through correspondence courses. The principal teacher, Tom Troxell, assisted the students with these courses from January until March 9, 1971. On that date Mr. Troxell was suddenly transferred from

Kivalina, and the correspondence courses were thereby terminated. [Affidavits of Mildred Sage, Amos and Louise Hawley, and Bob T. Hawley].

The State does not provide correspondence courses for these out-of-school children as part of the regular education program in Kivalina. They are only given as a spare-time activity at the discretion of the teacher. [Affidavit of Christopher R. Cooke]. Thus, the availability of even minimal educational services for the plaintiffs depends entirely upon the willingness of the individual teacher to voluntarily undertake the task. The last teacher, Mr. Troxell, did provide these services; but since his transfer, his successors have not continued the courses.

To provide such minimal educational services during the pendency of this action, the teachers employed by defendants would have to work some additional hours, and defendants would undoubtedly have to compensate them for this work. Against this moderate hardship to defendants, the consequences of defendants' failure to provide education to plaintiffs and their abdication of responsibility therefor are grave indeed.

Plaintiffs will be denied and deprived of education if defendants are not restrained. Plaintiffs' opportunities for educational advancement will thereby be terminated, perhaps forever. The consequences of this denial of education will be felt now and throughout the remainder of plaintiffs' lives.

It is difficult to imagine a greater injury, both to personal rights and the public interest, than the the denial of education. The Supreme Court has spoken on the importance of education as follows:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democractic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It

> is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. Brown v. Board of Education, 347 U.S. 483, 493, 74 S.Ct. 686, 98 L.Ed. 873 (1954) [emphasis added].

In Brown, of course, the Court was referring to segregated schools and found them inherently unequal. The problem confronting plaintiffs is even more basic than that considered in Brown: here plaintiffs are provided no schools at all. Thus, the situation here is more akin to that in Hosier v. Evans, 314 F. Supp 316 (D.C. V.I. 1970), where the court found the failure to provide education to resident alien non-immigrant children in the Virgin Islands unreasonable and invidious discrimination violative of the equal protection clause of the Fourteenth Amendment. Free and unrestricted public education the court said at 319, is "an aspect of Twentieth Century life so fundamental as to be fittingly considered the cornerstone of a vibrant and viable republican form of democracy." Where alien children were offered no free, public education at all they were "worse in plight" than the black children in Brown. As in the instant case, in Hosier the public good demanded immediate relief:

> "It cannot be gainsaid that it is manifestly contrary to the public good of the territory to develop and foster a getto of ignorance, with countless numbers of untrained, untutored and perhaps untended children (since their parents are bonded workers) roaming the streets, this with the concomitant evils of crime, immorality and general social degeneracy. In the public interest a generation of illiterates is to be avoided, whatever the financial cost. I am of the opinion that the most compelling of public concern militates in favor of the prompt admission of these plaintiffs, and all others of their class, to the public

schools." 314 F. Supp. at 321.

Just as a classification for providing public education based on race, wealth or citizenship would be prohibited by the equal protection clause of the Fourteenth Amendment, so too a geographical discrimination is a denial of equal protection. Education, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. Brown v. Board of Education, supra, at 493. Thus, a state may not treat one county differently from other counties by failing to provide public schools in only one county. Griffin v. County School Board, 377 U.S. 218, 84 S.Ct. 1226, 12 L.Ed.2d 256 (1964).'

A Louisiana "local option" statute permitting school closure by local referendum was struck down by a three-judge District Court as violative of the equal protection clause on two counts, racial discrimination and geographical discrimination, Hall v. St. Helena Parish School Board, 197 F. Supp. 649 (D.C. La. 1961), affirmed 368 U.S. 515, 82 S.Ct. 529, 7 L.Ed.2d 521 (1962). Speaking on geographical discrimination the court said, at 656:

> Act 2 [the "local option" statute] runs afoul of the equal protection clause in another respect....inevitably, another effect of the statute is to discriminate geographically against all students, white and colored, in St. Helena or any other community where the schools are closed under its provisions.... absent a resonable basis for so classifying, a state cannot close the public shools in one area while, at the same time, it maintains schools elsewhere with public funds.

The constitutional mandate is clear: where the state has undertaken to provide education, it must be made available to all on equal terms. The balance of hardships between plaintiffs and defendants and the public interest overwhelmingly favor granting the temporary relief requested by plaintiff. Also, as the cases cited above indicate, plaintiffs undoubtedly will prevail on the merits. At this point, further examination of plaintiffs'

rights to education, and defendants' duty to provide it, shall be examined.

First of all, although the United States Constitution may not secure a right to an education per se, it does guarantee to every person the right to equal treatment where the state has undertaken to provide education. Flemming v. Adams, 19 L.Ed.2d 216,337 P.2d 97 (10th Cir. 1967), cert denied 389 U.S. 898, 88 S.Ct. 219, 19 L.Ed.2d 216 (1967). As described above, this right is being denied plaintiffs.

Article I, Section 1, of the Constitution of the State of Alaska contains an equal protection guarantee similar to that of the Fourteenth Amendment. As described in Leege v. Martin, 379 P.2d 447, 451-452, (Ak. 1963), the equal protection guarantee is "the embodiment of the fundamental principle that all men are equal before the law." "It is a prohibition against laws which, in their application, make unjust distinctions between persons." Therefore, under the Alaska Constitution, laws pertaining to education must not make unjust distinctions between persons nor produce unequal treatment. However, this is being done with respect to the plaintiffs.

The Alaska Constituion, Article VII, Section 1, requires that the legislature "by general law establish and maintain a system of public schools open to all children of the State." This provision and the statutes enacted pursuant thereto secure for plaintiffs a right to education,in addition to the guarantee of equal treatment.

A.S. 14.03.080(a) declares, "A child of school age is entitled to attend public school without payment of tuition during the school term in the district in which he is a resident." Plaintiffs are children of school age who are not being provided public schools in the district in which they reside. [Plaintiffs reside in the State-Operated School District, A.S. 14.12.010(3).]

In Alaska, school children are entitled to have classes offered in the place where they live for every elementary grade

for which there are more than three elementary pupils or five secondary pupils, A.S. 14.14.110. This statute authorizes school districts to make "cooperative arrangements" with other districts on educational agencies for reasons of efficiency or economy. However, the ability to make these cooperative arrangements is limited to certain situations. Where "cooperative arrangements" require pupils to live away from their usual homes -- as in boarding school or boarding home programs -- the school board "shall" provide classes within the district (and, implicitly, so the students may live at home) for any grade represented by more than three elementary pupils or five secondary pupils. The section requires, in other words, that wherever there are more than three elementary pupils or five secondary pupils, those who wish to live at home and attend classes there, rather than attending school through a "cooperative arrangement," have the right to do so. There are more than five ninth grade pupils living in Kivalina, but there are no classes provided there for those who do not wish to attend school away from home. This section creates a right to local education, and this right is being denied plaintiffs in this case.

Although A.S. 14.14.110 speaks of a "district's" ability to participate in "cooperative arrangements," and the State-Operated School District is one of three types of school districts in Alaska, this section might be interpreted as applying directly only to local city and borough school districts. [The section appears within the "Local Administration of Schools" chapter of the education statutes.] Even if this be so, the equal protection guarantees of the Alaska Constitution and United States Constitution, as discussed above, must secure the right to local education for plaintiffs. Otherwise, education is not being made available to all on equal terms.

For these reasons, plaintiffs' application for a temporary restraining order restraining defendants from failing to provide

ninth grade classes for plaintiffs in the city in which they live should be granted.

Respectfully submitted this 27th day of April, 1971, at Anchorage, Alaska.

Christopher R. Cooke

CHRISTOPHER R. COOKE
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