



# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

## **Pupil Services** **Clayton Holland, Director**

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March 30, 2016

Dear Honorable Members of the Senate Judiciary Committee:

I am writing in opposition to HB102 and SB103 on behalf of the Kenai Peninsula Borough School District (KPBSD) as well as in my capacity as the president of the Alaska Council of Administrators of Special Education (AKCASE) which represents forty-five special education administrators from throughout the state of Alaska.

Of particular concern to KPBSD and to AKCASE is the legality of allowing a residential treatment facility to plan for and provide special education services. The Individuals with Disabilities Education Act (IDEA) states that only a school district can be responsible for developing an Individual Education Programs (IEP). This is a duty that cannot be delegated to any other entity. Further, it is only the local school district that can be held liable for those services being provided. Therefore, we question: How can public money, designated for school districts, be allocated to a facility that has no state department of education oversight, or accountability for special education services, or oversight from a local school board or parent group?

The KPBSD and AKCASE are also concerned about the ambiguous language in SB 103, which leaves many questions unanswered and potentially leaves the state of Alaska and its school districts open to costly bills and potential litigation. These are serious questions which must be addressed:

- How will funding be determined for each student (i.e.: local contribution, state intensive needs (IN) funding, grant, state general fund contribution)?
- Will the funding come from the sending district or from the district where the residential facility is located geographically?
- How do we know this does not open the doors for residential facilities located outside the state of Alaska to bill us (some may remember the residential facilities from outside who were attempting to bill districts hundreds of thousands of dollars)?
- How do we know that the residential facilities will do a better job of educating and transitioning students than what currently takes place?
- Who is responsible for educational accountability?
- Will there be a school board or parent oversight committee?
- Is it allowable to provide public educational funding to a private facility, or school (while this is similar to charter school language, charter schools are clearly accountable to the state and to parents)?

In addition, we have concern for how this bill will negatively impact rural Alaskan schools and create additional bureaucratic responsibilities at a time of economic crisis. Many school boards in Alaska are not aware of this legislation—and the potential requirement for them to enter into a binding contract. According to the draft legislation, the districts must enter into a contract, and the only appeals granted are for the residential treatment facility. One student going to a residential facility in the middle of the year can potentially cause a financial crisis for a small district.

Finally, the word “shall” was adopted into this proposed bill. In the legal community, when “shall” is used, and not the word “may”, it creates a much more difficult legal burden on the party who “shall” do something. A legal battle is something that most districts can ill afford at this time. Removing decision making and financial resources from local schools and communities in order to support a bill, of which a Fortune 500 company (UHS) is the primary beneficiary, and that has many unanswered questions, and which other states have adopted and have issues with litigation and meeting the requirements of IDEA, is not recommended at this time.

Sincerely,

A handwritten signature in cursive script that reads "Clayton Holland".

Clayton Holland