

³ AS 44.62.520(a)(2).

Recommendation make clear that it had immediate effect,” because a delayed effective date would make the Recommendation “meaningless.” [Decision at 25–26]

Respectfully, the statute does not leave room for that inference. Alaska Statute 44.62.520(a)(2) asks whether the agency itself ordered an earlier effective date, not what the agency may have intended or what would make its decision most effective. Reading an implied order into a decision that is silent on the point adds an exception the legislature did not include.

The requirement of an express effective date serves a purpose. The 30-day default tracks the time for reconsideration⁴ and tells everyone affected how long they have before a decision operates. When an agency shortens that period, its order tells the parties that they must act now, by seeking reconsideration, a stay, or judicial review.

That notice mattered here. As the Court recognized, once APOC decided, “the risk of an erroneous decision shifts to the candidate to promptly file an appeal and seek a stay of the decision.” [Decision at 28–29] But nothing on the face of APOC’s order told Tagle that the decision was already operative, that he had a right to appeal, or that he had to act before the general election ballot was finalized. Under the default rule, he would have understood he had 30 days.

Even if APOC’s intent could substitute for an express effective date, the Court inferred that intent without considering what APOC said at its meeting.⁵ The commissioners doubted that their recommendation would bind the lieutenant governor

⁴ See AS 44.62.540(a) (providing that a party may petition within 15 days, and the agency may reconsider on its own motion for 30).

⁵ See Appellate Rule 506(a)(2).

and appeared to believe that the certification decision rested with the Division.

Commissioner LaSota asked whether the lieutenant governor is “bound by statute or regulation” to follow APOC’s recommendations, observing that “things are a little bit iffy.” [R. 77] The executive director answered that she could not “speak for the Division of Elections and how they would interpret it,” and the chair responded, “That’s their discretion.” [R. 78] The chair later summarized: “our job is to recommend to the Division of Elections But the decision is still up to them as far as whether they certify . . . the candidate or not.” [R. 88]

The Division does not offer these statements to revisit whether a final, effective APOC determination binds the certifying authority. That question was unsettled when APOC acted, and the Court’s Decision resolved it. But when the question is what APOC intended, APOC’s understanding at the time is what counts. And the record shows APOC believed its decision would not bind the lieutenant governor.

Nor would a 30-day effective date have made the recommendation “meaningless.” Alaska Statute 39.50.060(b) operates at two points: nomination and election. A recommendation that took effect in late September would still bar Tagle’s certification if he wins.

The Division recognizes that Tagle’s failure to participate in APOC’s proceedings may make the answer seem straightforward. But this is the first time a court has addressed how APOC’s recommendation process works with the certifying authority’s duties, and the answer applies to another candidate’s proceedings. As the Court observed at oral argument, details matter. The lieutenant governor was bound to

apply the law to the decision APOC issued, not the decision it might have issued had it understood the stakes. Because APOC's recommendation had not yet taken effect, the Division asks the Court to grant rehearing and affirm the September 4 decision.

II. Paragraph 3 of the order should be clarified because it does not identify which decision Tagle may appeal or how.

Paragraph 3 of the order requires the Division to notify Tagle "that he has been disqualified and the certification of his nomination vacated, that the disqualification is a final decision and that Tagle has 30 days to appeal in the manner provided by AS 44.62.560." [Decision at 36] It is unclear what "the disqualification" refers to.

If it refers to this Court's decision, AS 44.62.560, which governs agency appeals to the superior court, is not the route for review. Tagle is also not a party here and would not be entitled to notice of his right to appeal a superior court decision. If it refers to the Division's notice on remand, there is no independent agency decision to appeal. The lieutenant governor's duties flowing from APOC's decision "are purely ministerial," Decision at 27 n.169, and the Division does not determine compliance with AS 39.50, *id.* at 33. Implying that the Division's decision could itself be appealed undermines the Court's holding that APOC's decision was final and binding.

The Division asks the Court to clarify paragraph 3 to be consistent with the rest of the order by omitting the clause following the comma. For reference, it attaches to this petition the notice the Division has already provided to Tagle.

III. The Court's decision reaches the gubernatorial race, and its ordered remedy here causes confusion.

The September 4 decision addressed two candidates: Tagle and gubernatorial

candidate Treg Taylor. [R. 244–48] The Court held that Tagle is disqualified and “the certification of his nomination [is] vacated.” [Decision at 36] This holding applies equally to Taylor but the effect of vacating his nomination is different.

The Court found no practical consequence in Tagle’s race because “there was no other candidate to take Tagle’s place.” [Decision at 28 n.174; *see id.* at 35] Not so in the governor’s race. When a candidate for governor is disqualified 64 or more days before the general election, the running mate “becomes the candidate for governor,” and that candidate selects a new running mate.⁶ After the August 31 decision, Taylor’s running mate, Candi English, took his place and selected Jodi Taylor as her running mate.

Applying the Court’s decision to vacate Taylor’s nomination in the primary would mean the general election ballot should have listed English as the candidate for governor, with Jodi Taylor as her running mate. To avoid this, the Court should affirm the September 4 decision for the above reasons. Or the Court should specify that Tagle is disqualified and cannot be certified if he wins in the general, without vacating his nomination.⁷ If Taylor wins, he would not be certified and English would succeed him.⁸

⁶ AS 15.25.100(d)(1)–(2).

⁷ AS 39.50.060(b) (providing that the certifying authority “may not certify a person’s nomination for office *or* the person’s election to office if compliance was not made within the time required” (emphasis added)); Decision at 34 (“Tagle’s election may not be certified if he does win a majority of votes in the general election.”).

⁸ *See* Alaska Const. Art. III, § 10 (“If the governor-elect dies, resigns, or is disqualified, the lieutenant governor elected with him shall succeed to the office of the governor for the full term.”).

DATED October 29, 2026.

RACHEL WITTY
CIVIL DIVISION DIRECTOR

By: /s/ Jessie Alloway
Jessica M. Alloway (1205045)
Acting Solicitor General

CERTIFICATE OF SERVICE

I certify that on October 29, 2026, true and correct copies of the **Petition for Rehearing** and the **[Proposed] Order Granting Petition for Rehearing** were served on the following via the TrueFiling system:

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THE STATE
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October 23, 2026

Dear Mr. Tagle,

On October 22, 2026, the Alaska Superior Court issued the attached decision. It ordered the Division of Elections to notify you that the attached Recommendation on Certification issued by the Alaska Public Offices Commission (APOC) on August 28, 2026 is a final decision. You have 30 days from today to appeal APOC's decision in the manner provided by AS 44.62.560.

The court's order also confirmed that the Lieutenant Governor is bound by APOC's decision that you did not substantially comply with AS 39.50. Accordingly, the Division will not certify you as elected to the office of state representative if you receive the most votes in the general election. The Division will certify the results of the general election on or about November 25, 2026, so you should immediately file any appeal to allow time for a decision and any further appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Beecher".

Carol Beecher
Director, Alaska Division of Elections

cc: Alaska Public Office Commission