

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

FILED
STATE OF ALASKA
FIRST DISTRICT
JUNEAU

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THE ALASKA LEGISLATIVE COUNCIL,
on behalf of THE ALASKA STATE
LEGISLATURE,

CLERK TRIAL COURTS

BY MJD
DEPUTY CLERK

Plaintiff,

v.

HONORABLE MICHAEL J. DUNLEAVY,
in his official capacity as Governor
for the State of Alaska,
KELLY TSHIBAKA, in her official
capacity as Commissioner of
Administration for the State
of Alaska, and MICHAEL JOHNSON,
in his official capacity as Commissioner of
Education and Early Development for
the State of Alaska.

Defendants.

Case No. 1JU-19-00753CI

COALITION FOR EDUCATION EQUITY,
INC.

Intervenor.

**PLAINTIFF'S STATEMENT IN NON-OPPOSITION TO COALITION FOR
EDUCATION EQUITY, INC.'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff the Alaska Legislative Council ("Council") on behalf of the Alaska
State Legislature ("Legislature"), by and through counsel, pursuant to Alaska Rule of
Civil Procedure 56, hereby provides the following statement in non-opposition to

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1 Intervenor Coalition for Education Equity, Inc.'s (CEE) Motion for Summary
2 Judgment.

3 Plaintiff does not oppose CEE's request for summary judgment and agrees that
4 this Court should enter a declaratory judgment that (1) the appropriations made in HB
5 287¹ are valid and constitutional, and (2) the Governor's failure to execute the
6 appropriations and failure to distribute the funds appropriated in HB 287 is a violation
7 of his constitutional obligation to faithfully execute the laws under art. III, sec. 16 of
8 the Alaska Constitution. Plaintiff also specifically concurs with CEE on the following
9 points:

10 1. Public education is a public service that is mandated under art. VII,
11 sec. 1 of the Alaska Constitution. Therefore, the purpose of the appropriations at issue
12 is paramount in evaluating the competing constitutional interests at state in this
13 lawsuit.²

14 2. The Alaska Constitution mandates that the *Legislature* "establish and
15 maintain a system of public schools open to all children of the State" and the Alaska
16 Supreme Court has recognized that "[t]he provision is unqualified; no other unit of
17 government shares responsibility or authority."³

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20 ¹ Ch. 6, SLA 2018.

21 ² See CEE's Motion for Summary Judgment at p. 4.

22 ³ *Macauley v. Hildebrand*, 491 P.2d 120, 122 (Alaska 1971); see also CEE's Motion for Summary Judgement at pp. 6-7.

1 3. Acts of the Legislature are entitled to a presumption of constitutionality,
2 and the Alaska Supreme Court has held that the education clause provides the
3 Legislature considerable flexibility in establishing and maintaining a system of public
4 education. The Alaska Supreme Court has specifically found that given the
5 "complexity of the problems of financing and managing a statewide public school
6 system . . . within the limits of rationality, the legislature's efforts to tackle problems
7 should be *entitled* to respect."⁴

8 4. CEE describes for this Court how state and local budgeting for public
9 education do not occur contemporaneously.⁵ In fact, school districts complete their
10 initial budgets in early spring, but the Legislature has in recent years passed the State
11 operating budget much later than that.⁶ Consequently, local school districts often have
12 to prepare budgets without knowing the actual amount of state aid the State will
13 contribute.⁷ This problem is compounded by a statutory notice requirement for
14 terminating teachers,⁸ which has forced school districts to issue "pink slips" to teachers

17 ⁴ *Hootch v. Alaska State-Operated Sch. Sys.*, 536 P.2d 793, 803–04 (Alaska 1975) (emphasis
18 added) (internal quotations omitted) (quoting *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411
U.S. 1, 42 (1973)); *see also* CEE's Motion for Summary Judgment at pp. 20-21.

19 ⁵ CEE's Motion for Summary Judgment at pp. 10-11.

20 ⁶ *Id.*

21 ⁷ *Id.*

22 ⁸ AS 14.20.140; 14.20.177.

1 after not knowing with any certainty the amount of state aid the school district might
2 receive for the upcoming school year.⁹

3 5. HB 287 was a rational response to the problems it was specifically passed
4 to address. The appropriations made in HB 287 are presumed to be valid, particularly
5 in light of the Legislature's responsibility to establish and maintain a system of public
6 education.¹⁰ Because the appropriations made in HB 287 were well within the "limits
7 of rationality," this Court must uphold the appropriations made in HB 287, which is
8 also the intent of the *current* Legislature.

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20 ⁹ CEE's Motion for Summary Judgment at pp. 10-11.

21 ¹⁰ *Id.* at p. 19.

1 Respectfully submitted this 27th day of September, 2019.

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