



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Education
& Early Development**

OFFICE OF THE COMMISSIONER

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May 12, 2025

Lea Filippi & John Sedor
Sedor, Wendlandt, Evans & Filippi, LLC
500 L. Street, Suite 500
Anchorage, AK 99501

Dear Ms. Flippi & Mr. Sedor,

I have reviewed the appeal submitted by Pearl Creek S.T.E.A.M. Charter School (PCSC) on April 21, 2025, the Fairbanks North Star Borough School District's (the District) April 10, 2025, letter regarding its charter school application, as well as the District's April 22nd and 30th letters to the Commissioner regarding PCSC's appeal.

In its appeal, PCSC asks for the reversal of the School Board and District's denial of its application and that its charter school application be promptly approved. When a local school board denies a charter school application and the applicant subsequently appeals such denial, the Commissioner is statutorily responsible under AS 14.03.250(d) to review the local school board's decision to determine whether findings of fact are supported by substantial evidence and whether the decision is contrary to law.

Here, although the information presented indicates that PCSC submitted its application for a charter school to the District on February 18, 2025, nothing indicates that the District school board has issued a written decision with all relevant findings of fact and conclusions of law within 60 days of receipt of the application as AS 14.03.250(b) requires. I understand it is PCSC's position that the school board's failure to make a decision on the application is a constructive denial and I understand it is the District's position that the charter school application should not be processed because it was not timely submitted according to District policy.

While there is some support for both of these positions, a local school board must afford an applicant due process by issuing a written decision approving or denying the application as AS 14.03.250(b) dictates. Based on the information presented, it does not appear that this procedure was followed


when PCSC submitted its application. Not following this procedure threatens to infringe upon the applicant's due process right to have notice of the reasons behind the school board's decision and the ability to appeal the school board's decision to the Commissioner. "[P]rocedural due process under the state constitution requires 'notice and opportunity for hearing appropriate to the nature of the case.'" *Copeland v. Ballard*, 210 P.3d 1197, 1201 (Alaska 2009)

The responsibility to review and potentially disagree with a local board's decision is done with extreme caution and respect for those decisions made at the local level with community understanding and inherent ownership in the outcomes for the district and the students therein. But to reiterate, the Commissioner's review authority in AS 14.03.253 appeal is contingent upon the denial of a local school board under AS 14.03.250(d). And, in conducting a review of an appeal under AS 14.03.250(d), the Commissioner is required to determine whether the local school board's written findings of fact are supported by substantial evidence and whether the decision is contrary to law.

While the District's April 10th letter addresses some of its concerns regarding the charter school application, the letter does not appear to be a written decision of the local school board that includes all relevant findings of fact and conclusions of law as required. Without a decision of the school board, I am functionally unable to conduct my review to determine whether the school board's findings of fact are supported by substantial evidence and whether the school board's decision is contrary to law as AS 14.03.250(d) requires. It is with this premise that I am remanding this matter back to the school board for it to carry out its duties as required by AS 14.03.250(b). Since my decision must ultimately be based on whether the findings of fact in the local school board's written decision are supported by substantial evidence and in line with current law, I am unable to take any further action on this appeal without a local school board decision to review.

I understand that the board will be meeting on May 20, 2025, and again on June 3, 2025, and I encourage the school board to add PCSC's application to its agenda. I encourage a timely response following the meeting so that next steps, whatever they may be, can be taken without undue delay.

Sincerely,

A handwritten signature in black ink, appearing to read "Deena M. Bishop", with a stylized flourish at the end.

Deena M. Bishop Ed.D.
Commissioner