

HOUSE RESOLUTION NO. 9

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOSEPHSON

Introduced: 1/24/24

Referred: Education

A RESOLUTION

1 **Recognizing the rights of parents, teachers, and students in educational settings.**

2 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:**

3 **WHEREAS** the United States Supreme Court ruled in the 1925 case *Pierce v. Society*
4 of Sisters, 268 U.S. 510, that compulsory attendance at a public school violated the
5 Fourteenth Amendment to the Constitution of the United States, protecting the right to school
6 choice, at parental expense, for almost a century; and

7 **WHEREAS** the United States Supreme Court ruled in the 1972 case *Wisconsin v.*
8 *Yoder*, 406 U.S. 205, that parents have a First Amendment right to freedom of religion with
9 regard to educating their children and, therefore, have the right to choose, in a manner
10 consistent with their religious beliefs, how to educate their children, including whether or not
11 to enroll their children in a traditional public school or a private school and whether to enroll
12 their children at all after the eighth grade; and

13 **WHEREAS** the United States Supreme Court ruled in the 2002 case *Zelman v.*
14 *Simmons-Harris*, 536 U.S. 639, that a state program, very likely unconstitutional in this state,
15 that provides school vouchers to students to attend either public or private schools, including
16 religious institutions, does not violate the First Amendment if the program is religiously

1 neutral; and

2 **WHEREAS** the United States Supreme Court ruled in the 2020 case *Espinoza v.*
3 *Montana Department of Revenue*, 140 S.Ct. 2246, that, if a state can distribute public benefits
4 to a private school, the state may not exclude a private religious school based solely on its
5 religious affiliation, resulting in equal protection for religious and nonreligious private
6 schools; and

7 **WHEREAS**, under 20 U.S.C. 1232g, enacted by the Family Educational Rights and
8 Privacy Act of 1974, parents are allowed to review and inspect their child's education records,
9 and a parent has the right to request correction of any inaccurate or misleading information in
10 their child's records; and

11 **WHEREAS**, under 20 U.S.C. 1400 - 1482, reauthorized in 1990 by the Individuals
12 with Disabilities Education Act, parents have a right to be fully involved in the special
13 education of their child, to seek and review their child's educational records, to give informed
14 consent to evaluate their child, and to be a part of the process that decides which special
15 education services their child will receive; and

16 **WHEREAS**, under 15 U.S.C. 6501 - 6506, enacted by the Children's Online Privacy
17 Protection Act of 1998, operators of websites that collect data from children under 13 years of
18 age must obtain "verifiable parental consent for the collection, use, or disclosure of personal
19 information from children"; and

20 **WHEREAS**, under 20 U.S.C. 6318, amended by the 2015 Every Student Succeeds
21 Act, school districts receiving federal Title I funds must use a minimum amount of their
22 funding to involve parents and family members in the development of local educational
23 agency plans; and

24 **WHEREAS** art. VII, sec. 1, Constitution of the State of Alaska, requires the
25 legislature to provide to children of the state a free public education, free from any sectarian
26 control; and

27 **WHEREAS**, in 1975, the Alaska Supreme Court ruled in *Hootch v. Alaska State-*
28 *Operated School System*, 536 P.2d 793, that the state is required to fund local schools in
29 small, isolated communities of the state instead of requiring students to leave their
30 communities to attend boarding schools; and

31 **WHEREAS**, in 1999, an Alaska Superior Court ruled in *Kasayulie v. State*, No. 3AN-

1 97-3782 CIV, 1999 WL 34793390 (Alaska Sup. Ct. Sept. 1, 1999), that a debt retirement
2 program that reimburses cities and boroughs that pass bond packages to pay for school
3 maintenance and construction of facilities was discriminatory to rural communities that had
4 insufficient tax bases; and

5 **WHEREAS**, under AS 14.30.191, enacted in 1970, parental consent is required
6 before a student is evaluated for special education placement; and

7 **WHEREAS**, under AS 14.03.110, enacted in 1979, a school district, principal, or
8 other person in charge of a public school may not administer a questionnaire or survey to
9 students unless written permission is given by the parents; and

10 **WHEREAS**, under AS 14.03.115, enacted in 1999, a school district must release
11 school records to parents upon request; and

12 **WHEREAS**, under AS 14.30.191, as amended in 2001, a school district must provide
13 a parent with an opportunity to participate in the determination of placement of their child in a
14 special education program; and

15 **WHEREAS**, under AS 14.33.200, enacted in 2006, school districts are required to
16 adopt and share with parents a policy prohibiting harassment, intimidation, and bullying of
17 students; and

18 **WHEREAS**, under AS 14.30.745, enacted in 2010, school districts are, under certain
19 circumstances, required to provide a student's information to the Alaska Military Youth
20 Academy; if the district provides information about a student to the academy, the district is
21 also required to notify the student's parent of the disclosure and provide an opportunity to
22 object; and

23 **WHEREAS**, under AS 14.30.142, enacted in 2011, before a student athlete may
24 participate in a sport, a school district is required to provide the student's parent with written
25 information about the nature and risk of concussions and receive from the parent a
26 verification acknowledging receipt of that information; and

27 **WHEREAS**, under AS 14.03.310, enacted in 2014, a parent of a student enrolled in a
28 correspondence study program may receive an annual student allotment for the cost of
29 instructional expenses, including the purchase of certain nonsectarian services and materials
30 from a public, private, or religious organization; and

31 **WHEREAS**, under AS 14.33.120, enacted in 2000, and AS 14.33.125, enacted in

1 2014, a school district is required to make available to parents a written school disciplinary
2 and safety program, and any incident involving disruptive or violent behavior by a student
3 that results in restraint or seclusion of that student must be reported to the student's parent on
4 the day of the incident; and

5 **WHEREAS**, under AS 14.30.355 and 14.30.356, enacted in 2015, school districts are
6 required to have a procedure allowing a student to be excused, upon request of the student's
7 parent, from participating in, and receiving notices about, awareness and prevention programs
8 on sexual abuse, sexual assault, and teen dating violence and abuse; and

9 **WHEREAS**, under AS 14.03.016, enacted in 2016, school districts must adopt
10 policies, in consultation with parents, to promote involvement of parents in the school
11 district's education program, including allowing a parent to withdraw their child from a
12 standards-based assessment or test required by the state for a religious holiday, allowing a
13 parent to withdraw their child from an activity, class, or program, and providing two weeks'
14 notice to a parent of any activity or program that includes content of human reproduction or
15 sexual matters; and

16 **WHEREAS**, under AS 14.30.765, enacted in 2022, school districts are required to
17 notify and consult parents of students in kindergarten through third grade with identified
18 reading deficiencies and provide at least 10 progress updates each year; and

19 **WHEREAS**, under Anchorage School District Board Policy 1312.2, complaints
20 concerning instructional material will have a proper procedure designated by the
21 superintendent, and, if the superintendent makes a determination that is unsatisfactory to the
22 complainant, the complainant can elevate the complaint to be placed on the agenda of a
23 regular school board meeting; and

24 **WHEREAS**, under Anchorage School District Board Policy 6144(a), a parent,
25 guardian, student, or employee of the Anchorage School District who finds any instructional
26 or library material to be controversial may challenge the selection and, if it is determined that
27 the material is outside the scope of the district's guidelines, can have the material removed
28 from the library or instructional materials; and

29 **WHEREAS**, under Anchorage School District Board Policy 6144(a), a parent or
30 guardian who finds any instructional or library material to be of concern to their child can
31 request that their child be assigned alternative material; and

1 **WHEREAS** the Anchorage School District has adopted administrative guidelines that
2 require the principal to hold a meeting with a student who desires a gender transition during
3 the school year and the student's parent; and

4 **WHEREAS**, according to the Chief Academic Officer of the Anchorage School
5 District, parental permission is required for more than 24 distinct situations, including
6 participating in off-site field trips, watching films rated over PG, receiving medication,
7 appearing in media releases, participating in fifth grade human growth and development,
8 participating in sports, receiving a parking permit, applying for internships, receiving science
9 lab safety instruction, using computers at school, receiving a flu shot, participating in youth
10 risk behavior surveys, accessing websites that fall under the Children's Online Privacy and
11 Protection Act of 1998 (15 U.S.C. 6501 - 6506), agreeing to the terms of Device User
12 Agreements and Library Card Partnerships, transitioning a child's pronoun usage and gender
13 identification, inclusion on the student directory, sharing certain information to receive
14 Medicaid reimbursement for services provided under the Individuals with Disabilities
15 Education Act (20 U.S.C. 1400 - 1482) and Family Educational Rights and Privacy Act (20
16 U.S.C. 1232g), being evaluated for special education, being re-evaluated for special
17 education, receiving disability services under Section 504 of the Rehabilitation Act of 1973
18 (29 U.S.C. 701), receiving a functional behavioral assessment, initial enrollment in special
19 education, and releasing student records; and

20 **WHEREAS**, according to the Chief Academic Officer of the Anchorage School
21 District, parental notification is given for more than 12 distinct situations, including before a
22 student receives material or instruction relating to AS 14.30.355 and 14.30.356 (Alaska Safe
23 Children's Act), is assessed using the Alaska System of Academic Readiness, participates in
24 health class topics for grades six and higher, takes the School Climate and Connectedness
25 survey, is subject to data collection for the National Association for Educational Procurement,
26 is subject to data collection for the World-Class Instructional Design and Assessment
27 Consortium, takes the Standards-based Measurement of Proficiency assessment, takes the
28 Dynamic Learning Maps Alternate Assessment, takes the mCLASS early literacy screener,
29 takes the Northwest Evaluation Association Measures of Academic Progress Growth
30 assessment, receives and signs a student handbook, and receives information about annual
31 student health insurance and Medicaid; and

1 **WHEREAS**, historically, since statehood, there has been no identifiable legislative
2 record showing an attempt by the Alaska State Legislature to restrict a parent's involvement in
3 their child's education, but rather, there have been numerous legislative actions seeking to
4 clarify and expand parental involvement in a child's education; and

5 **WHEREAS** the Alaska Supreme Court ruled in the 1985 case Fisher v. Fairbanks
6 North Star Borough School District, 704 P.2d 213, that a school board has the authority to
7 determine instructional materials as long as it does not "attempt to exclude discussions of 'an
8 entire system of respected human thought"; and

9 **WHEREAS** the Anchorage School District has negotiated an agreement with the
10 Anchorage Education Association that teachers and faculty enjoy academic freedom "to
11 present instructional materials that are pertinent to the subject and level taught, within the
12 outlines of the appropriate course content, the planned instructional program, and in
13 accordance with School Board policy"; and

14 **WHEREAS** the Southeast Island School District has signed a collective agreement
15 that includes an article granting academic freedom to teachers to discuss and respond to
16 questions on any material field that is pertinent to the instruction; and

17 **WHEREAS** the United States Supreme Court ruled in the 1969 case Tinker v. Des
18 Moines Independent Community School District, 393 U.S. 503, that because "First
19 Amendment rights, applied in light of the special characteristics of the school environment,
20 are available to teachers and students," it is unconstitutional to ban "a silent, passive
21 expression of opinion, unaccompanied by any disorder or disturbance" and that students do
22 not "shed their constitutional rights to freedom of speech or expression at the schoolhouse
23 gate"; and

24 **WHEREAS** the United States Supreme Court ruled in the 2007 case Morse v.
25 Frederick, 551 U.S. 393, on facts arising out of events in Juneau, Alaska, that "student
26 expression may not be suppressed unless school officials reasonably conclude" that the
27 conduct is substantially disruptive to the work and discipline of the school; and

28 **WHEREAS** the Alaska Supreme Court ruled in Breese v. Smith, 501 P.2d 159, that
29 students may "wear their hair in accordance with their personal tastes" because both the
30 Constitution of the United States and the Constitution of the State of Alaska protect a person's
31 right to liberty, which the court describes as having at its core "the notion of total personal

1 immunity from government control"; and

2 **WHEREAS**, under AS 14.30.171, enacted in 2006, a school district may not
3 recommend, as a condition for attending school, that a student take or continue to take a
4 psychotropic drug and may not conduct a psychiatric evaluation on a student unless
5 authorized by law or a specific policy adopted by a governing body of a school district; and

6 **WHEREAS**, under AS 14.03.135, enacted in 2022, a school district may not adopt a
7 dress code that prohibits a hairstyle associated with race, a natural hairstyle, or the wearing of
8 traditional regalia at a graduation ceremony; and

9 **WHEREAS**, under 4 AAC 07, school districts are required to create and publish
10 guidelines, procedures, and policies regarding student rights and responsibilities; and

11 **WHEREAS** legislative research services identified only one bill in the last 10 years,
12 House Bill No. 60, introduced by Governor Dunleavy in the Thirty-Third Alaska State
13 Legislature, that would allow minors 16 years of age or older to override their parents' wishes;
14 if passed, House Bill No. 60 would allow a minor to seek behavioral or mental health services
15 without parental consent; and

16 **WHEREAS** parental rights are protected in the following areas: the right to choose a
17 public secular school or private religious school; the right to inspect and request amendment
18 of their child's education records; the right to decide which special educational services their
19 child will receive; the right to provide input in the development of a local educational agency
20 plan; the right to access a free public education for their children; the right for their children to
21 have and attend a publicly funded school in their local community; the right to give or
22 withhold consent for school surveys; the right to receive information about concussion risk
23 before their child participates in sports; the right to withdraw their child from a standards-
24 based assessment; the right to be notified and involved in decisions relating to instructional
25 materials used on the topics of awareness and prevention of sexual abuse, awareness and
26 prevention of sexual assault, awareness and prevention of teen dating violence, and human
27 reproduction or sexual matters; the right to challenge instructional material in the classroom
28 or in the library; the right to request alternative instructional material for their child; the right
29 to be notified by, and discuss with, the school principal if their child desires a gender
30 transition; and many additional rights related to parental consent for or notification of a wide
31 range of school-related situations; and

1 **WHEREAS** school districts undoubtedly spend uncompensated resources, time,
2 personnel, and related costs advising parents of their rights under current law;

3 **BE IT RESOLVED** that, regarding the sometimes competing interests when
4 considering the rights of parents, teachers, and students, parental rights are indisputably the
5 most vast and voluminous; and be it

6 **FURTHER RESOLVED** that the House of Representatives recognizes a historical
7 record that reflects a long and thoughtful effort to protect, extend, and defend the rights of
8 parents, teachers, and students at local, state, and national levels; and be it

9 **FURTHER RESOLVED** that the House of Representatives finds that parental rights,
10 by and large, have only expanded since 1925 and that the legislature would almost certainly
11 consider further expansion of those rights but that the rights of parents, teachers, and students
12 are already comprehensive and robust, touching on almost every conceivable topic.

13 **COPIES** of this resolution shall be sent to the commissioner of education and early
14 development, each member of the state Board of Education and Early Development, each
15 school superintendent in the state, and the president of each school board in the state.