



Kuspuk School District

Calillgutekluta Ciutmurnnautukut | Let's go forward, working together

Upper Kalskag | Lower Kalskag | Aniak | Crooked Creek | Chuathbaluk | Stony River | Sleetmute

September 27, 2024

To whom it may concern,

I am writing on behalf of the Kuspuk School District to provide feedback on the State of Alaska Division of Education and Early Development's (DEED) proposed modifications to the Bag 100 regulations. These changes, as currently drafted, could have a significant impact on many school districts, particularly smaller and rural districts like ours.

First, the proposed regulations lack sufficient transparency regarding the determination of a school's initial capacity and the associated costs. Providing more clarity on how DEED calculates these values would help school districts like ours understand the reasoning behind such decisions. This transparency would also enable support organizations, which assist districts with filings and compliance, to better monitor and advocate on behalf of the schools they serve.

Moreover, we believe the process of setting funding per school and determining initial capacity should be made public. Such openness would provide districts with critical visibility into DEED's decision-making and ensure that the criteria used to determine funding are fair and consistent.

One of our primary concerns is the treatment of school districts that experience a lapse in funding due to clerical errors or missed deadlines. As workloads increase, especially during the end of the school year, such lapses are not uncommon. However, districts should not be penalized to the extent that future funding is jeopardized. We respectfully request that DEED offer provisions to correct lapses caused by administrative oversights, allowing districts to continue receiving support once the errors are addressed.

Additionally, we recommend that DEED consider setting a district's initial capacity after any lapse in funding to match the last successful Bag application's portion, rather than terminating its ability to receive future support. By doing so, DEED would help alleviate the financial burden on districts that have already struggled to find resources to cover costs during a lapse. Penalizing districts further in subsequent years disproportionately harms rural and small districts, which often face the most significant challenges in maintaining connectivity for their students.



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As Alaska's schools continue to navigate funding and technological challenges, it is vital that regulations like those proposed for Bag 100 be carefully crafted to avoid undue harm to districts, particularly those in rural areas.

I urge DEED to take these considerations into account and revise the proposed regulations accordingly. These changes are essential to ensure that all districts, regardless of size or location, can maintain reliable internet access for their students.

Thank you for your time and attention to this important matter.

Dr. Madeline Aguillard
Superintendent
Kuspuk School District

From: [EED, State Board \(EED sponsored\)](#)
To: [Madeline Aguillard](#)
Subject: Bag 100 Proposed Regulations Comment: Kuspuk School District
Date: Thursday, November 21, 2024 2:38:34 PM
Attachments: [Reponse to Kuspuk School District BAG Comment September 2,2024.10.03.pdf](#)

Good afternoon, Dr. Aguillard,

Please find the response to your BAG 100 Proposed Regulations concerns attached.

From: Madeline Aguillard <[REDACTED]>
Sent: Friday, September 27, 2024 8:59 AM
To: EED, State Board (EED sponsored) <eed.stateboard@alaska.gov>
Subject: Bag 100 Proposed Regulations Comment: Kuspuk School District

You don't often get email from [REDACTED] [why this is important](#)

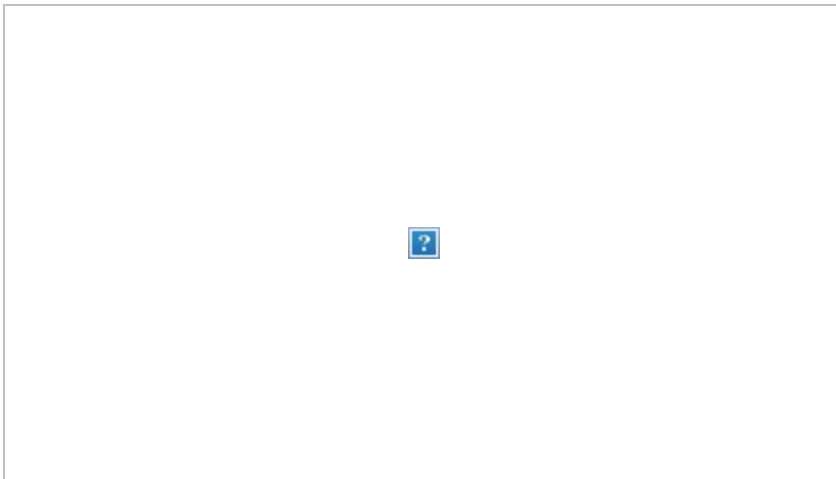
CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please see attached for comments from Kuspuk School District regarding the Proposed Bag 100 Regulations.

Thank you

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THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Education
& Early Development**

OFFICE OF THE COMMISSIONER

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November 21, 2024

Dr. Madeline Aguillard
Superintendent
Kuspuk School District

Dear Dr. Aguillard,

Thank you for your letter dated September 27, 2024, where you expressed several concerns and proposed two recommendations to the Broadband Assistance Grant (BAG) regulations. I appreciate your thoughtful concerns about the potential fiscal impact that BAG regulatory amendments may have on Alaska's rural school districts, and I want to acknowledge the critical role the BAG program plays in providing equitable educational access to students across the state.

I understand the unique challenges that rural communities face in Alaska. Limited infrastructure, geographic isolation, and higher costs for essential services like internet connectivity can severely hamper a school district's ability to provide the tools necessary for a modern education. The intent behind the BAG program has always been to address these disparities, and I agree that this support is vital in ensuring students from rural areas are not left behind.

Under AS 14.03.127, "[e]ach fiscal year," a district that qualifies for a discount under the E-Rate program is eligible to receive "an amount for each school that is equal to the amount needed to bring the applicant's share to 100 megabits of download a second of the Internet Service." The original statute intended to provide funding based on a school's then-current Internet cost and the cost to increase the school's download speed (Mbps) up to 10 Mbps, which was later increased to 25 Mbps. This past legislative session, the BAG authorizing statute was amended by HB193 (Chapter 1, SLA 2024) to expand the program to 100 Mbps.

In enacting the original regulations in 2014, the Department of Education and Early Development (DEED) established the BAG funding formula using the "initial negotiated capacity" to determine "the amount needed to bring the applicant's share to" the maximum allowable download speed, as required by the controlling statute. The current regulation (without

amendment), 4 AAC 33.620(b)(1)-(2) refers to “initial negotiated capacity” as the capacity (speed) of the internet service, while 4 AAC 33.690(b)(4) refers to “initial negotiated capacity” as the cost of the internet service. The regulatory amendments currently proposed by DEED do not change the definition of “initial negotiated capacity” Instead, they add consistency by clarifying that “initial negotiated capacity” refers to the cost of internet service, and not the speed of internet services. However, the intent and implementation are the same as the original regulation.

DEED calculates a district’s BAG funding using the formula set forth in the current 4 AAC 33.620. That formula can be expressed as follows:

BAG funding equals “eligible circuits or connections” multiplied by the “applicant’s share of the cost of increasing the initial negotiated capacity” to up to the maximum allowable download speed.

Under the current 4 AAC 33.620(b)(1), the “eligible circuits or connections” are specified as those with an “initial negotiated capacity” of less than the maximum allowable download speed. The values of both multiplicands are determined for *each* fiscal year and depend on the determination of “initial negotiated capacity” and its date. The “cost of increasing the initial negotiated capacity” is the “*increase*” from the cost of the initial negotiated capacity at its date to the cost of the internet service of the current BAG application year for the school. The applicant’s share of the cost of the initial negotiated capacity of the most recent year in which the school does not receive funding under AS 14.03.127 is consistent with, and constrained by, the statute.

The current regulation further specifies that the “initial negotiated capacity” should be “as of” a specific date determined under 4 AAC 33.690(b)(4)(A)-(D):

- (A) November 1, 2014, for a school that has continuously received funding under AS 14.03.127 for up to 10 Mbps of Internet service through state fiscal year 2020;
- (B) March 1, 2020, for a school that receives funding under AS 14.03.127 for up to 25 Mbps of Internet service starting in state fiscal year 2021;
- (C) March 1 of the year of the application for the first year the district applies on behalf of a new school under both the federal universal services program and AS 14.03.127; or
- (D) for a school that has reopened, March 1 of the most recent year in which the district applied on behalf of the reopened school under both the federal universal services program and AS 14.03.127. . .

However, this formula proved to be overly complicated for many districts, and for DEED. The updated regulation simplified the “initial negotiated capacity” date determination process from the current regulation 4 AAC 33.690(b)(4)(A)-(D) to the following:

- (A) November 1, 2014, for a school that has continuously received funding under AS 14.03.127 for Internet service through state fiscal year 2024;
- (B) March 1 of the most recent year in which the school did not receive funding under AS 14.03.127;

The updated regulation above yields the same “initial negotiated capacity” dates for schools applying for BAG funding, with one exception. Under the current regulation, a school that had any lapse in funding through the state fiscal year 2020, would have been limited to an “initial negotiated capacity” date no earlier than March 1, 2020. With the updated regulation, the earliest “initial negotiated capacity” date that school could have would be March 1, 2015, depending on the school’s BAG funding history.

The reasons for the regulation being drafted in this manner is that DEED is constrained by the empowering statute, AS 14.03.127, which only permits DEED to disburse BAG funds in the “*amount needed to bring the applicant's share to 100 megabits of download.*” Based on the statute’s wording and legislative history, it has been DEED’s longstanding interpretation of the statute that DEED may not disburse funds in any amount greater than the difference between what the district was previously paying for lower speed internet services and the amount necessary to increase those services to the maximum speed under the statute. Thus, to meet that requirement, DEED created a graduated system of “initial negotiated capacity” so that the Department could determine how much grant funding it had authority to disburse. While we understand the value of your proposal to fund the difference between the federal E-Rate program reimbursement and the cost of services, such a change would likely require a statutory amendment.

We also appreciate your suggestion for more transparency and openness of BAG application and funding determination. We would like to share with you other new and exciting developments to the BAG program. In the BAG FY2025 application cycle, DEED implemented new measures to increase transparency and support to the school districts in the BAG application process. The “initial negotiated capacity” dates for all BAG schools are now included in a separate tab named “Funding History” in the BAG application packet sent out to all school districts. Schools are encouraged to reach out to resolve any discrepancy on the “initial negotiated capacity” dates with DEED prior to the completion and submission of the BAG applications. Starting this year, DEED hosted weekly Q&A Zoom sessions, where districts could raise and resolve issues. During these sessions, DEED also demonstrated the BAG funding calculation, and answered any BAG application-related questions raised by the districts. This increase in transparency is part of DEED’s ongoing efforts to improve the BAG application process for all Alaska school districts.

Our goal at DEED is to ensure that all students, regardless of where they live, have access to the resources they need to succeed. I believe that through continued collaboration, we can protect rural districts from unintended financial consequences while maintaining the sustainability of the BAG program. If you have any further suggestions for amendments to the BAG regulations, please let us know. We value the input of our legislative partners in this process and strive to

ensure that our regulations provide for our children in the most effective and efficient manners possible.

Thank you once again for your input. I look forward to working with you and other Alaska school districts to create solutions that support the educational success of all Alaska students.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Deena M. Bishop', with a large, stylized flourish extending to the right.

Deena M. Bishop Ed.D.
Commissioner



33rd Alaska State Legislature

State Capitol | Juneau, Alaska 99801-1182

September 27, 2024

Commissioner Deena Bishop
Alaska Department of Education and Early Development
801 West 10th Street, Suite 200
Juneau, AK 99801-1894

Dear Commissioner Bishop,

As members of the Alaska Bush Caucus, we are writing to express our collective concern regarding the proposed modifications to the BAG100 regulations recently released by the State of Alaska Department of Education and Early Development (DEED). We represent some of the most rural communities in Alaska, making us particularly attuned to the unique challenges faced by rural school districts across our state. The proposed changes could have significant financial impacts on these districts, exacerbate existing disparities between urban and rural schools, and conflict with our intent as legislators who authored the Broadband Assistance Grant (BAG) legislation.

Living in rural Alaska presents numerous challenges, including harsh climates, vast distances between communities, and limited access to resources. These factors contribute to higher costs for essential services, including internet connectivity. The BAG program has been a crucial tool in addressing these disparities by providing funding to help rural schools achieve adequate internet speeds. This program is vital for ensuring that students in rural areas have equitable access to educational resources and opportunities.

We are concerned with how DEED has proposed to reset the contribution amounts from school districts. In particular, the language in 4 AAC 33.690. Definitions, subsection (B) will reset a school district's contribution amount—or "Initial Negotiated Capacity" (INC) in the words of the regulation—if a district lapses from the BAG program for any reason. This reset of the district's INC to the amount contributed by the district during any lapsed year will severely disadvantage schools that are already struggling to meet their financial needs and could effectively preclude the district from ever participating in the BAG program again. Districts that lapse in their participation will be forced to contribute funds that were previously paid by the BAG program into perpetuity, creating a cycle of disadvantage for rural districts and making it even more difficult for them to catch up with their urban counterparts.

To address these concerns, we propose the following changes:

- Remove the new definition of “Initial Negotiated Capacity” or amend it in such a way that will not permanently reset a school district’s INC.
- Offer an opportunity for a district to appeal or request a stay at their current INC to allow the BAG program to fund the difference between E-Rate and the cost of services.

We urge DEED to reconsider its proposed modifications. The State must continue supporting the educational needs of all Alaska students and provide financial support to our districts, which are already struggling with increased personnel, electric, insurance, and other costs.

Thank you for your attention to this critical issue. We look forward to working with you to find solutions that support the educational success of all students in Alaska.

Sincerely,



Senator Lyman Hoffman



Representative Bryce Edgmon

CC: Tyson Gallagher, Chief of Staff, Governor Mike Dunleavy



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Education
& Early Development**

OFFICE OF THE COMMISSIONER

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October 3, 2024

Dr. Madeline Aguillard
Superintendent
Kuspuk School District

Dear Dr. Aguillard,

Thank you for your letter dated September 27, 2024, where you expressed several concerns and proposed two recommendations to the Broadband Assistance Grant (BAG) regulations. I appreciate your thoughtful concerns about the potential fiscal impact that BAG regulatory amendments may have on Alaska's rural school districts, and I want to acknowledge the critical role the BAG program plays in providing equitable educational access to students across the state.

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Sincerely,

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Deena Bishop
Commissioner