

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

COALITION FOR EDUCATION)
EQUITY,)

Plaintiff,)

v.)

MICHAEL DUNLEAVY, in his official)
capacity as Governor of the State of)
Alaska, and MICHAEL JOHNSON, in)
his official capacity as Commissioner)
of the Alaska Department of Education)
and Early Development,)

Defendants.)

Case No. 3AN-19-12692 CI

COMPLAINT FOR DECLARATORY RELIEF & MANDAMUS

I. PARTIES

1. Plaintiff Coalition for Education Equity (“CEE”) is an Alaska non-profit corporation based in Anchorage, Alaska. CEE champions a quality, equitable and adequate public education for every Alaska child through advocacy, policy development and legal action. Since 1996, CEE (previously known as Citizens for the Educational Advancement of Alaska’s Children) has advocated to address inadequacies in Alaska schools through the courts and legislative activity. CEE is a member organization that represents Alaska institutions, organizations and individuals. This lawsuit involves a pure question of Alaska constitutional law and CEE is a constitutional litigant pursuant to Alaska statute.

**HOLLAND &
KNIGHT LLP**

420 L Street, Suite 400
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345

2. Michael Dunleavy is the Governor of the State of Alaska and is sued in his official capacity (hereinafter "Governor").

3. Dr. Michael Johnson is the Commissioner of the Alaska Department of Education and Early Development (hereinafter "DEED") and is sued in his official capacity (hereinafter "Commissioner").

II. JURISDICTION

4. This Court has jurisdiction pursuant to AS 22.10.020.

III. FACTUAL ALLEGATIONS

5. In SB 142, CHAPTER 19 SLA 18, the Alaska legislature enacted the following language:

The sum of \$20,000,000 is appropriated from the general fund to the Department of Education and Early Development to be distributed as grants to school districts according to the average daily membership for each district adjusted under AS 14.17.410(b)(1)(A)-(D) for the fiscal year ending June 30, 2019.

6. SB 142 was enacted by the legislature and signed by Governor Bill Walker on or about June 27, 2018 and is the law of the State of Alaska.

7. Despite the legislature's appropriation, the Governor and/or Commissioner have "impounded" the \$20 million and have not released it to Alaska school districts.

8. The executive branch's failure to dutifully execute the law of the State of Alaska by "impounding" appropriated funds has caused and will cause harm to Alaska school children, and impairs the ability of Alaska school districts to provide the system of public education mandated by Article VII, section 1 of the Alaska Constitution.

9. DEED provided Alaska school districts with notice of the amount each would receive pursuant to SB 142. Districts reasonably relied upon this information to prepare budgets for the 2019 fiscal year.

10. DEED is now falsely stating to school districts that disbursement of SB 142 funds is in the legislature's hands.

COUNT I (DECLARATORY RELIEF & MANDAMUS)

11. The Governor has a constitutional obligation to faithfully execute the laws of the State of Alaska. Article III, section 16 of the Alaska Constitution.

12. Pursuant to Article II and Article IX of the Alaska Constitution, the power to appropriate funds rests with the Alaska legislature.

13. The Governor has no authority to veto a statute enacted by the legislature and signed into law by the prior governor.

14. The executive branch has violated the Alaska Constitution by impounding \$20 million in education funds appropriated by the Alaska legislature in SB 142.

15. The unlawful impoundment of appropriated funds materially impairs Alaska school districts from providing for the system of public education mandated by the Alaska Constitution. This impairment harms the interests of CEE and its members who advocate for an equitable education for all Alaska school children.

16. CEE is entitled to declaratory relief and mandamus ordering the Governor and the Commissioner to faithfully execute SB 142 and release the impounded funds without further delay.

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PRAYER FOR RELIEF

CEE seeks the following relief from this Court:

1. An order declaring that the executive branch has violated the Alaska Constitution by impounding funds duly appropriated by the legislature for Alaska school districts;
2. A writ of mandamus directing the Governor and Commissioner to immediately release the impounded funds;
3. For an award of attorney's fees and costs, including constitutional litigant fees provided by AS 09.60.010.
4. For such other relief as this Court deems just and appropriate.

DATED at Anchorage, Alaska this 1st day of May, 2019.

HOLLAND & KNIGHT LLP
Attorneys for Plaintiff

By: Walter V. Leach for 8101001
Howard S. Frickey
Alaska Bar No. 7610138

By: Walter V. Leach for 8101001
Matthew Singer
Alaska Bar No. 9911072

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COALITION FOR EDUCATION EQUITY,
vs. Plaintiff,

MICHAEL DUNLEAVY, in his official capacity
as Governor of the State of Alaska, and
MICHAEL JOHNSON, in his official capacity
as Commissioner of the Alaska Department
of Education and Early Development,
Defendants.

CASE NO. 3AN-19- 6692 CI

**SUMMONS AND
NOTICE TO BOTH PARTIES
OF JUDICIAL ASSIGNMENT**

To Defendant: Michael Johnson, in his official capacity as Commissioner of the Department of Education & Early Development

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Howard S. Trickey & Matt Singer, whose address is: Holland & Knight LLP, 420 L Street, Suite 400, Anchorage, AK 99501.

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at <https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf> to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

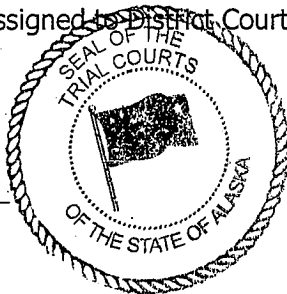
NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

You are hereby given notice that:

- This case has been assigned to Superior Court Judge Lamouroux and to a magistrate judge.
- This case has been assigned to District Court Judge _____.

CLERK OF COURT



5/1/19
Date

By: [Signature]
Deputy Clerk

I certify that on 5/1/19 a copy of this Summons was mailed given to

plaintiff plaintiff's counsel along with a copy of the
 Domestic Relations Procedural Order Civil Pre-Trial Order
to serve on the defendant with the summons.

Deputy Clerk VV

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

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vs. Plaintiff,

MICHAEL DUNLEAVY, in his official capacity
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as Commissioner of the Alaska Department
of Education and Early Development,
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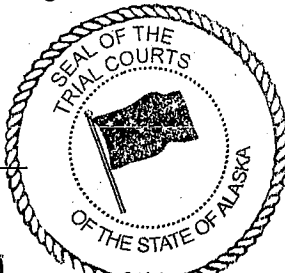
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5/1/19
Date



By: Vandyue
Deputy Clerk

I certify that on 5/1/19 a copy of this summons was mailed given to

plaintiff plaintiff's counsel along with a copy of the
 Domestic Relations Procedural Order Civil Pre-Trial Order
to serve on the defendant with the summons.

Deputy Clerk W

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.