

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 290 Department or Agency State Department of Education
Rule No. Chapter 290-3-5
Rule Title: Private School Licensure in Alabama

New Amend
Repeal Adopt by Reference (Check appropriate box)

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

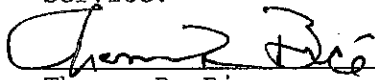
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule does have an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.



Thomas R. Bice
State Superintendent of Education

7/25/14

DATE

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-3-5-.01 Private School Licensure; 290-3-5-.02 Definitions; 290-3-5-.03 Exemptions; 290-3-5-.04 Licensing a Private School; 290-3-5-.05 Minimum School Rules; 290-3-5-.06 Publicizing the Private School; 290-3-5-.07 Agent's Permits; 290-3-5-.08 Enforcement Proceedings; 290-3-5-.09 Appeals Procedures; 290-3-5-.10 Violations and Penalties.

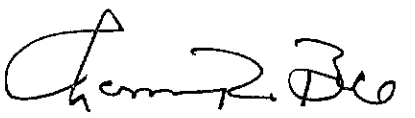
INTENDED ACTION: The State Department of Education proposes to repeal the rules in Chapter 290-3-5 Private School Licensure in Alabama.

SUBSTANCE OF PROPOSED ACTION: The repeal of this Chapter implements the provisions of Act No. 2014-245.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 1:00 p.m., October 8, 2014, Auditorium, Plaza Level, Gordon Persons Building, 50 North Ripley Street, Montgomery, Alabama. All persons wishing to express their views should contact the State Superintendent of Education (334-242-9700) no later than October 7, 2014, in order to be scheduled on the agenda. All persons wishing to express their views in writing to the State Superintendent of Education should address all written comments to the State Superintendent of Education, Gordon Persons Building, P.O. Box 302101, Montgomery, Alabama 36130-2101.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: October 8, 2014

CONTACT PERSON AT AGENCY: Dennis Heard
Alabama State Department of Education
P.O. Box 302101
Montgomery, Alabama 36130-2101
(334-242-9747)



Thomas R. Bice
State Superintendent of Education

STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION

CHAPTER 290-3-5
PRIVATE SCHOOL LICENSURE IN ALABAMA

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290-3-5-.01 Private School Licensure.

(1) Prior to August 1, 1991, pursuant to Alabama Administrative Code r. 290-1-1-.13, the rules and regulations for private school licensing in Alabama adopted by the State Board of Education in accordance with Code of Ala. 1975, Title 16, Chapter 46, as amended, is hereby incorporated by this rule and made a part of the Rules of the State Board of Education. A copy of the rules and regulations titled, "Rules and Regulations for Private School Licensing and Church Schools in Alabama," may be obtained from the State Superintendent of Education, State Department of Education, Montgomery, AL 36130-3901.

(2) Effective August 1, 1991, and thereafter, pursuant to Alabama Administrative Code r. 290-1-1-.13, the rules for private school licensing in Alabama are included in Alabama Administrative Code Chapter 290-3-5.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, Title 16, Chapter 46, as amended.

History: Recompiled October 14, 1980, amended September 16, 1981, September 9, 1982, June 13, 1991 amended effective July 25, 1991. cf. Rules and Regulations for Private School Licensing in Alabama. Repealed October 8, 2014; effective November 12, 2014.

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290-3-5-.02 Definitions. Effective August 1, 1991, the following words and phrases as used in Alabama Administrative Code Chapter 290-3-5 shall have meanings ascribed respectively in Alabama Administrative Code r. 290-3-5-.02 and in Code of Ala. 1975, §16-46-1.

(1) Act. 1980 Ala. Acts 80-272, Code of Ala. 1975, Title 16, Chapter 46, Alabama Private School License Law.

(2) Administrator or Director. An administrative officer in charge of the operation of a school or unit thereof.

(3) Brochure. A one-page double- or triple-folded leaflet containing an outline of information in the catalog/bulletin and designed as a promotional or advertising publication.

(4) Chapter. Code of Ala. 1975, Title 16, Chapter 46.

(5) Catalog. A booklet, pamphlet, or series of monographs designed to explain the school operations, offerings, and requirements to prospective and enrolled students. The term is sometimes used synonymously with bulletin.

(6) Clock Hour. A period of sixty (60) minutes with a minimum of fifty (50) minutes of instruction.

(7) Course. Any outline or plan of study, course or portion of a plan or program of instruction involving the imparting of knowledge, skills, or attitudes for the purpose of preparing the individual for gainful employment in an occupation or vocation, whether conducted in person, by mail, or by any other method.

(8) Curriculum. A group of organized programs.

(9) Deferral. To defer a license or permit application means to postpone issuance or denial thereof pending submission of required materials necessary for compliance with Alabama Administrative Code Chapter 290-3-5.

(10) Denial. Denying a license means that issuance of a license shall be refused either upon initial application or upon application for renewal.

(11) Department. The Alabama State Department of Education.

(12) Externship/Clinical. Practical, off campus training involving direct and indirect supervision.

(13) Laboratory. Application of theory through learner-centered training with an instructor present, supplemented by out-of-class assignments and application of accumulated knowledge demonstrated by a student through work on projects completed during the period of enrollment and requiring no regular supervision by an instructor.

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(14) Lecture. Presentation of theory and information by an instructor in a classroom setting or its equivalent.

(15) Prepaid Tuition Liability. The amount of money collected by a school from students for registration, tuition, supplies, and other fees subject to refund as determined by the cancellation and refund policy described in Alabama Administrative Code r. 290-3-5-.06(9)(a) and (b).

(16) Probation. Licenses and agent's permits found in violation of Alabama Administrative Code Chapter 290-3-5 shall be placed on probation pending correction of the infraction. Each probationary warning will specify the corrective action required, but will not otherwise impair the authority granted therein.

(17) Program. A combination of subjects or courses pursued at a school which is generally accepted as necessary to meet requirements for a predetermined educational, professional, or vocational objective.

(18) Revocation. To revoke a license means that a school must cease to advertise, enroll students, or teach classes.

(19) Rules. Alabama Administrative Code r. 290-0-5-.01 through .10 implementing Code of Ala. 1975, Title 16, Chapter 46.

(20) School. Any person, group of people, institution, establishment, agency, or organization offering or administering a plan, course, or program of instruction for the purpose of preparing individuals for gainful employment in an occupation or vocation, whether conducted in person, by mail, or by any other method.

(21) Surety Bond. A surety bond is a bond provided by each school for the purpose of providing indemnification to identified, enrolled students suffering loss as a result of economic and/or academic fraud or misrepresentation used in procuring enrollment in and/or administering a program of study covered by Alabama Administrative Code Chapter 290-3-5 and Code of Alabama 1975, Title 16, Chapter 46.

(22) Suspension. To suspend a school license and/or agent's permit means to place limitations upon the authority vested therein. Holders of suspended licenses may be prohibited from enrolling students, teaching classes, and/or advertising. A suspended license and/or agent's permit may be revoked if noted deficiencies are not corrected by the stated suspense date.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, Title 16, Chapter 46.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

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290-3-5-.03 Exemptions. Subject to the conditions and exceptions stated in this rule, Alabama Administrative Code r. 290-3-5-.03 shall not apply to certain "exempt schools" which meet the criteria for exempt status enumerated in Code of Ala. 1975, §16-46-3. Such "exempt schools" shall retain their exempted status only as long as the conditions of exemption remain valid. Where exempt status is dependent upon accreditation, the due process of the accrediting commission shall be allowed prior to withdrawal of the exemption, and where accreditation is withheld as a result of transfer of ownership, a period of time shall be allowed for the school to regain the grant in accordance with the appropriate accrediting commission regulations.

(1) Notwithstanding its exempt status, each private school which closes shall comply with the requirements for repository of records in accordance with Code of Ala. 1975, §16-46-3(e).

(2) Each exempted school may request to be licensed without surety bond in accordance with Code of Ala. 1975, §16-46-3 and Alabama Administrative Code r. 290-3-5-.05 and r. 290-3-5-.06.

(3) Each school which claims an exempt eligibility may file a request for a Certificate of Exemption to legitimize its status. Requests for Certificates of Exemption shall be filed with the Alabama State Department of Education together with the following supporting documentation:

(a) Copy of nonprofit charter of incorporation or documentary evidence establishing parochial or religious affiliation and an official catalog listing only sectarian courses or programs of study.

(b) Policy statement of the firm which limits enrollment in courses offered only to currently employed persons or labor unions and trade association training programs with membership prerequisites for enrollment. United States Department of Labor, Bureau of Apprenticeship Training Approval may establish exemption of apprenticeship and other on-the-job training programs.

(c) Copy of the charter or articles of incorporation with by-laws establishing a nonprofit mode of operation.

(d) Statement on letterhead of professional, business, or trade organization that enrollment in seminars or short courses is limited to members thereof. Each private school offering similar public programs shall provide documentary evidence that a majority of enrolled students over the five years preceding the date of application for exemption have had at least half of their tuition and fees paid by their employers.

(e) Copy of appropriate license, certificate, or approval by the state board, commission, or agency, and/or listing in the current directory of such regulatory agency.

(f) Current copy of the school catalog.

(g) Copy of the accreditation grant from an accrediting commission or agency recognized by the Council on Postsecondary Accreditation, One Dupont Circle, N.W., Suite 305, Washington, D.C. 20036. The status of accreditation shall be validated annually.

(4) A certificate of exemption granted pursuant to Code of Ala. 1975, §16-46-3 shall not be construed to constitute approval or endorsement by the State of Alabama for any purpose.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §16-46-3, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

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290-3-5-.04 Licensing A Private School. No private school except those enumerated in Code of Ala. 1975, §16-46-3 with supporting documentation as-prescribed by Alabama Administrative Code r. 290-3-5-.03, shall operate within the State of Alabama unless a license is first secured from the Alabama State Department of Education.

(1) General License Rules.

(a) Application for a Private School License shall be made on forms supplied by the Alabama State Department of Education and shall be accompanied by the items required in Alabama Administrative Code r. 290-3-5-.04(2)(c).

(b) Any license applied for shall be granted, deferred, or denied within thirty (30) days of the receipt by the Department of all materials required for consideration of application. The school shall be notified by the Department of an incomplete application.

(c) Each private school license shall be valid for one year from the date of issue and shall be publicly displayed on the premises where the school operates in the State of Alabama.

(d) Any license issued may be placed on probation, suspension or revocation if the holder of the license solicits or enrolls students or administers instruction through fraud, deception, or misrepresentation. Any license conditioned by an expired surety bond shall be suspended for thirty (30) days from the date of expiration and thereafter may be revoked unless the surety bond is restored. The license shall be suspended / revoked by the Department and the private school shall be notified once the bonding company notifies the State Department of Education of bond cancellation.

(e) Any license shall be denied, deferred, suspended, or revoked if information or materials specified by Alabama Administrative Code Chapter 290-3-5 is not provided. Similar action shall be taken against schools found in violation of Code of Ala. 1975, Title 16, Chapter 46 or for failure to comply with Alabama Administrative Code Chapter 290-3-5.

(f) Each school which undergoes a transfer of ownership shall notify the Department in order that a review by the Department may be conducted to determine compliance with Code of Ala. 1975, Title 16, Chapter 46 and Alabama Administrative Code Chapter 290-3-5. A license shall not be transferred to new ownership. Financial stability of the new ownership must be established as specified in Alabama Administrative Code r. 290-3-5-.04(4)(a). The new owner is required to apply to the Department for a new private school license.

(g) No private school shall seek reimbursement from any student for any charges on any enrollment contract if such school was not the holder of a license as required by Code of Ala. 1975, §§16-46-4(3) and 16-46-6(a), at the time that such school or its representative entered the contract.

(h) No licensed private school, no public school, and no college or university subject to the State Board of Education shall accept credits from a school which was not exempted, entitled to an exemption, or licensed as required under the provisions of Code of Ala. 1975, Title 16, Chapter 46 when educational credentials were conferred.

(i) Each school or course/program domiciled outside the State of Alabama shall designate a State Agent who is a resident of Alabama to service all complaints against the school. The resident agent is required to have an agent's permit which is issued by the Department.

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(j) Private schools which cease operation shall, within ten (10) calendar days of closing:

1. Notify the State Superintendent of Education of the action by letter and/or facsimile;
 2. Submit a list to the State Superintendent of Education containing the name, home address, telephone number, and course/program of each student enrolled in the school on the date the school closed; and
 3. Submit a written plan to the State Superintendent of Education explaining in detail.
 - (i) how the school will arrange for the continued education of students currently enrolled;
 - (ii) how tuition refunds will be handled;
 - (iii) how other contractual agreements with students will be resolved; and
 - (iv) where student records will be stored.
- (k) Each school shall comply with all local, state, and federal laws and regulations.

(2) License Application Procedures.

(a) Initial License Procedure.

1. A private school requesting to operate in Alabama will be supplied copies of Code of Ala. 1975, Title 16, Chapter 46, Alabama Administrative Code Chapter 290-3-5, and required forms for submitting applications to the State Department of Education, Private Schools Section, Gordon Persons Building, 50 North Ripley Street, Montgomery, Alabama 36130-3901.

2. Each private school domiciled in the State of Alabama will be visited with or without prior notification by an official of the Alabama State Department of Education to determine compliance with Code of Ala. 1975, Title 16, Chapter 46 and Alabama Administrative Code Chapter 290-3-5.

3. Upon application for a license, each private school domiciled outside the State of Alabama will be requested to present a copy of the Certificate of Existence granted by the Alabama Secretary of State's office indicating authority to do business or incorporation in Alabama and its proposed instructional course/program for review by the Department.

4. Application forms noted in Alabama Administrative Code r. 290-3-5-.04(2)(c) shall be completed. All materials and forms requested by the Department shall be completed and received before a satisfactory review can be conducted. The Department shall notify the school of an incomplete application and approval thereof shall be deferred until the application is complete.

(b) Renewal License Procedure.

1. Each school will be notified by the Alabama State Department of Education by mail of the requirement for renewal and will supply the necessary forms for renewal action not less than sixty (60) days prior to license expiration date. An annual review of each school licensed under Code of Ala. 1975, Title 16, Chapter 46 may be made at the time of license renewal to determine whether operating conditions equal or exceed the school rules for continued operation. Reviews of schools may be scheduled in advance at the convenience of the school.

2. Materials required for license renewal are identified in Alabama Administrative Code r. 290-3-5-.04(2)(c). All renewal materials—and related information requested by the Department must be completed and received before a satisfactory review can be accomplished. All required application materials must be supplied not later than thirty (30) days prior to expiration or the license and/or agent's permit shall be placed on probation. Any private school license or agent's permit conditioned by an expired surety bond shall be suspended for thirty (30)

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days and thereafter may be revoked unless the surety bond is restored and evidence of restoration is supplied to the Department. An expired license and/or agent's permit may be reinstated upon submission of all application materials and fees required of initial applicants in Alabama Administrative Code r. 290-3-5-.04(2)(a).

(c) License and Permit, Application and Surety Bond Forms.

	<u>Form</u>	<u>Name</u>	<u>Use</u>
1.	PS-1	Application for License	Initial and Annual
2.	PS-2	Private School Performance	School Surety
3.	PS-3	Private School Representative's Bond	Agent Blanket Surety
4.	PS-4	Personal Data	Personal Credentials
5.	PS-5	Application for Agent's Permit	Initial and Annual
6.	PS-6	Curriculum Outline	Identification of Courses
7.	PS-7	Private School Performance Report	School Performance Data
8.	PS-8	Private School License	Authority to Operate
9.	PS-9	Certification of Exemption	Status of Exemption
10.	PS-10	Agent's Permit	Agent's Pocket Card.

(3) License Fees (U.S. Currency).

(a) Application materials for initial licensing, shall be accompanied by a fee of two hundred and fifty dollars (\$250.00) for each private school domiciled in the state of Alabama covering the principal location or place of operation. Extensions or branch campuses operated by a licensed school shall be licensed initially for a fee of one hundred dollars (\$100.00) each. Fees shall be paid or by cashier's check or money order made payable to the Alabama State Department of Education.

(b) Application materials for license renewal noted in Alabama Administrative Code r. 290-3-5-.04(2)(c) shall be accompanied by a fee of one hundred dollars (\$100.00) for each private school domiciled in the state of Alabama covering the principal location or place of operation and one hundred dollars (\$100.00) for each branch of the private school. Fees shall be paid by cashier's check or money order made payable to the Alabama State Department of Education.

(c) All fees collected for issuance or renewal of licenses and permits shall be deposited in the State Treasury to the credit of the Alabama State Department of Education to be expended by voucher approved by the State Superintendent of Education to administer the Code of Ala. 1975, Title 16, Chapter 46.

(4) Financial Stability and School Surety.

(a) Prior to issuance of a license pursuant to Code of Ala. 1975, Title 16, Chapter 46 each private school shall submit to the Alabama State Department of Education evidence that it is financially capable of fulfilling its commitments for education. Financial stability shall be established by a review of each school's financial statement and any other evidence of fiscal responsibility requested by the Department. Financial stability of separate locations shall be provided through the principal base of operations. Unaudited financial statements are acceptable if prepared by a Certified Public Accountant or an accountant who uses an accepted accounting procedure and provides details which assure financial stability. Audited financial statements shall be required when financial stability is questioned by the Department.

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(b) Each school not exempted in Code of Ala. 1975, §16-46-3, shall be required to provide a school surety bond in the amount of ten thousand dollars (\$10,000.00 in U.S. Currency) in the form acceptable to the State Department of Education and made payable to the State Department of Education. Where branches or secondary locations are licensed separately, the surety must be conditioned to cover all locations.

1. Acceptable sureties shall be limited to surety bonds obtained for school surety using Form PS-2 or Form PS-3, Alabama Administrative Code r. 290-3-5-.04(2)(c)4., for an agent's surety. Sureties must be continuous and shall be for the purpose of assuring performance of agreements or contracts with students. Refunds due to students shall be calculated on the basis of the cancellation and refund policy described in Alabama Administrative Code r. 290-3-5-.05(9)(b).

(c) Each private school license and agent's permit conditioned by a surety bond under notice of cancellation by the bonding agent shall be suspended and thereafter revoked upon the effective date of said cancellation unless another surety bond is acquired. Each private school license and agent's permit conditioned by surety bond allowed to expire shall be suspended by the Department upon notice to the private school for thirty (30) days and thereafter revoked unless the surety bond is restored.

(d) School surety bonds may be extended annually upon receipt of a continuation certificate issued by the bonding company to the State Department of Education.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §§16-46-5 through 7, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.05 Minimum School Rules.

(1) School Purpose and Objectives. Each private school's purpose and objectives shall be stated in the catalog, bulletin, or brochure of the institution.

(2) The Educational Program.

(a) Each course, the curriculum, and instruction provided by each private school shall be consistent in quality and content with similar public school programs and standards established for specific programs by the Department and/or appropriate accrediting agency.

(b) Each private school shall offer only the courses approved by the State Department of Education. Any proposed changes subsequently made in the courses outlined shall be approved by the State Department of Education before initiation of the proposed changes.

(c) No private school shall sell, award, grant, or confer any earned or honorary degree, diploma, or certificate unless prior permission has been granted in writing by the State Superintendent of Education.

1. Certificate and diploma programs may be offered in clock or credit hours as follows:

i. one quarter hour is defined as 10 clock hours of lecture, 20 clock hours of laboratory, or 30 clock hours of clinical/externship;

ii. one semester hour is defined as 15 clock hours of lecture, 30 clock hours of laboratory, or 45 clock hours of clinical/externship; and

iii. a balance should be maintained between lecture, laboratory, and clinical/externship experiences appropriate to the specific programs and the needs of the student.

2. Associate Degree programs shall consist of at least 60 semester or 90 quarter hours;

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- (3) Organization, Administration, and Fiscal Responsibility.
 - (a) The school should be organized according to academic and/or functional patterns to permit effective and orderly academic and business management.
 - (b) The school must be financially secure as specified in Alabama Administrative Code r. 290-3-5-.04(4) and capable of fulfilling its commitments for training and/or occupational objectives.
 - (c) Financial records shall be maintained by each private school to provide management of the institution according to accounting procedures accepted by the Department.

- (4) Essential Documents. The following items shall be maintained currently and accurately at all times by each licensed private school at each location.
 - (a) A course outline or syllabus for each licensed course or program of study;
 - (b) Copies of each current catalog, bulletin, or brochure, promotional material and advertisement;
 - (c) Each student's permanent record showing admission date(s), attendance, transcript of academic progress, tuition payments, financial aid, termination, or completion;
 - (d) Each student's application for admission showing name, address, age, date enrolled, and other pertinent information with documents supporting accomplishment of prerequisites established for each course;
 - (e) Each student's enrollment agreement or contract;
 - (f) A copy of the certificate of completion, diploma, or transcript of credits for each student completing a course or program of study; and
 - (g) Personal data of each administrator, director, supervisor, instructor, and agent of the school to include a copy of certificates of completion, diplomas, and transcripts of relevant educational and/or occupational experiences. The above information shall be supplied to the State Department of Education before or upon initial employment on Form PS-4, Alabama Administrative Code r. 290-3-5-.04(2)(c)4.

- (5) Student Records. Each student's record shall be made available upon request of the student to prospective employers and other duly authorized persons. Safeguards shall be provided to protect the student records from damage, loss, or compromise by unauthorized persons as mandated by federal and state statutes.

- (6) Instructional Staff. Adequate instructional personnel shall exist to ensure that the educational objectives of each course are achieved.
 - (a) Instructors and supervisors shall have the educational background and experience necessary to successfully fulfill the educational objectives of the assigned course or program of study. Educational background and/or experience must be submitted on Form PS4, Alabama Administrative Code r. 290-3-5-.04(2)(c)4.

 - (b) Credential requirements for instructional staff generally parallel those required in similar public instructional programs. A high school diploma or equivalent and appropriate work experiences for occupational education are acceptable. Occupations requiring licensure or certification must be taught by persons holding appropriate credentials. A copy of the appropriate documents shall be supplied to the State Department of Education.

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(c) An instructor shall teach only in the specialization for which he/she is credentialed/licensed.

(7) Administrative and Supervisory Staff. Administrative and supervisory persons shall be available in numbers adequate to provide administrative, managerial, and supervisory support to achieve the stated objectives of the school.

(8) Instructional Resources and Materials.

(a) References appropriate to the courses offered shall exist in adequate numbers in a library or resource room to support academic preparation at the academic or occupational level for each course offered.

(b) Each private school shall provide facilities, equipment, tools, machines, instructional aids, and materials in adequate quantity, quality, and variety to meet the educational needs according to the stated objectives of each course.

(9) School Policies. All policies shall be written and available for review. Failure to adhere to written policies may constitute the basis for declaring academic and/or economic fraud as defined in Code of Ala. 1975, §§16-46-1(7) through (8).

(a) The policy on registration, tuition, fees, and charges must be clearly stated in each school catalog, bulletin, or brochure.

1. Students shall be provided a detailed description of items constituting the tuition and each fee paid to include the total cost of a course or program of instruction. Costs of extended enrollment shall be provided, if applicable.

2. A schedule listing each fee and charge on Form PS-6 and PS-7, Alabama Administrative Code r. 290-3-5-.04(2)(c)4, shall be submitted to the State Department of Education and may not be altered until permission is granted by the Department.

3. Terms of payment and the total amount must be disclosed in each student's enrollment agreement or contract.

4. The tuition, fees, and charges must be realistic in terms of the services provided and be applied uniformly to students within the same school and class.

(b) The policies on course cancellation, tuition fees, and refund must be clearly stated in each private school catalog, bulletin, or brochure. Students may cancel enrollment at any time by complying with the notification procedures established by the school. Refunds of unearned prepaid tuition, fees, and other charges shall be made in the following manner within thirty (30) days of termination:

1. If cancellation occurs within seventy-two (72) hours of enrollment date, all money paid by the prospective student shall be refunded.

2. If cancellation occurs after seventy-two (72) hours of enrollment date, but before classes begin or correspondence materials are delivered, a refund shall be made of all money paid except the registration fee.

3. If cancellation occurs after classes begin or after shipment of correspondence materials, a pro rata refund will be made of all unearned prepaid tuition, fees, and charges for books and supplies not issued to the student. Once books and supplies are issued and received by students, these become the property of students and refunds may be made only at the discretion of the private school.

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4. A full refund is due students whose contracted educational services are denied by the school as a result of economic or academic fraud as defined in Code of Ala. 1975, §§16-46-1 (7) through (8).

(c) Each school shall publish student behavior and disciplinary policies in the catalog, bulletin, or brochure.

(d) Each school shall publish a grievance policy in its catalog, bulletin, or brochure.

(e) Each school shall publish academic policies and the procedures used to evaluate academic achievement and the grading system in the catalog, bulletin, or brochure. A procedure must be identified and used to monitor progress and measure performance toward achieving the stated educational objectives of each course.

(10) Site and Facilities.

(a) The site and facilities selected for the private school shall provide adequate and appropriate space to accommodate the proposed instructional program and to provide program support services as necessary. All local codes or zoning ordinances must be satisfied and a copy of such permit or license supplied to the State Department of Education prior to licensure.

(b) Facilities and fixed equipment shall conform to the safety and health requirement of city, county, state, and federal agencies.

(11) Admission and Student Services.

(a) Recruitment programs shall be conducted within the provisions established in Alabama Administrative Code Chapter 290-3-5. The use of agents is governed by Alabama Administrative Code r. 290-3-5-.07.

(b) Admission procedures shall be published in the catalog, bulletin, or brochure specifically establishing prerequisites for entry.

(c) Each private school is required to utilize a student enrollment agreement or contract for courses or programs of study. The enrollment agreement or contract shall set forth clearly all conditions for enrollment in and completion of courses of instruction, itemized costs, terms of payment, and other conditions the school may desire to establish. A copy of the duly signed contract with all attachments shall be provided to each enrolled student. Enrollment by minors shall be cosigned by an adult.

(d) Each private school shall adequately maintain and service student academic, attendance, financial aid and personal data records as required in Code of Ala. 1975, §16-46-5(i)(3).

(e) Financial aid program administration must comply with the regulations of appropriate private, state, or federal agencies. It is essential that accurate records be maintained as required in Alabama Administrative Code r. 290-3-5-.04(4)(a).

(12) Catalog, Bulletin, or Brochure. A current catalog, bulletin, or brochure shall be included with the application for a license. The document must be published in sufficient quantities for distribution to all enrollees and regulatory authorities. The school catalog, bulletin, or brochure shall include following information:

(a) Name, address, and telephone number of the school. If separate campuses exist, the catalog shall list the address and telephone number of each branch in Alabama where the program is provided;

(b) Identifying data such as volume number and date of publication;

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- (c) Ownership of the private school;
- (d) Names of the governing body members, officials, and faculty of the school, indicating position held and appropriate educational and/or occupational credentials of each person;
- (e) An historical statement establishing the origin of the school;
- (f) Accreditation, licenses, endorsements, or affiliations in the format prescribed by the appropriate accrediting commission or other agency;
- (g) Purpose of the school;
- (h) Objectives of the school;
- (i) Mode of operation or procedures used by the school in achieving the stated objectives;
- (j) Admission requirements and procedures with required documentation for entry;
- (k) Credentials awarded and graduation or completion requirements;
- (l) Facilities and/or equipment available to support courses or programs of study;
- (m) School calendar and legal holidays;
- (n) Basis for awarding academic credit by quarter hours, semester hours, or clock hours, and procedures for awarding credit for prior education and/or experience;
- (o) Academic policy including grading system, progress report, and procedures for evaluating student achievement of stated objectives;
- (p) Tuition and fee policy including charges for each fee, books, laboratories, and supplies which is in compliance with Alabama Administrative Code r. 290-3-5-.05(9);
- (q) Cancellation and refund policy which is in compliance with Alabama Administrative Code r. 290-3-5-.05(9);
- (r) Student disciplinary policy to include conditions of forced withdrawal;
- (s) Housing facilities and policy, if applicable;
- (t) Attendance policy;
- (u) Student grievance policy;
- (v) Curriculum outline of each program and/or course. List with the titles, objectives, and major subject outlines or description of each course giving units of measurement in credit hours, clock hours, or approximate time of completion. When prepared for brochure, the above may be in abbreviated form. Course prerequisites shall be clearly stated.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §16-46-7, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.06 Publicizing the Private School. Each school shall follow provisions of Code of Ala. 1975, §16-46-4 regarding publicity.

(1) Publicity by a school shall be based upon relevant facts and supporting evidence maintained in a file and stored in the school.

(2) No private school shall advertise, claim, nor make guarantees of any kind by direct statement or implication that it will train students in any given length of time.

(3) Advertising shall emphasize the educational or occupational program offered rather than the potential earnings or employee benefits generally available to the successfully employed

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person. Statements of fact regarding earnings or employee benefits must reflect those normally available to persons who enter employment at the purported level of training rather than benefits granted only after extensive experience or further education.

(4) A school shall advertise only as a school and under the school name licensed by the Department. It shall not advertise in conjunction with any other business or establishment or use an emblem or logo associated with another business.

(5) Publicity of school license shall not imply endorsement by the Alabama State Department of Education of any course, person, or institution offering, conducting or otherwise administering the same.

(6) Each private school subject to the provisions of Code of Ala. 1975, Title 16, Chapter 46 and Alabama Administrative Code Chapter 290-3-5 shall not commence advertising in any manner or form until after the date a private school license is issued by the Alabama State Department of Education.

(7) No private school may advertise that it is endorsed by manufacturers, business establishments, other institutions, or organizations until and unless prior written evidence of this fact is submitted to the Alabama State Department of Education and written approval is granted by the Department.

(8) Claims to accreditation status or recognition by appropriate accrediting agencies shall be supported by documentary evidence and shall be publicized in the phraseology prescribed by such authority.

(9) A file shall be maintained by each private school of all promotional materials, bulletins, brochures, contracts, agreements, and forms used to publicize the private school courses.

Author: Dr. Eddie R. Johnson

Statutory Authority: Code of Ala. 1975, §§16-46-4 through 6, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.07 Agent's Permits. Publicity used for solicitation of students by agents shall be governed by Alabama Administrative Code r. 290-3-5-.06.

(1) No person, except those representing schools exempted or entitled to exemption in Code of Ala. 1975, §16-46-3 and validated in Alabama Administrative Code r. 290-3-5-.03, shall present materials, sell courses, or solicit students for enrollment outside the boundaries of the licensed school facilities unless an Agent's Permit is first secured by the school from the State Department of Education.

(2) The application for each agent's permit shall be submitted to the Department on Form PS-5, Alabama Administrative Code r. 290-3-5-.04(2)(c)4 and shall be accompanied by a fee of fifty dollars (\$50.00 in U. S. Currency) in the form of a cashier's check or money order made payable to the Alabama State Department of Education and a surety bond of two thousand five hundred dollars (\$2,500.00 in U. S. Currency). Such surety bond shall be continuous and shall be

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conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring the enrollment. The surety bond shall be supplied by the private school as a blanket surety covering each representative in the amount of two thousand five hundred dollars (\$2,500.00 in U. S. Currency) made payable to the Alabama State Department of Education.

(3) Each agent's permit shall be valid for a period of one year from the date issued and shall be renewed for a fee of twenty-five dollars (\$25.00 in U. S. Currency). Application for permit renewal shall be made on Form PS-5, as prescribed in Alabama Administrative Code r. 290-3-5-.04(2)(c)4 and shall be accompanied by the required agent surety bond of two thousand five hundred dollars (\$2,500.00 in U. S. Currency).

(4) Upon satisfactory review of an agent's credentials, the State Department of Education shall issue to the private school, defer, or deny a permit within thirty (30) days of receipt of all required materials. A pocket card will be issued giving the agent's name and address, the name and address of the employing school, and certifying that the person whose name and photo appear on the card is an authorized agent of the school. Each agent must have the permit in possession when representing the school as an agent. The private school shall be notified of incomplete applications. All required renewal materials shall be supplied to the Alabama State Department of Education thirty (30) days prior to the expiration date. Expired permits may be reinstated upon submission of all application materials and fees required of initial applicants.

(5) One complimentary agent's permit shall be issued without fee or surety requirements to an owner or administrator of each licensed school identified as a principal base of operation. Application for a complimentary agent's permit shall be made on Form PS-5, Alabama Administrative Code r. 290-3-5-.04(2)(c)4.

(6) Schools utilizing agents shall provide indemnification to each student suffering loss as a result of any economic or academic fraud or misrepresentation by said agents in procuring enrollment according to Alabama Administrative Code r. 290-3-5-.04(2) and Code of Ala. 1975, §16-46-6(c).

(7) No person shall be issued an agent's permit to represent any private school until it has been determined by the State Department of Education that the school has qualified for a license and a license has been issued.

(8) An agent's permit shall be placed on probation, suspended, or revoked by the Department if the holder solicits or enrolls students through fraud, deception, or misrepresentation. Each agent's permit, conditioned by expired surety bond, shall be suspended by the Department for thirty (30) days and thereafter revoked if surety bond is not restored.

(9) No persons or private school shall seek reimbursement from any student for any charge(s) on any enrollment contract secured by a representative of the private school if the representative soliciting the students or selling the course(s) was not a holder of an agent's permit as required by Code of Ala. 1975, §16-46-6 at the time of presentation.

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(10) The issuance of an agent's permit shall not be deemed to constitute endorsement or recommendation of any course, person, or institution.

(11) Each agent's permit which is revoked by the Department or whose employment is terminated prior to the expiration date shall be returned to the State Department of Education by the licensed school.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §16-46-6, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.08 Enforcement Proceedings. Pursuant to Code of Ala. 1975, §16-46-8, the Department may institute such action of law or in equity as may be necessary to enforce the provisions of Code of Ala. 1975, Title 16, Chapter 46 or rules in Alabama Administrative Code Chapter 290-3-5.

Author: Dr. Eddie R. Johnson

Statutory Authority: Code of Ala. 1975, §§16-46-7 through 16-46-8, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.09 Appeals Procedures. Any person or school aggrieved by the actions of the Alabama State Department of Education with respect to exemption, issuance, denial, deferral, probation, suspension, or revocation of a license or permit provided for in Code of Ala. 1975, §§16-46-3, 16-46-5, and 16-46-6 and Alabama Administrative Code 290-3-5 may file a petition for review with the Alabama State Board of Education. The petition shall be filed with the State Superintendent of Education within thirty (30) calendar days after the person or school has been served a notice of proposed action.

(1) Notice of Action.

(a) A proposed action against a person or school shall be initiated by service of a written notice of the proposed action.

(b) The notice shall contain:

1. a statement of the nature of the action;

2. a statement of the legal authority and jurisdiction under which the action is made;

3. a reference to the particular sections of statutes and rules involved; and

4. a short and plain statement of the reasons for the proposed action. If the Department is unable to state the reasons in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application by the person or school, hereinafter designated respondent, a more definite statement shall be furnished.

(2) Service of Notice.

(a) The notice may be served in any of the following ways:

1. personal service;

2. regular mail; or

3. certified mail, return receipt requested.

(3) Petition for Review.

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(a) An aggrieved person or school may request a hearing to review a proposed action. The request shall be

1. made in writing;
2. addressed to the State Superintendent of Education; and
3. received by the State Superintendent of Education within thirty (30) calendar days

of the date of receipt of notice of the proposed action.

(b) Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the matter to be submitted to the State Superintendent of Education for final action without any action by the State Board of Education.

(c) If a hearing is requested within the above time frame, the State Board of Education authorizes the State Superintendent of Education to appoint a hearing officer to conduct a hearing.

(4) Conduct of Hearing.

(a) In the conduct of a hearing, a hearing officer shall have the authority to:

1. establish a date, time and place for the hearing;
2. maintain order;
3. make a record of the proceedings;
4. establish reasonable time limits for the conduct of proceedings;
5. rule on the admissibility of evidence;
6. hold a prehearing conference, if necessary, to clarify the matters in dispute;

establish the order of presentation; allow for the exchange of exhibits and names of witnesses; establish time limits for the exchange of exhibits and names of witnesses; and

7. enter an order on any other matter which would effectuate the conduct of the hearing.

(b) The hearing shall be open to the public.

(c) A respondent may be represented by counsel at his/her own expense.

(5) Settlement. Informal dispositions may be made of any matter set for hearing by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing.

(6) Record of Proceedings.

(a) The record of a hearing shall include:

1. the notice of proposed action;
2. the request for a hearing;
3. all evidence received during the hearing;
4. a transcript of the proceedings;
5. a statement of all matters officially noticed;
6. all questions and offers of proof, objections and rulings thereon;
7. the written recommendation of the hearing officer; and

(b) Oral proceedings shall be recorded by a qualified shorthand reporter. Oral proceedings shall be transcribed at the request of any party with the expense of transcription borne by the requesting party. The record of oral proceedings shall be maintained by the State Department of Education for five (5) years from the date of entry of the final order.

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(7) Rules of Evidence. The rules of evidence as provided in Code of Ala. 1975, §41-22-13 shall apply to all hearings conducted under these rules.

(8) Final Order.

(a) Upon completion of a hearing, the hearing officer shall prepare and submit to the State Superintendent of Education a proposed order. The proposed order shall include a statement of facts found by the hearing officer, a recitation of the application of the facts found to the applicable statutes and regulations, and a recommendation as to the appropriate disposition of the matter. The proposed order along with the record shall be submitted to the State Superintendent of Education within thirty (30) days after the hearing is concluded. By agreement, the parties may waive or extend the thirty (30) day time period.

(b) Within ten (10) days after receipt of the proposed order, the State Superintendent of Education shall serve by certified mail the same on the parties. By agreement, the parties may waive or extend the ten (10) day time period.

(c) Within ten (10) days of receipt of the proposed order, each party may file written exceptions and briefs, not to exceed ten (10) typewritten, double-spaced pages and a request for oral argument which shall be mailed to the State Superintendent of Education. The proposed order shall become the final order of the State Board of Education unless exceptions are filed.

(d) If oral argument is requested, the same shall be scheduled at the discretion of the State Board of Education. The length of oral argument shall be set by the State Board of Education, but shall not exceed ten (10) minutes per party.

(e) The State Board of Education shall issue a final order no later than sixty (60) days after either the review of written exceptions and briefs or completion of oral arguments. By agreement, the parties may waive or extend the sixty (60) day time period.

(9) Judicial Review. A person or school who has exhausted all administrative remedies available and who is aggrieved by a final order of the State Board of Education may seek judicial review pursuant to the provisions of Code of Ala. 1975, §16-46-9.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §16-46-9, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.

290-3-5-.10 Violations And Penalties. It shall be unlawful for any person to violate any provisions of Code of Ala. 1975, Title 16, Chapter 46. Any person required by Code of Ala. 1975, Title 16, Chapter 46 to have a license or permit who shall do in Alabama any business of the nature described in Code of Ala. 1975, Title 16, Chapter 46 without first obtaining a license or permit as required of him/her by Code of Ala. 1975, Title 16, Chapter 46 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00 in U. S. Currency) or a term of imprisonment not to exceed six months, or both. Each day's violation of Code of Ala. 1975, Title 16, Chapter 46 shall constitute a separate offense. All fines shall be deposited in the State Treasury to the credit of the Alabama State Department of Education to be expended by voucher approved by the State Superintendent of Education to administer Code of Ala. 1975, Title 16, Chapter 46.

Author: Dr. Eddie R. Johnson.

Statutory Authority: Code of Ala. 1975, §16-46-10, as amended.

History: June 13, 1991 adopted effective July 25, 1991. Repealed October 8, 2014; effective November 12, 2014.