

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 255 Department or Agency: AL Board of Examiners in Counseling  
Rule No. 255-X-8-.03 Complaint Procedure.

New  Amended  Repeal  Adopt by Reference

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? Yes

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 has 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.

Signature of certifying officer Florence Hemphill  
Florence Hemphill

Date 5/11/16

DATE FILED  
STAMP

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07/04

ALABAMA BOARD OF EXAMINERS IN COUNSELING

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Board of Examiners in Counseling

RULE NO. & TITLE: 255-X-8-.03 Complaint Procedure.  
255-X-8-.03(1)(a)

INTENDED ACTION:

The Alabama Board of Examiners in Counseling proposes to amend this rule to allow flexibility in the composition of the board's investigative committee.

SUBSTANCE OF PROPOSED ACTION:

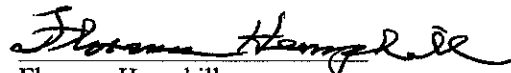
The proposed action is to amend this rule to allow some flexibility in the composition of the Board's investigative committee.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Executive Director of the Alabama Board of Examiners in Counseling at any time during the 38-day period following the 31st day of May, 2016, or if requested in advance, by personally appearing at Room 765, Medical Forum Building, 950 22<sup>nd</sup> Street North, Birmingham, AL at 10:00 a.m., Friday, July 8, 2016.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 8, 2016

CONTACT PERSON AT AGENCY: Florence Hemphill  
Executive Director  
Alabama Board of Examiners in Counseling  
950 22<sup>nd</sup> Street, North, Suite 765  
Birmingham, AL 35203  
Telephone 205 458-8716

  
Florence Hemphill

**255-X-8-.03 Complaint Procedure.**

(1) In the event a complaint is filed against an applicant, ALC, or LPC, or the Board determines from other information that an investigation is necessary, the procedure for investigation of complaint shall be as follows:

(a) ~~An~~ The Board's investigative committee ~~consistsing~~ of a ~~Board consultant,~~ ~~the Executive Officer,~~ ~~and one member of the Board~~ no less than three (3) members, two (2) of which may be the Executive Director and a member of the Board. A third member of the investigative committee may be another member of the board, a contract employee of the board (e.g., consultant), or another person appointed by the Executive Director and acceptable to legal counsel to the board. The committee shall investigate said information or complaint to determine whether there is probable cause for disciplinary proceedings.

(b) The investigative committee may exercise subpoena power in investigating any complaint or information obtained regarding an applicant, ALC, or LPC.

(c) The investigative committee may enter into informal settlements with the applicant, ALC, or LPC under investigation provided said settlement is ratified by the Board.

(d) Upon completion of the investigation, the investigative committee, in consultation with Board's legal counsel, shall determine whether probable cause exists for the Board to issue a summons and complaint and initiate a formal disciplinary proceeding. If the investigative committee determines at this time that no probable cause exists, the proceedings will terminate at that point.

(2) In the event the investigative committee determines that probable cause exists for the filing of a summons and complaint, the Board's attorney shall prepare the summons and complaint.

(3) The notice of proposed Board action, summons and complaint shall be mailed by registered or certified mail, return receipt requested, to the most recent address of the respondent on file with the Board. The notice, summons and complaint may also be sent by personal service as in civil actions, and shall be mailed or served not less than thirty (30) days nor more than sixty (60) days from the date of the hearing.

(4) The Board may, and in its discretion, appoint some impartial person to act as a Hearing Officer at disciplinary hearings. In the event a Hearing Officer is appointed, the Hearing Officer shall assist the Board in presiding at the disciplinary proceeding, and in ruling on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

**Author:** Alabama Board of Examiners in Counseling

**Statutory Authority:** Code of Ala. 1975, §34-8A-1 et seq; §41-22-1, et seq

**History: New Rule:** Filed November 26, 1996; effective December 31, 1996.

**Amended:** Filed September 22, 2000; effective October 27, 2000. **Amended:** Filed

May 30, 2003; effective July 4, 2003. **Amended:** Filed November 9, 2006; effective December 14, 2006.