

STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION

CHAPTER 290-8-8
TREATMENT CENTERS IN ALABAMA

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290-8-8-.01 Treatment Center Endorsement.

Effective August 1, 2014, all treatment centers which are licensed or certified by other state and/or federal agencies serving Alabama students in grades K-12 shall, before receiving any appropriation from the Education Trust Fund, be required to obtain an educational endorsement from the Alabama State Department of Education. The rules and regulations set forth in this authority are not designated for facilities regulated under *Code of Alabama* (1975) Title 14, Chapter 12.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) §16- 46-7.

History: New 290-8-8.

290-8-8-.02 Definitions.

- (1) CURRICULUM. A group of organized programs.
- (2) DEPARTMENT. The Alabama State Department of Education.
- (3) EDUCATIONAL ENDORSEMENT. A confirmation by the Alabama State Department of Education that an entity operating in the State of Alabama and licensed or certified by another state or federal agency has met requirements necessary to receive allocations from the Education Trust Fund.

(4) **TREATMENT.** Treatment means a planned, individualized program of educational, medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem or designed to reduce delinquency and rehabilitate delinquent youth with the expectation of establishing a more favorable environment for students.

(5) **TREATMENT CENTER.** A center which receives appropriations from the Education Trust Fund and provides treatment to children in grades K-12.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) §16- 46-5.

History: New 290-8-8.

290-8-8-.03 Funding.

(1) An endorsed Treatment Center may be funded based upon a method developed by the State Superintendent of Education. This method may be modified as needed with appropriate notification to centers receiving allocations. In addition to the allocation from the Education Trust Fund, appropriations of IDEA funds shall be made based upon the number of eligible students at the center identified in the Alabama Child Count the preceding school year.

(2) The funds for the educational programs shall be appropriated by the SDE through the fiscal agent (LEA) from the Education Trust Fund and shall be used only for educational purposes, except when an emergency situation exists as identified by the SDE; and upon such a determination the director may transfer funds between items of educational and non-educational sources of funding.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) Title16, Chapter 13.

History: New 290-8-8.

290-8-8-.04 Assurances.

(1) Effective August 1, 2014, before receiving any state allocations from the Education Trust fund, all treatment centers operating in the state of Alabama must annually assure their compliance with the following:

(a) Comply with all State and Federal laws and regulations as they pertain to special education students.

(b) Comply with procedural due process relating to applicable notices, timelines and safeguards in accordance with State and Federal laws and regulations.

(c) Comply with the department requirements regarding the qualifications of teachers and paraprofessionals.

(d) Employ a minimum of 1 certified teacher per 20 bed-counts to oversee the implementation of the educational curriculum of the center.

(e) Ensure that all students enrolled/admitted in the center for more than 10 consecutive calendar days shall be offered a curriculum consistent in quality and content with similar treatment center programs and standards established for specific programs by the Department and appropriate accrediting agency.

(f) Use state-approved Student Information Software and the Special Education Tracking System (SETS) for all children in order to complete required forms and pertinent educational information.

(g) Complete requested and/or required reports in a timely manner.

(h) Maintain all appropriate records and provide them to the Alabama State Department of Education (SDE) as requested.

(i) Submit to an annual fiscal audit to ensure that federal or state-appropriated funds are expended in an appropriate manner and in accordance with applicable State and Federal laws and regulations.

(j) Work with the Local Education Agency (LEA) (fiscal agent) to ensure that all students with disabilities participate in the State Assessment Program.

(k) Maintain and safeguard the confidentiality of personally-identifiable data and records pursuant to the Family Educational Rights and Privacy Act (FERPA).

(l) Refrain from using the position of board member, director, or administrator for personal or partisan gain or to benefit any person or entity over the interests of the center.

(m) That students are not discriminated against on the basis of race, color, national origin, sex, age, or disability.

(2) Upon submitting an assurance of compliance in each of these areas, an Educational Endorsement will be awarded to the Treatment Center from the Department. The endorsement will be valid for 3 years.

(3) Each endorsed Treatment Center 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 *Alabama Administrative Code Chapter 290-8-8*.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) Title16, Chapter46.

History: New 290-8-8.

290-8-8-.05

Initial Endorsement Procedure.

(1) Application for a Treatment Center Endorsement 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 Chapter 290-3-5*. In addition, a copy of the Memorandum of Agreement with the LEA in which the center is physically located shall be provided to the SDE.

(2) Any endorsement applied for shall be granted, deferred, or denied within twenty eight (28) days of the receipt by the Department of all materials required for consideration of application. The center shall be notified by the Department of an incomplete application.

(3) Each treatment center endorsement shall be valid for three years from the date of issue and shall be publicly displayed on the premises where the center operates in the State of Alabama.

(4) Any endorsement shall be denied, deferred, suspended, or revoked if information or materials specified by *Alabama Administrative Code Chapter 290-3-5* are not provided or if the center fails to maintain assurances set forth in *Alabama Administrative Code Rule 290-8-8-.04*.

(5) Each center that undergoes a transfer of ownership shall notify the Department in order that a review by the Department may be conducted to determine compliance with *Alabama Administrative Code Chapter 290-3-5*. An endorsement shall not be transferred to new ownership.

(a) The new owner is required to apply to the Department for a new treatment center endorsement.

Author: Dennis Coe.
Statutory Authority: *Code of Alabama* (1975) §16- 46- 7.
History: New 290-8-8.

290-8-8-.06 Endorsement Renewal.

Each Treatment Center 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 endorsement expiration date. A review of each treatment center endorsed may be made at the time of endorsement renewal to determine whether operating conditions equal or exceed the center's rules for continued operation.

Author: Dennis Coe.
Statutory Authority: *Code of Alabama* (1975) §16- 46-7.
History: New 290-8-8.

290-8-8-.07 Minimum Center Rules.

(1) Center Purpose and Objectives. Each treatment center's purpose and objectives shall be stated in the catalog, bulletin, or brochure of the center. A clear description of the Program and target population will be identified.

(2) The Educational Program.

(a) Each course, the curriculum, and instruction provided by each treatment center shall be consistent in quality and content with similar treatment center programs and standards established for specific programs by the Department and appropriate licensing or certifying agency.

(b) No treatment center shall sell, award, grant, or confer any credit, diploma, or certificate unless prior permission has been granted in writing by the State Superintendent of Education.

(3) Student information.

(a) Each student enrolled in state supported treatment centers shall be withdrawn from their home school and enrolled in the center.

(b) Each student's attendance, grades and other pertinent demographic and academic data shall be maintained while the student is enrolled in the center on forms prescribed by the State Superintendent of Education.

(c) Student Records. Each student's record shall be safeguarded to protect the student records from damage, loss, or compromise by unauthorized persons as mandated by federal and state statutes.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) §16- 46-5.

History: New 290-8-8.

290-8-8-.08 Exempt Status.

Each endorsed state supported treatment center shall be treated as an exempt school as defined in Section 16-46-3 (a)(8) and Administrative Code Section 290-3-5.

(1) Each treatment center shall 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 appropriate license, certificate, or approval by other Alabama state boards, commissions, or agencies requiring licensure.

(b) Current copy of the catalog.

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

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) §16- 46-3.

History: New 290-8-8.

290-8-8-.09 Monitoring.

Each Treatment Center 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 *Alabama Administrative Code Chapter 290-3-5*.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) Title16, Chapter 46.

History: New 290-8-8.

290-8-8-.10 LEA Responsibilities.

(1) For children with disabilities who have been determined to be wards of the State or who reside in group homes, detention facilities, nursing homes, and private facilities, it is the responsibility of the LEA where the facility is located to ensure that FAPE is made available.

- (2) The LEA shall collaborate with the center to develop a Memorandum of Agreement which may include, but not be limited to, specific processes for shared services, implementation of IEP's and FAPE, testing schedules for state assessments, the oversight of educational offerings, assistance with compliance with *Alabama Administrative Code Chapter 290-8-9*, and distribution of funds .

Author: Dennis Coe.
Statutory Authority: *Code of Alabama* (1975) Title16, Chapter 46.
History: New 290-8-8.

290-8-8-.11 Treatment Center Closing, Loss, or Change of Licensure

Notwithstanding its exempt status, each treatment center which closes shall comply with the requirements for repository of records in accordance with Code of Ala. 1975, §16-46-3(e). Treatment Centers which licenses are suspended, revoked, or deferred shall immediately notify the State Department of Education and the LEA acting as the fiscal agent. Any center which has a license suspended, revoked, or deferred shall not receive allocations from the Education Trust Fund until such license has been restored in full. Treatment Centers which change capacity by either increasing or decreasing the licensed bed count shall provide the appropriate documentation from the licensing agency to the Department. Notifications of any adjustments to the licensed bed count must be made to the Department no later than the 20th day after Labor Day each calendar year.

Author: Dennis Coe.
Statutory Authority: *Code of Alabama* (1975) §16- 46-3.
History: New 290-8-8.

290-8-8-.12 Fees.

- (1) A Certificate of Exemption shall be provided to qualified endorsed centers for a fee of \$500 (U.S. Currency). The certificate will be valid for three (3) years.
- (2) There will be no fee assessed for issuing a Certificate of Endorsement (3 years).

Author: Dennis Coe.
Statutory Authority: *Code of Alabama* (1975) §16-46-5.
History: New 290-8-8.

290-8-8-.13 Appeals Proceedings.

Any person or center aggrieved by the actions of the Alabama State Department of Education with respect to issuance, denial, deferral, probation, suspension, or revocation of an endorsement provided for in *Alabama Administrative Code Rule 290-8-8* 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 center has been served a notice of proposed action.

- (1) Notice of Action.

(a) A proposed action against a person or center 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 center, 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.

(a) An aggrieved person or center 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.

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

(ii) 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
8. the final order of the State Superintendent of Education.

(b) Oral proceedings shall be recorded by a qualified 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.

(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 center 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 Alabama* 1975, §16-4-69.

Author: Dennis Coe.

Statutory Authority: *Code of Alabama* (1975) §16- 4-69, §41-22-13.

History: New 290-8-8.