

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Alabama Athletic Commission
Rule No. 165-X-9
Rule Title: Complaint and Disciplinary Actions
_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

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? No

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 Services Agency.

Signature of certifying officer 

Date: April 20, 2022

(DATE FILED)

REC'D & FILED
APR 20 2022
LEGISLATIVE SVC AGENCY

Alabama Athletic Commission

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Athletic Commission
RULE NO. & TITLE: 165-X-9 Complaint and Disciplinary Actions
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to update the complaint and disciplinary action rules revising the process complaints are filed and investigated to be evaluated by the investigative committee for recommended disciplinary action.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Friday, June 3, 2022. Comments should be directed to Keith E. Warren, *Executive Director*, 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at keith@alstateboard.com or via telephone at 334-420-7231.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, June 30, 2022.

CONTACT PERSON AT AGENCY:

Keith E. Warren
Executive Director
2777 Zelda Road
Montgomery, AL 36106
(334) 420-7231



Keith E. Warren, *Executive Director*
Alabama Athletic Commission

ALABAMA ATHLETIC COMMISSION

ADMINISTRATIVE CODE

CHAPTER 165-X-9 Complaint and Disciplinary Actions

165-X-9-.01 Complaints.

- (1) Any person may file a written and signed complaint with the commission alleging a violation of Ala. Code Sections 41-9-1029 to 41-9-1037, inclusive. The complaint shall be made in the manner prescribed by the board and shall be referred by the Commission to a standing investigative committee, consisting of a Commission member, the executive director, the attorney for the Commission, and an investigator or chief inspector of the Commission. If the investigative committee finds that no probable cause exists, the investigative committee may dismiss the charges and prepare a statement in writing, detailing the reasons for the decision.
- (2) If the investigative committee finds that there is probable cause that a violation has been committed, the Commission shall initiate an administrative proceeding. If the commission determines a person has violated any provision of Ala. Code Sections 41-9-1029 to 41-9-1037, inclusive, the Commission may do any of the following:
 - a. Issue a cease-and-desist order.
 - b. Suspend or revoke a license.
 - c. Impose an administrative fine or not more than ten thousand dollars (\$10,000) per violation.
- (3) The commission may petition the circuit court of the county where the violation occurred to enforce a cease-and-desist order and to collect any assessed fine.

~~(a) Any person, including a Chief Inspector, acting in his or her official capacity for the Commission, may file a written complaint regarding an allegation of impropriety by a licensee who is subject to the authority of the Alabama Athletic Commission. The complaint shall contain the following information:~~

~~(1) The name and address of the complaining party, as well as the name and address of the individual or entity against which the complaint has been filed.~~

~~(2) A plain and concise statement of the facts which indicate the provisions of the Alabama Athletic Commission's rules promulgated by the Commission that complaining party claims have been violated.~~

~~(3) The date and signature of the complainant.~~

~~(4) Complaints shall be referred to a standing investigative committee consisting of a Board member, the Executive Director, the Board attorney, and a Chief Inspector for the Board. The Chief Inspector that initiated the complaint shall not also serve on the investigative committee. A Board member serving on the investigative committee shall not serve as a Board member on the committee hearing the complaint. After consideration by the investigative committee, the Board may give notice of an administrative hearing pursuant to the Alabama Administrative Hearing Act and to Sections 41-9-1020, et seq. of the Code of Ala. 1975. If no probable cause is found, the investigative committee may dismiss the charges and prepare a statement, in writing, of the reasons for the decision. The statement shall be mailed to the accused party and the complaining party by certified mail, return receipt requested, and first-class mail, postage prepaid. The Board shall instruct the Board attorney to prepare charges once the investigative committee determines that probable cause exists. Notice of the charge shall be delivered by certified mail, return receipt requested, and first-class mail, postage prepaid, to the accused party. An answer either admitting or denying the charge must be received in writing by first class mail, postage prepaid by the Alabama Athletic Commission within thirty (30) days of receipt of notice of the charge. If the accused party fails or refuses to answer, the Board may suspend or revoke a license or levy any fine consistent with paragraph (6) (A) of this section below.~~

~~(5) For a minor violation of this chapter, the licensee may be given notice and an opportunity to cure the violation. The Board~~

~~(a) Any person, including a Chief Inspector, acting in his or her official capacity for the Commission, may file a written complaint regarding an allegation of impropriety by a licensee who is subject to the authority of the Alabama Athletic Commission. The complaint shall contain the following information:~~

~~(1) The name and address of the complaining party, as well as the name and address of the individual or entity against which the complaint has been filed.~~

~~(2) A plain and concise statement of the facts which indicate the provisions of the Alabama Athletic Commission's rules promulgated by the Commission that complaining party claims have been violated.~~

~~(3) The date and signature of the complainant.~~

~~(4) Complaints shall be referred to a standing investigative committee consisting of a Board member, the Executive Director, the Board attorney, and a Chief Inspector for the Board. The Chief Inspector that initiated the complaint shall not also serve on the investigative committee. A Board member serving on the investigative committee shall not serve as a Board member on the committee hearing the complaint. After consideration by the investigative committee, the Board may give notice of an administrative hearing pursuant to the Alabama Administrative Hearing Act and to Sections 41-9-1020, et seq. of the Code of Ala. 1975. If no probable cause is found, the investigative committee may dismiss the charges and prepare a statement, in writing, of the reasons for the decision. The statement shall be mailed to the accused party and the complaining party by certified mail, return receipt requested, and first class mail, postage prepaid. The Board shall instruct the Board attorney to prepare charges once the investigative committee determines that probable cause exists. Notice of the charge shall be delivered by certified mail, return receipt requested, and first class mail, postage prepaid, to the accused party. An answer either admitting or denying the charge must be received in writing by first class mail, postage prepaid by the Alabama Athletic Commission within thirty (30) days of receipt of notice of the charge. If the accused party fails or refuses to answer, the Board may suspend or revoke a license or levy any fine consistent with paragraph (6) (A) of this section below.~~

~~(5) For a minor violation of this chapter, the licensee may be given notice and an opportunity to cure the violation. The Board~~

~~may enter into an informal disposition of any case by an agreed settlement or consent order.~~

~~(6) A licensee may request an informal or formal hearing before the Board or may decline a hearing afforded to the licensee or non-licensee. The right to decline a hearing afforded by the Board is a personal right to be exercised by the licensee or non-licensee and must be in writing.~~

~~(A) The procedure and format of the hearing shall be the same as that utilized in non-jury civil matters in the circuit court of this state and shall comply with the provisions of the Alabama Administrative Procedure Act. Additionally, the Board is allowed the right to examine any witness called by either party. Evidence shall be admitted in accordance with Section 41-22-13 Code of Ala. 1975. If the respondent fails or refused to appear, the Board is required to suspend or revoke the license. In addition to denying, revoking, suspending a license, and purse withholdings, the Board may levy and collect administrative fines for violations of the Alabama Athletic Commission Law or the Board's rules or more than Twenty Five Thousand Dollars (\$25,000.00) for each violation, and may separately impose the cost of the administrative proceeding against the respondent, if found in violation.~~

~~(B) The Board's final order shall include findings of fact, official notice taken, and conclusions of law separately. A copy of the final order shall be delivered by certified mail, return receipt requested, and first class mail, postage prepaid, to the respondent or, if represented by counsel, to his or her counsel of record.~~

~~(C) The Board's attorney, in cooperation with the investigative committee, is hereby authorized to negotiate settlements with any respondent wishing to do so. In the event that the investigative committee and the respondent have reached a tentative agreement on a negotiated settlement of the charges prior to the date set for hearing, such agreement shall be presented at the Board's first available opportunity. The Board may either accept or reject the tentative agreement of the negotiated settlement, and if accepted, the respondent shall be notified, and no hearing held. If the Board rejects the tentative agreement of the negotiated settlement, the charges shall be heard by the Board within a reasonable time.~~

~~(D) The decision of the Board may be appealed in accordance with the Alabama Administrative Procedures Act within thirty days (30) after the date of the final order of the Board.~~

~~(E) The record on appeal shall be certified by the Executive Director of the Board and shall include the entire record including a transcript of the hearing, if a transcript is made.~~

~~(7) The Board will conduct disciplinary proceedings pursuant to the Alabama Administrative Procedures Act.~~

~~(8) The Board may institute a civil action for an injunction with penalties and costs against any person alleged to be in violation of Section 41-9-1020, et seq. The Board may present the misconduct to the local District Attorney for review and appropriate action.~~

Author: Shane T. Sears

Statutory Authority: Code of Ala. 1975, §41-9-1024.

History: New Rule: Filed May 1, 2020; effective July 20, 2020.

Amended: Filed April 20, 2022;