

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources

Rule No. 660-5-54

Rule Title: _____

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? Yes

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? Yes

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 *Randy J. Guelner*

Date 1-19-18

(DATE FILED)
(STAMP)

(Department of Human Resources)

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Human Resources

RULE NO. & TITLE: 660-5-54 Alabama Youth Residential Facility Abuse Prevention

INTENDED ACTION: To enact new chapter to comply with Alabama Youth Residential Facility Abuse Prevention Act.

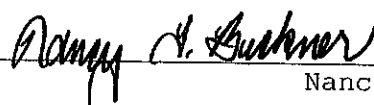
SUBSTANCE OF PROPOSED ACTION: Commencing on January 1, 2018, the department shall register any religious, faith based, or church non-profit, other non-profit, or for profit affiliated youth residential facility, youth social rehabilitation facility, community treatment facility for youths, youth transitional care facility, long term youth residential facility, private alternative boarding school, private alternative outdoor program, and any organization entrusted with the residential care of children in any organizational form or combination, whenever children are housed at the facility or location of the program for a period of more than 24 hours.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views, or arguments respecting the proposed amendment by mail or in person through the close of business on March 7, 2018. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at 334)242-9330, or set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 7, 2018

CONTACT PERSON AT AGENCY:

Gail Grobe, AP Secretary
State Department of Human Resources
Gordon Persons Building
50 Ripley Street, Suite 2122
Montgomery, Alabama 36130-4000
(334) 242-9334



Nancy T. Buckner
Commissioner

ECONOMIC IMPACT STATEMENT

FOR APA RULE

(Section 41-22-23(f))

Control No. 660

Department or Agency: Alabama Department of Human Resources

Rule No: 660-5-54

Rule Title: Alabama Youth Residential Facility Abuse Prevention

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE: The rule allows the Department to implement provisions of Act 2017-374 by establishing standards for residential facilities that house children as defined in the Act, and to inspect and register those facilities.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE: The rule imposes a cost on the Department through the requirement, required by Act 2017-374, to conduct inspections of the residential facilities. The rule will benefit the public by protecting children in the facilities through the implementation of standards, and through the inspection and registration of the facilities. The rule is the most effective and efficient means for allocating resources in that it implements only those requirements mandated by Act 2017-374.

3. EFFECT OF THIS RULE ON COMPETITION: There is no known impact of the rule on competition as the rule applies equally to all residential facilities defined in Act 2017-374.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: The rule has no known impact on the cost-of-living. Businesses which own or manage residential facilities defined in Act 2017-374 may be impacted by the rule as they will now have to meet the requirements listed in the rule as mandated by Act.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED: The rule could impact employment if a facility was unable to comply with the requirements of the rule and had to close. However, the Department does not know if there will be any facilities which will be unable to implement the requirements of the rule.

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE: Revenue to implement the rule will come from funds appropriated to the Department and from fees imposed under the rule.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE: It is unknown if there will be any economic impact of the rule on residential facilities. There will be no impact if a facility already meets the requirements imposed by the rule. However, there will be an economic impact if a facility has to upgrade facilities or increase staffing to meet the requirements imposed by the rule. The Department does not have information on whether existing facilities currently meet the requirements imposed by the rule. The owners or managers of the residential facilities will bear the costs, if any, of meeting the requirements of the rule. The children placed in the residential facilities will benefit from the rule. The general public will also benefit from having minimum standards requirements for facilities housing children.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON: There is a large amount of uncertainty regarding the estimated burdens of the rule as the Department does not know if facilities covered by Act 2017-374 currently meet the requirements, or if they will have to incur additional expenses to meet the requirements. It is certain that children housed in these facilities will benefit by the facilities having to meet the minimum requirements imposed by rule and Act 2017-374.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH: There is no known impact of the rule on the environment or public health.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED: None

NEW CHAPTER
 ALABAMA DEPARTMENT OF HUMAN RESOURCES
 SOCIAL SERVICES DIVISION
 ADMINISTRATIVE CODE

CHAPTER 660-5-54
 ALABAMA YOUTH RESIDENTIAL FACILITY ABUSE PREVENTION ACT

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660-5-54-.01 Definitions.

For the purposes of this act, the following terms shall have the following meanings:

- (1) CHILD. A person under the age of 18 years.
- (2) COMMUNITY TREATMENT FACILITY FOR YOUTHS. A religious, faith-based, or church non-profit, other non-profit, or for profit youth residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment.
- (3) DEPARTMENT. The State Department of Human Resources.
- (4) DIRECTOR. The Director of the State Department of Human Resources.
- (5) LONG TERM YOUTH RESIDENTIAL FACILITY. A religious, faith-based, or church non-profit, other non-profit, or for profit long term residential facility,

group care facility, or similar facility as determined by the director, providing 24-hour non-profit care of youth in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the child and others and that has the capacity to provide secure containment.

(6) **PRIVATE ALTERNATIVE BOARDING SCHOOL.** A religious, faith-based, or church non-profit, other non-profit, or for profit group home that provides children with 24-hour residential care and supervision, which, in addition to providing educational services, provides, or holds itself out as providing, behavioral-based services to youth with social, emotional, or behavioral issues and that has the capacity to provide secure containment.

(7) **PRIVATE ALTERNATIVE OUTDOOR PROGRAM.** A religious, faith-based, or church non-profit, other non-profit, or for profit group home or residential facility that provides children with 24-hour residential care and supervision, which provides, or holds itself out as providing, behavioral-based services in an outdoor living setting to children with social or behavioral issues and that has the capacity to provide secure containment or prohibits children from freely leaving the area of operations for the program.

(8) **RESTRICTIVE BEHAVIOR PRACTICES.** Any institutional practice or procedure that involves assisting a child in gaining control of his or her behavior, protects a child from self-harm, protects other children or staff members, or prevents the destruction of property.

(9) **YOUTH SOCIAL REHABILITATION FACILITY.** A religious, faith-based, or church non-profit, other non-profit, or for profit residential facility that provides 24-hour non-profit social rehabilitation services in a group setting to children recovering from mental illness or substance abuse who are in need of temporary assistance, guidance, or counseling and that has the capacity to provide secure containment.

(10) **YOUTH TRANSITIONAL CARE FACILITY.** A religious, faith-based, or church non-profit, other non-profit, or for profit group care facility that provides 24-hour non-profit care of children in need of professional services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual or others and that have the capacity to provide secure containment.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.

660-5-54.02 Registration of certain youth residential institutions or organizations; licensing and inspection of food preparation areas; staff training plans; rights of children; access law enforcement agencies.

1. Registration of Certain Youth Residential Institutions or Organizations
 - a. Commencing on January 1, 2018, the department shall register any religious, faith based, or church non-profit, other non-profit, or for profit affiliated youth residential facility, youth social rehabilitation facility, community treatment facility for youths, youth transitional care facility, long term youth residential facility, private alternative boarding school, private alternative outdoor program, and any organization entrusted with the residential care of children in any organizational form or combination defined by this section, whenever children are housed at the facility or location of the program for a period of more than 24 hours.
 - b. At a minimum, registered youth residential institution or organization under this section shall develop policy and do all of the following:
 - (1) Be owned and operated on a for profit or non-profit basis.
 - (2) Prepare and maintain a current written plan of operation, to include, but not limited to: organizational structure, administration, personnel practices, intake, discharge, behavioral management practices, description of the focus, goals, purpose, function of the facility, day to day operations, operating policies, personnel policies, geographic areas, staff training plan, written job descriptions and qualifications to include verification of education and license certification, all written policies, procedures, and standard practice.
 - (3) Offer 24-hour, non-medical care and supervision to youth who are voluntarily admitted by a parent or legal guardian, or referred by a court.
 - (4) Admit only children 12 years of age or older.
 - (5) Provide written notification on a standard form to the State Department of Human Resources, Resource Management-Office of Licensure within 48 hours of the arrival, enrollment, or admittance of any child to the institution, facility, or program as directed by the department.
 - (6) Have a ratio of one child care worker to every four youths. A child care worker must meet the following qualifications: possess a high school diploma or a GED certificate; have training or experience in child development issues; be adequately fit to participate, when appropriate in activities of children, as documented by a medical clearance; and be a minimum age of 21 years old.
 - (7) Provide each prospective youth and his or her parent or legal guardian with an accurate written description of the programs and services to be provided while

the child is a resident at the facility. If it advertises or promotes special care, programs, or environments for persons with behavioral, emotional, substance abuse, or social challenges, the written description shall include how its programs and services are intended to achieve the advertised or promoted claims.

(8) Ensure that all individuals providing mental health or behavioral-based services to youth at the facility are licensed or certified by the appropriate agency, department, or accrediting body, as specified by this rule.

(9) Prepare and implement a comprehensive health plan to ensure that each medical, dental, mental health, and other health needs of the child are met adequately and promptly. An ongoing relationship shall be established with a licensed practicing physician, dentist, mental health professional, or clinic concerning medical plans, programs and treatment for children in care. The facility shall appoint a designated staff member to make provisions for medical and dental services as required by these standards, and for psychological testing, psychiatric examination and treatment, vocational counseling and training, or other specialized services according to the child's needs. All specialists used by the facility shall be qualified and/or licensed in their respective fields.

(10) Explain its disciplinary practices individually with each child at the time the child is placed or enrolled in the institution, facility, or program.

(11) Obtain written consent for the use of any restrictive behavior management practice as defined in these rules, from the parents or legal guardian of the child. (Parents cannot agree to the use of behavioral management practice that are prohibited by these rules).

(12) Not use secure containment or manual or mechanical restraints.

a. Secure containment is physically isolating a person from others, by putting them in a locked cage, room, container, storage room, wooden box, etc.

b. Manual restraint is also known as physical restraint. A physical restraint is defined as any method of one or more persons restricting another person's freedom of movement, physical activity, or normal access to his/her body.

c. Mechanical restraints- The use of a device or object to prevent, restrict or subdue movement of a person's body, or part of the body, for the primary purpose of behavioral control. Examples are handcuffs, waist straps, straitjackets, tie downs, ropes, shackles, or other equipment.

(13) Not allow the performance of any acts, tactics, techniques, or procedures for purposes of abusing, humiliating, degrading, isolating, or ostracizing a child from other children located or housed at the institution, facility, or program by any staff member or child.

- (14) Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.
- (15) Food/inspection of food preparation areas shall comply with state health standards.
- (a) Ensure that each child is provided with three nutritious meals daily, either at the institution, facility, program operations site itself, or in the community, including: meats or meat substitutes, vegetables, milk, fruit, cereal, bread, and dessert. Special dietary needs shall be provided as recommended by a licensed physician. When special dietary needs are identified, professional consultation shall be requested and modifications made as needed.
- (b) Select, store, prepare, and serve food in a sanitary and palatable manner and the facility shall comply with state health standards. Food shall be of a size and consistency appropriate for the age, growth, and development of the child.
- (16) Ensure that every child is afforded the opportunity to participate freely in religious activities and or services in accordance with his or her own faith or with that of his or her parents.
- (17) Maintain a bond or liability insurance of no less than five hundred thousand dollars (\$500,000) per incident and show proof of the current status of the policy or bond prior to registration by the department.
- (18) Include its facility, institution, or program registration number in all advertisements.
- (19) Require that all employees and volunteers, of the facility or program undergo a child abuse and neglect clearance and an ABI and FBI criminal background check, prior to the approval of the registration of the facility or program and require that all employees obtain a criminal background check and child abuse and neglect clearance annually thereafter. The child abuse and neglect clearance shall be assessed by a clearance of the State Central Registry on Child Abuse/Neglect. A completed Request for Clearance of State Central Registry on Child Abuse/Neglect (DHR-DFC-1598) shall be submitted by the registrants of all employees in a paid or voluntary position. Completed forms shall be kept in the individual's file. Employment or approval shall be denied or the approval revoked if persons are determined to not be of appropriate character or suitability to work with or provide care and supervision to children.
- (20) Ensure that prior to employment, residence, or initial presence in the facility, institution, or with the program, all employees undergo an ABI and FBI criminal background check using the current contractor for State Department of Human Resources.

- (21) Maintain a smoke free environment in all buildings on the facility, institution, or program premises and in all vehicles used to transport children.
- (22) Obtain an annual written fire safety clearance report with no violations approved by the local fire authority.
- (23) If it offers access to, or holds itself out as offering access to, mental health services, ensure that those services are provided by a licensed mental health provider.
- (24) If it advertises or includes in its marketing materials reference to providing alcohol or substance abuse treatment, ensure that the treatment is provided by a licensed or certified alcoholism or drug abuse recovery or treatment facility.
- (25) Not admit a child who has been assessed by a licensed mental health professional as seriously emotionally disturbed, unless the child does not require care in a licensed health facility and the State Department of Mental Health has certified that the facility houses a program that meets the standards to provide mental health treatment services for a child having a serious emotional disturbance, as defined in Rule 290-8-9 of the Alabama Administrative Code.
- (26) Immediately provide a written report on a standard form to the department and law enforcement agency of all fatalities, injuries, and accidents requiring hospitalization or medical care by a licensed physician or other licensed medical professional occurring at the facility, institution, or program.
- (27). Prohibit any staff member or child to possess any firearms, harmful chemicals, or other weapons within or on the grounds of the institution, facility, or program.
- (28). Staff training Plan.
 - (a) Submit a staff training plan to the department as part of its plan of operation.
 - (b) In addition to the training required of facility, institutional, or program staff, the staff training plan shall include, but not be limited to, training in all of the following subject areas:
 - (1). Children's rights, as described in subsection (c).
 - (2). Physical and psycho-social needs of youth.
 - (3). Appropriate responses to emergencies, including an emergency intervention plan.

- (4). Laws and regulations pertaining to residential care and housing facilities for children.
- (c) Rights of the Children. (Policy must be developed to address the following rights.)
 1. Any child that is enrolled in or a resident of a religious, faith-based, or church non-profit, other non-profit, or for profit affiliated youth residential facility, youth social rehabilitation facility, community treatment facility for youths, youth transitional care facility, long term youth residential facility, private alternative boarding school, private alternative outdoor program, and any organization entrusted with the residential care of children in any organizational form or combination defined by this section shall be afforded the following rights and any other rights later adopted by the department through this rule, which shall be publicly posted and accessible to youth:
 - a. To be afforded dignity in his or her personal relationships with staff, youth, and other persons.
 - b. To live in a safe, healthy, and comfortable environment where he or she is treated with respect.
 - c. To be free from physical, sexual, verbal, emotional, or other abuse or corporal punishment.
 - d. To be granted a reasonable level of personal privacy in accommodations, personal care and assistance, and visits.
 - e. To confidential care of his or her records and personal information, and to approve release of those records prior to the release of them, except as otherwise authorized or required by law.
 - f. To care, supervision, and services that meet his or her individual needs and that are delivered by staff who are sufficient in numbers, qualifications, and competency to meet his or her needs and ensure his or her safety.
 - g. To be served food and beverages of the quality and in the quantity necessary to meet his or her nutritional and physical needs.
 - h. Grievances
 1. To present grievances and recommend changes in policies, procedures, and services to the facility's staff, management, and governing authority, or any other person without the possibility of restraint, coercion, discrimination, reprisal, threat, or other retaliatory actions.

2. To have the registered entity take prompt actions to respond to grievances presented pursuant to subparagraph 1.
 - i. To be able to contact parents or legal guardians, including visits and scheduled and unscheduled private telephone conversations, written correspondence, and electronic communications, unless prohibited by court order.
 - j. To be fully informed, as evidenced by the youth's written acknowledgment, prior to, or at the time of, arrival or admission to the facility, institution, or program, of the rules governing the youth's rights, conduct, and responsibilities.
 - k. To receive in the admission agreement information that details the planned programs and services for the youth.
 1. To have his or her parents or legal guardians remove him or her from the facility at any time unless prevented from doing so by a court order.
 - m. To consent to have visitors or telephone calls during reasonable hours, privately and without prior notice, if the visitors or telephone calls do not disrupt planned activities and are not prohibited by court order or by the youth's parent or legal guardian.
 - n. To be free of corporal punishment, excessive medication, physical restraints of any kind, and deprivation of basic necessities, unnecessary seclusion including education, as a punishment, deterrent, or incentive.
 - o. To be afforded the opportunity to enroll in, make progress toward, and complete a program leading to a General Education Development Certificate or other high school diploma equivalent upon being housed or located at the facility, institution, or program for a period of more than 30 days.
 - p. To have fair and equal access to all available services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, mental or physical disability, or physical condition.
 - q. To be free from abusive, humiliating, degrading, or traumatizing actions.
 - r. To be free to attend religious services of their choice.
 - s. Any other rights the department adopts by rule; however, the department is not responsible or liable for violation of the above rights, including acts or omissions by facility employees.
- (29). The facility shall submit a written statement of compliance with applicable zoning requirements to the Department. If no zoning laws or ordinances are applicable,

the facility shall submit a written statement verifying he/she has checked with the local governing authority and there are no applicable zoning laws or ordinances.

(30) The facility shall post the physical street address conspicuously at the entrance of the property.

2. This section shall not apply to any facility administered, operated, licensed, or certified by the State Department of Education, Department of Corrections, Department of Youth Services, the Military Department, state recognized military academies, institutes, or boot camps, the Alabama School of Mathematics and Science, Alabama School of Fine Arts, any state school for the deaf or blind, or any other governmental entity or to a school that does not require residency as requirement for services provided. This section further shall not apply to outdoor activities for youth designed to be primarily recreational or for entertainment, including, but not limited to, any camp inspected and permitted by the Alabama Department of Public Health, activities organized by Boy Scouts, Girl Scouts, Camp Fire, or other similar church sponsored organizations, or any camp exclusively serving children with a medical diagnosis for a physical condition or illness, or any runaway or homeless shelter, or any similar place that supplies room and or board only, provided that the resident is free to leave that facility by his or her own volition at any time.

3. The Department of Public Health shall annually license and inspect the food preparation areas of the facilities under this statute for health and safety purposes. There shall be a written report approved by the Department of Public Health, with proof submitted to the Department that all violations have been corrected.

4. Assess by Law Enforcement.

Law enforcement agencies shall have access to the private property of the facilities under this statute in furtherance of their duties to investigate abuse or neglect, or for any other lawful purpose.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.

660-5-54- 03

Criminal background checks.

Any employee, volunteer, or applicant for employment or for a volunteer position at or with any religious, faith-based, or church non-profit, other non-profit, or for profit affiliated youth residential facility, youth social rehabilitation facility, community treatment facility for youths, youth transitional care facility, long term youth residential facility, private alternative boarding school, private alternative outdoor program, and any organization entrusted with the residential care of children or youth in any organizational

form or combination thereof defined by this section, or as defined by the department, shall be subject to a criminal background investigation prior to having unsupervised contact with the children in accordance with subdivision (1) of subsection (a) of Section 38-13-3, Code of Alabama 1975.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.

660-5-54-.04

Fees.

1. The department shall charge a fee of \$100.00 for the registration. After the initial registration approval, the department shall charge a renewal fee of \$50.00 annually on each anniversary of the effective date of the registration. The fees are for the purpose of administering the registration program and enforcing the requirements specified in this rule and shall be set accordingly.
2. The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged.
3. In addition to fees established by the department, the department shall also charge the following fees:
 - (1) A fee in the amount of 50 percent of the established application fee when an existing registered entity moves a facility to a new physical address.
 - (2) A fee in the amount of 50 percent of the established application fee when a corporate registered entity changes the person having the authority to select a majority of the board of directors.
 - (3) A fee in the amount of fifty dollars (\$50) when an existing registered entity seeks to either increase or decrease the approved capacity of the facility.
 - (4) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored information or orientation session.
 - (5) A probation monitoring fee of \$100.00, equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a registered entity has been placed on probation as a result of an adjudication pursuant to the Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama 1975.

(6) A late fee that represents an additional 50 percent of the established current annual fee when any registered entity fails to pay the current annual registration fee on or before the due date as indicated by postmark on the payment.

(7) A fee may later be established to cover any costs incurred by the department for processing payments including, but not limited to, insufficient funds charges, charges for credit and debit transactions, and postage due charges.

(8) A plan of correction fee of at least two hundred dollars (\$200) when any registered entity does not implement a plan of correction on or prior to the date specified by a corrective action plan issued to it by the department.

(9) Additional fees may later be established by the department by rule as necessary to regulate registered entities for institutions and organizations subject to this rule.

4. The revenues collected from registration fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by entities registered under this rule and to support operations of the registration program, including, but not limited to, monitoring facilities for compliance with registration laws and rules, and other administrative activities in support of the registration program. The revenues collected shall be used in addition to any other funds appropriated in the budget act in support of the registration program. The department shall adjust the fees collected pursuant to this section as necessary.

5 The failure of an applicant or registrant to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of registration approval.

6. Any fee or charge collected or any rule or standard implemented by the department pursuant to this rule shall comply with the Alabama Administrative Procedure Act.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.

660-5-54-.05 **Quarterly inspections; information provided to the department, parents, guardians, etc.**

1. Quarterly inspection.

All youth residential facilities and organizations under this section shall be subject to a quarterly inspection by the department or its designee at a minimum and shall be responsible for providing necessary information as determined by the department to ensure the safety and welfare of residents. The Department shall have the rights to inspect all buildings on the property, including outbuildings, storage buildings, and vehicles operated or owned by the facility.

2. Information provided to the department.

All youth residential facilities and organizations under this rule shall provide at a minimum the following to the department upon request:

- (1) The names of all children currently enrolled, registered, or housed at the facility or program.
- (2) The names of all personnel currently employed or contracted for employment for or at the facility, institution, or program. Individual personnel files shall be maintained for the executive director and for each employee to include volunteers.
- (3) The plan of operation, all written policies, procedures, and standard practice
- (4) The child-to-staff ratios. (One child care worker to every four children)
- (5) The staff qualifications and proof of training. There must be written verification that each employee, including volunteers, meet the specific qualifications for his/her particular job as stated in job descriptions of the facility. The Executive Director must have a baccalaureate degree from a college or university accredited by one of the six regional accrediting associations of the United States.
- (6) Proof of the implementation of children's needs and services plan.
- (7) A written fire evacuation and natural disaster plan and maintain a record of routine drills of the plan.
- (8) Proof of liability insurance with coverage of no less than the amount specified in this rule.
- (9) Proof of immunization against disease of all children housed or contained at the facility or in the program with proof of exemption of a child due to parental beliefs, which exemption shall be permitted.

3. Information provided to parents or authorized guardians or etc.

All youth residential facilities and organizations under this rule shall inform the parents or authorized guardian or adult representative of the child of their rights including the following at a minimum:

- (1) To enter and inspect the facility, institution, or program as determined by law.
- (2) To file a complaint against the registered entity with the department without discrimination against the parent or the child housed by or located at the facility or program.
- (3) To view the child's records associated with the facility, institution, or program including treatment, disciplinary, and other actions the department determines to be vital to his or her situational awareness as a parent or guardian.
- (4) To review the registered entity's public file at the appropriate department online site or physical location.
- (5) To view the prominently displayed list of child or youth rights associated with this rule or those enumerated per department rules.
- (6) To view copies of any report that documents any finding of non-compliance by the department.
- (7) To view copies of any documentation issued to the registered entity documenting the department's intent to revoke the registration approval of the facility, institution or program.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: **New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.**

660-5-54-.06 **Rulemaking authority; authority of department to act in loco parentis; registration approval required; performance of services in accordance with religious beliefs.**

1. The department shall have the authority to act in loco parentis for any child covered under this section in need of immediate health, welfare, protective, or other critical services until that child's parent or guardian can be contacted and is able to make those decisions in the interest of the child.
2. Performance of services in accordance with religious beliefs.
 - (1) No religious, faith-based, or church non-profit, other non-profit, or for profit affiliated youth residential facility, youth social rehabilitation facility, community treatment facility for youths, youth transitional care facility, long term youth residential

facility, private alternative boarding school, private alternative outdoor program, and any organization entrusted with the residential care of children in any organizational form or combination defined by this section may operate in this state without a current registration approval from the department.

(2) Nothing in this rule shall prohibit a religious, faith-based, or church non-profit, other non-profit, or for profit residential, rehabilitation, community treatment, transitional care facility, or private alternative boarding school or outdoor program that utilizes religious, prayer, or spiritual means as the basis for its program or services from providing those services in accordance with its religious beliefs. Any such facility or program shall include in its advertising that it bases its services or treatment on religious principles. Such facility or program shall provide to any applicant a detailed explanation of its faith-based programs. Such facility or program may require participants to participate in these programs, notwithstanding any other provision of this chapter. This chapter shall not give the department the authority to regulate or prohibit religious-based treatment; provided, however, the treatment shall not be used to violate or circumvent any of the other requirements of this chapter related to the physical safety and condition of any child or the condition of the facility.

(3) Nothing in this rule shall prohibit a religious, faith-based, or church non-profit, other non-profit, or for profit residential, rehabilitation, community treatment, or transitional care facility, or a private alternative boarding school, or outdoor program that utilizes religious, prayer, or spiritual means as the basis for its services from providing those services in accordance with its religious beliefs.

(4) Nothing in this rule shall give the department the authority to regulate or prohibit religious-based treatment or services provided that, the treatment or services are not in violation of any requirements of this rule as it relates to the safety and welfare of children.

(5) Nothing in this rule shall be construed or interpreted to authorize any state agency to license or regulate a non-residential private, church or non-profit school offering instruction in grades K-12, or any combination thereof that houses or contains children or youth for a period of less than 24 hours.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.

660-5-54-.07 Reporting or investigation of child or neglect abuse.

This rule shall not be interpreted to supersede any other law requiring the reporting or investigation of child abuse or neglect.

Author: Gloria J. Holloway

Statutory Authority: Code of Alabama 1975, as amended (hereinafter referred to as Code), §§ 38-15-1 through 38-15-8.

History: New emergency rule effective December 28, 2017. New Rule: Filed January 22, 2018.