

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Youth Services
Rule No. 950-1-4
Rule Title: Overview of the Licensing Function of the Community Services
Division
_____ New X _____ Amend _____ 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? N/A

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 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 6-17-18

APA-2

Alabama Department of Youth Services

NOTICE OF INTENDED ACTION

AGENCY NAME: Youth Services

RULE NO. & TITLE: 950-1-4 Overview of the Licensing Function of the Community Services Division

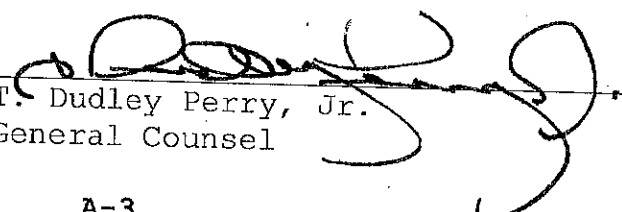
INTENDED ACTION: The Alabama Department of Youth Services proposes to amend Rule 950-1-4 of the Administrative Code.

SUBSTANCE OF PROPOSED ACTION: The Department proposes to amend Rule 950-1-4 to reflect current organizational structure, and to clarify the procedures with regard to licenses for programs for the prevention and correction of delinquency, including the following: group homes, community residential, juvenile detention centers, juvenile training schools, comprehensive youth centers, outdoor adventure based programs, and short term detention centers. This amendment clarifies that the procedures applicable to all such licenses are similar, including the procedures relating to required content of applications, background checks, review of applications, temporary permits, full license, revocations of licenses, and hearings.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing to ADYS Legal Division, P.O. Box 66, Mt. Meigs, AL 36057 or orally at the ADYS Board Room on August 8, 2018 at 10:00 am at 1000 Industrial School Rd., Mt. Meigs, AL 36057.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: August 8, 2018

CONTACT PERSON AT AGENCY: T. Dudley Perry, Jr. (334) 215-3803


T. Dudley Perry, Jr.
General Counsel

ALABAMA DEPARTMENT OF YOUTH SERVICES
ADMINISTRATIVE DIVISION
ADMINISTRATIVE CODE

CHAPTER 950-1-4

OVERVIEW ~~TOF~~ THE LICENSING FUNCTION OF THE COMMUNITY SERVICES
~~DIVISIONAL~~ALABAMA DEPARTMENT OF YOUTH SERVICES ~~GENERAL POLICIES AND~~
PROCEDURES

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950-1-4-.01 Introduction.

(1) The Alabama Department of Youth Services has made modifications to the structure and function of licensing that is carried out by the Department. ~~Some of these changes were necessitated by legislative changes. Other changes have been made as a result of the Department's interest in separating the functions of licensure from the function of program monitoring.~~ The licensing function for ~~program~~Programs is now allocated to the Community Services executive ~~Division~~ of the Department. This chapter does not apply to approval of service providers who provide treatment to juvenile criminal sex offenders. (See Chapter 950-1-3).

(2) The rules to follow will replace when final the applicable sections of the rules previously appearing in Chapters 950-1-5, 950-4-1, 950-4-2, 950-4-3, 950-4-5, 950-4-6, 950-4-8, 950-4-9, and 950-4-10950-1-6, 950-1-7, 950-1-10, 950-1-12, and 950-1-13. Rules 950-4-3 and Rule 950-4-4 will be rescinded when these rules are final. Chapter 950-4-7 is not effected by these rule changes.

(3) The chapters to follow (950-1-5, 950-1-6, 950-1-7, 950-1-10, 950-1-12, and 950-1-13) will describe in greater detail the requirements of licensure for various types of ~~program~~ Programs and services which the Department licenses. The description provided in this rule gives general ~~procedure~~ Procedures that are applicable to each type of ~~program~~ Program the Department licenses. These general procedural rules are applicable to each such license issued by the ~~D~~Department.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, Title 44 as amended, §38-13-3, Act 98-392.

History: **New Rule:** Filed December 17, 2004; effective January 21, 2005. **Amendment** Filed June 19, 2018 **Effective**

950-1-4-.02 Statutory Authority.

(1) §44-1-27(a) - "The Department of Youth Services is authorized and directed to establish and promulgate reasonable minimum standards for the construction and operation of detention facilities, ~~program~~ Programs for the prevention and correction of youth ~~Youth~~ delinquency, ~~in-service training for probation officers, consultation from local officials and subsidies to~~ local delinquency projects. The ~~said~~ Standards shall include, but not be limited to, reasonable minimum Standards for detention facilities, foster care facilities (licensed under Community Residential ~~standard~~ Standards), group homes, and correctional institutions ~~institutions and aftercare services.~~"

(2) §44-1-27(b) - "No county, city, public or private Agency, group, corporation, partnership, or individual shall establish, maintain, or operate any detention ~~facility~~ Facility or any foster care ~~facility~~ Facility for youth ~~Youths~~ found delinquent or in need of supervision by a juvenile ~~e~~Court without a license from the ~~D~~Department. A license shall be required on an annual basis or as determined by the ~~D~~Department. The ~~D~~Department shall revoke the license of any city, county, or public or private Agency, group, corporation, or individual conducting, operating or acting as a detention ~~facility~~ Facility or foster care ~~facility~~ Facility caring for children and youth ~~Youths~~ alleged or adjudged to be delinquent or in need of supervision that fails to meet the ~~standard~~ Standards prescribed by the ~~D~~Department. The ~~D~~Department may visit and inspect any public or voluntary

~~detention facility, foster care facility, or group home as it deems necessary. No county, or city in the state nor any public or private agency, group, corporation, partnership, or individual shall establish, maintain, or operate any detention facility or foster care facility for youths found delinquent or in need of supervision by a juvenile court, without a license from the department. A license shall be required on an annual basis or as determined by the department. The department shall revoke the license of any city, county, or public or private agency, group, corporation, or individual conducting, operating, or acting as a detention facility, or foster care facility caring for children and youths alleged or adjudged to be delinquent or in need of supervision, that fails to meet the standards prescribed by the department. The department is authorized to visit and inspect any public or voluntary detention facility, foster care facility or group homes as it deems necessary."~~

(3) §44-1-24 - The Department of Youth Services shall perform the following: (4) "License and subsidize foster care facilities or group homes for youths alleged to be delinquent pending ~~hearing~~ Hearing before a juvenile ~~Court~~ or adjudged delinquent following ~~hearing~~ Hearing, including detention, examination, study, care, treatment, and ~~training~~ Training." (6) "Make and enforce all rules and regulations which are necessary and appropriate to the proper accomplishment of the duties and functions vested in the ~~D~~department by law with respect to ~~Y~~youth services and which do not conflict with or exceed the provisions of law vesting the duties and functions in the ~~D~~department."

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amendment Filed June 19, 2018 Effective

950-1-4-.03 Glossary. Introduction - Various terms are used within the rules in this Chapter and in Chapters 950-1-5, 950-1-6, 950-1-7, 950-1-10, 950-1-12, and 950-1-13 governing each ~~program~~ Program licensed by the Department of Youth Services. Therefore, the reader should refer to materials identified within each chapter to follow for a review and description of appropriate terms as they are generally applied to each type of ~~program~~ Program and services described.

~~(1) Abstinence - refraining from behaviors by one's own decision. Sex offenders refraining from pursuing and/or~~

engaging in behaviors that were part of their offense history, including deviant thoughts and fantasies.

Abstinence Violation Effect (AVE) — a term used to describe a variety of changes in beliefs and behaviors that can result from engaging in a lapse. Among the components of the AVE is a sense that treatment was a failure; a belief that the lapse is a result of being weak-willed and unable to create personal change; a failure to anticipate that lapses will occur; and recalling only the positive aspects of the abusive behavior (also referred to as the problem of immediate gratification). When sexually abusive youths are not prepared to cope with the AVE, the likelihood of relapse increases. The AVE is experienced most strongly when clients believe that lapses should never occur.

(1) Admission — The process of entry into a program. During Admission processing the juvenile offender receives an orientation to program goals, rules, and regulations. Assignment to living quarters and to appropriate staff also is completed at this time.

(2) Adventure — An undertaking of a hazardous nature; a risky enterprise an unusual experience or course of events marked by excitement and suspense.

(3) Agency — The unit of a governing authority that has direct responsibility for the operations of a corrections program, including the implementation of policy as set by the governing authority.

(4) Audit — An examination of Agency or Facility records or accounts to check their accuracy. It is conducted by a person or persons not directly involved in the creation and maintenance of these records or accounts. An independent Audit results in an opinion that either affirms or disaffirms the accuracy of records or accounts. An operational or internal Audit usually results in a report to management that is not shared with those outside the Agency.

(5) Chemical Agent — An active substance, such as tear gas, used to defer activities that might cause personal injury or property damage.

(6) Classification — A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.

(7) Code of Ethics - A set of rules describing acceptable standards of conduct for all employees.

(8) Committing Authority - The Agency or Court responsible for placing a youth in a program.

(9) Community Resources - Human services agencies, service clubs, citizen interest groups, self-help groups, and individual citizen volunteers that offer services, facilities, or other functions that can meet the needs of the Facility of have the potential to assist residents. These various resources may assist with material and financial support, guidance, Counseling, and supportive services.

(10) Comprehensive Youth Services Centers- A comprehensive program for the treatment of delinquent behaviors in a non-residential site with or without an in-house educational component, established by any person, group of persons, Agency, association, or organization, whether established for profit or otherwise, who or which receives youths for care and treatment.

(11) Contraband - Any item possessed by a confined juvenile offender or found within the Facility that is illegal by law or expressly prohibited by those legally charged with the administration and operation of the Facility or program.

(12) Counseling - Planned use of interpersonal relationships to promote social adjustments. Counseling programs provide opportunities to express feelings verbally with the goal of resolving the individual's problems. At least three types of Counseling may be provided: individual, a one to one relationship; small group Counseling; and large group Counseling in a living unit.

(13) Court - The Juvenile Court.

(14) Court Intake - The process whereby an officer of the Court receives a verified complaint alleging delinquency, and determines further appropriate action.

(15) Delinquent Youth - Also referred to as a juvenile delinquent or a criminal type offender, a youth who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(16) Department- The Alabama Department of Youth Services.

(17) Disciplinary Hearing - A non-judicial administrative procedure to determine if substantial evidence exists to find an inmate guilty of a rule violation.

(18) Education Program - A program of formal academic education or a vocational training activity designed to improve employment capability.

(19) Facility - A place, institution, building (or part thereof, set of buildings, or area (whether or not enclosing a building or set of buildings) that is used for the lawful custody and/or treatment of individuals. It may be owned and/or operated by public or private agencies and includes the staff and services as well as the buildings and grounds.

(20) First Aid - Care for a condition that required immediate assistance from and individual trained in first-aid First Aid care and the use of the Facility's First Aid kit.

(21) Governing Authority - In public/governmental agencies, the administrative Department or division to which the Agency reports; the policy-setting body. In private agencies, this may be an administrative headquarters, central unit, or the board of directors or trustees.

(22) Health Authority - The physical health administrator, or Agency responsible for the provision of health-care Health Care services at an institution or system of institutions; the responsible physician Responsible Physician may be the health-authority Health Authority.

(23) Health Care - The sum of all action taken, preventative and therapeutic, to provide for the physical and mental well being of a population. Includes medical and dental services, mental health services, nursing, personal hygiene, dietary services, and environmental conditions.

(24) Health Care Personnel - Individuals whose primary duty is to provide health services to residents in keeping with their respective levels of health-care Health Care training Training or experience.

(25) Hearing - A proceeding to determine a course of action, such as the placement of a juvenile or adult offender, or to determine guilt or innocence in a disciplinary matter. Argument, witnesses, or evidence are heard by a judicial officer or administrative body in making the determination.

(26) Informed Consent - The agreement by a patient to a treatment, examination, or procedure Procedure after the patient

receives the material facts regarding the mature, consequences, riskRisks, and alternatives concerning the proposed treatment, examination, or procedureProcedure.

(27) Medical Screening - A system of structured observation/initial health assessment to identify newly arrived juvenile offenders, and their ability to participate in the programProgram, pose a health threat or safety threat to themselves or others.

(28) Petition - A written verified charge in compliance with Title 12, Code of Alabama 1975, as amended, (the Juvenile Justice Code), whereby a youthYouth is brought within the jurisdiction of the Juvenile Court.

(29) Physical Examination - A thorough evaluation of a resident's current physical condition and medical history, conducted by or under the supervision of a licensed professional.

(30) Plan of Action - A description of action steps designed to correct a condition that has caused a determination of noncompliance with a standardStandard.

(31) Policy - A course or line of action adopted and pursued by an Agency that guides present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the personnel must operate. They are statements of guiding principles that should be followed in directing activities toward the attainment of objectives. Their attainment may lead to compliance with standardStandards and compliance with the overall goals of the Agency or system.

(32) Procedure - The detailed and sequential actions to implement policyPolicy. It guides performance an operation or procedureProcedure on a course of action. It differs from a policyPolicy in that it provides specific guidance for action in particular situations for the performance of specific tasks within the parameters of policyPolicy.

(33) Program - The plan or system through which a correctional Agency works to meet its goals; often this programProgram requires a distinct physical setting, such as a correctional institution, community residential facilityFacility, group home, or foster home.

(34) Records - Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, Ceourt orders, detainers, personal

property receipts, visitors' lists, photographs, fingerprints, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence.

(35) Releasing Authority - The decision making body and/or individual that has the responsibility to grant, deny, and revoke release from a juvenile ~~program~~Program of supervision.

(36) Responsible Physician - An individual licensed to practice medicine and provide health services to the resident population of the ~~Facility~~ and/or the physician at an institution with final responsibility for decisions related to medical judgments.

(37) Right to Counsel The right accorded to any youthYouth to be presented by legal counsel at any stage of the juvenile process.

~~Standard - A statement that defines a required or essential condition to be achieved or maintained.~~

~~Right to Counsel - The right accorded to any youth to be presented by legal counsel at any stage of the juvenile process.~~

(38) Risk - The possibility or probability that loss can occur.

(39) Security Devices - Locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers used to confine and control detained individuals. Also included are electronic monitoring equipment, security alarm systems, security lights, auxiliary power supplies, and other equipment used to maintain ~~facility security~~ maintain Facility security.

(40) Standard - A statement that defines a required or essential condition to be achieved or maintained. Standards may include include, for example federal regulations promulgated under the Prison Rape Elimination Act (PREA), ~~standard~~Standards promulgated under the American Correctional Association (ACA), or licensure ~~standard~~Standards under this Chapter.

(41) Time-Out Area - Any area used to separate a youthYouth from other program participants.

(42) Training - An organized, planned, and evaluated activity designed to achieve specific learning objectives and enhance the job performance of personnel. Training may occur on site, at an academy or ~~training~~Training center, an institution of higher learning, during professional meetings, or through

contract service or closely supervised on-the-job training. It includes a formal agenda and instruction by a teacher, manager, or official; physical training/ or other instruction programs that include a trainer/trainee relationship. Training programs usually include requirements for completion, attendance recording, and a system for recognition of completion. Meetings of professional associations are considered training where there is clear evidence of this.

(43) Youth - Includes any of the following:

(a) Any person under the age of eighteen years; or

(b) Any person under the age of nineteen who has been charged with committing an act of delinquency,; or

(c) Any person under the age of twenty-one who is on probation, aftercare, or in the legal custody of the Department.

~~(2) Agency Administrator - The administrative officer appointed by the governing authority or designee who is responsible for all operations of the agency, such as the department of corrections or parole, and all related programs under his or her control.~~

~~(3) Agency Industries Administrator - The individual who has functional responsibility for industries operations throughout the correctional system. Titles, such as head of industries, superintendent, chief, director, or general manger may be used for this position.~~

~~(4) Audit - An examination of agency or facility records or accounts to check their accuracy. It is conducted by a person or persons not directly involved in the creation and maintenance of these records or accounts. An independent audit results in an opinion that either affirms or disaffirms the accuracy of records or accounts. An operational or internal audit usually results in a report to management that is not shared with those outside the agency.~~

~~(5) Author: Alabama Department of Youth Services, Office of Licensing and Standards~~

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amendment Filed June 19, 2018 Effective

950-1-4-.04 Overview: Program Descriptions. The following brief descriptions provide an overview to the various programs that are licensed by the Department. Chapters to follow provide detailed information regarding these various programPrograms and licensing requirements for each type of programProgram licensed by the Department. The types of programPrograms licensed by the Department include:-

(1) (1) Juvenile Detention Centers. Chapter 950-1-5

~~Juvenile Residential Treatment Programs.~~ Juvenile Residential Treatment Programs are housed in a structure without security fences and security hardware or other major restraining construction typically associated with correctional facilities. These facilities are not constructed or intended to be detention centers. They provide twenty-four hour care, treatment programs, education and supervision to juveniles in residence. Their focus is on providing the juvenile with positive adult models and program activities that assist in resolving problems specific to the targeted age group in an environment conducive to positive behavior in the community.

(2) ~~Group Homes.~~ Group Homes are nonsecure residential programs emphasizing family style living in a homelike atmosphere. Program goals are similar to those for Juvenile Residential Treatment Programs while often utilizing community resources for provision of education and other services. Although group homes typically serve youth who are court committed, they can provide services to dependant youth so long as this is not their primary focus. Group homes typically house between a minimum of seven youth and a maximum of sixteen youth.

(23) Juvenile Residential Treatment Programs. Chapter 950-1-6

~~Outdoor Adventure-based Treatment Programs.~~ Outdoor Adventure-based Treatment Programs combine physical agility, self-discipline, outdoor adventure experiences and teambuilding skills in a non-secure, therapeutic, primitive (tents) or non-primitive (barracks, buildings) environment. Treatment approaches and educational experiences

are used to integrate learning and therapy with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

~~(4) Boot Camps. Boot Camps are non-secure residential programs (usually barracks or similar buildings) emphasizing highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline. These programs typically provide programming that increases youths' cognitive and social skills, especially with regard to reasoning, decision-making, anger management, empathy, conflict resolution, leadership skills, and interpersonal problem-solving.~~

(35) Juvenile Training School. Chapter 950-1-7
Juvenile Detention Centers. Juvenile Detention Centers are physically restricting facilities, surrounded by a locked and secure barrier, with restricted ingress and egress for the temporary care of youth who, pending court disposition, require secure custody for the protection of themselves or the community. These facilities also provide secure care for youth whose case has been disposed of and the youth is awaiting placement in a treatment program. The primary goals of a juvenile detention facility are: the protection of the public, the provision of a safe, humane, caring environment, and access to required services for youth. These programs make provisions for a comprehensive educational program, healthcare, and crisis intervention counseling.

(46) Comprehensive Youth Service Centers. Chapter 950-1-10

(5) Outdoor Adventure-based Treatment Programs. Chapter 950-1-12
Short-term Detention Centers. Short-term Detention Centers are physically restricting facilities, surrounded by a locked and secure barrier, with restricted ingress and egress designed for the temporary care of youth pending initial court disposition following arrest. Confinement cannot exceed seventy-two hours.

~~(7) Juvenile Training School. Juvenile Training Schools are physically restricting facilities, surrounded by a locked and secure barrier, with~~

~~restricted ingress and egress. Youth housed in these facilities are typically placed there for the purpose of rehabilitation and cannot be served in less secure facilities due to the risk they present to the community or themselves. These facilities provide long-term care, comprehensive assessment and treatment approaches, and educational and vocational programming.~~

(68) Short-term Detention Centers. Chapter 950-1-13
Comprehensive Youth Service Centers.

~~Comprehensive Youth Service Centers are nonresidential treatment programs, which provide intensive services to juveniles while they live at home and report to the program on a daily basis. Programs provide intensive academic remediation, individual, group, and family counseling and employ positive adult role models. Typically these programs offer an alternative to commitment or serve youth who are imminently at risk for out-of-home placement, but can also be reserved for status offenders who cannot function in a traditional educational program.~~

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amendment Filed June 19, 2018 Effective

950-1-4-.05 Applicant Information.

(1) All applicants and holders of a license or six-month permit must be suitable and of good moral character in order to operate a Ffacility. All applicants shall be investigated to determine character and suitability to hold such a license or permit. For purposes of this requirement, an applicant includes all board members and officers of corporations, partnerships, associations, or other legal entities having direct contact with the Ffacility yYouth. Evidence of unsuitable character may be the basis for the denial of an initial application or renewal, or the suspension, or revocation of a license or six-month permit.

(2) The Department of Youth Services shall review information regarding the character and suitability of the

applicant at the time of initial application. The review will consist of the following components:

(a) Review of Past History: The character and suitability of a licensee/permit holder may be assessed by a review of the past history of the individual regarding their veracity and their ability to care for ~~youth~~ Youth. Past history to be considered includes but is not limited to the following:

1. False or misleading statements made by the individual to the Department or other Government ~~f~~Facility personnel regarding incidents or events occurring while on the job or surrounding part of any child abuse or neglect investigation conducted by the Department of Human Resources, law enforcement or other government officials are considered as evidence of unsuitable character.

2. Applicants for a license/permit and holders of licenses/permits who are discovered to have had a history of (1) operating without a license and refusal to cease operations and apply for a license or permit or (2) refusal to allow the Department to conduct investigations regarding their activities or allegations of abuse and neglect or history of noncompliance with minimum ~~standards~~ Standards are also considered as evidence of unsuitable character.

(b) Criminal History: §38-13-3 - All new licensed applicants (as well as owners, board members, officers of corporations, or partners of any entity owning or operating a ~~F~~facility who have direct contact with youth Youth) must do the following:

1. Complete the DYS Mandatory Criminal History Check Notice form. The form can be obtained from the Office of Licensing and Standards. Send the original to DYS and maintain a copy on file at the ~~F~~facility.

2. Complete the Criminal History Information Release form. Send the original to the Alabama Bureau of Investigation (ABI) and a copy to DHR and the Department at the addresses listed on the form.

3. Obtain fingerprint cards from the Department. Complete all required information on the fingerprint card and have two complete sets of fingerprints made on separate cards by the local law enforcement Agency or anyone trained in fingerprinting techniques. Send the cards along with the Criminal History Information Release form and a cashier's check or money order in the required amount to the address listed on

the form. Do not send personal checks, as they are not acceptable.

4. Fingerprints may be collected through the use of ink pads and fingerprint cards or through the use of ink-less "live scan" fingerprinting devices to collect fingerprints and print them on cards or electronically transmit the fingerprints to the Department of Public Safety with the use of a fingerprint card. When no copy of the fingerprint card is available because of the electronic transmission of live scan fingerprints, written documentation from the individual or law enforcement Agency that the fingerprints have been collected and transmitted shall be maintained in the file at the Facility and sent to the Department.

5. Fingerprints are not required when a disability prevents an individual from being fingerprinted. Disabilities preventing fingerprinting include only the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In situations involving a covered disability, only a completed Criminal History Information Release form is required. The Department of Public Safety shall conduct a criminal history background information check by name and Social Security number only in such cases. Documentation or verification that the disability prevents fingerprinting obtained from law enforcement or from an individual trained in fingerprinting techniques is required to be submitted to the Department of Public Safety and the Department.

6. A photo ID, such as a valid driver's license or military ID, with names and Social Security numbers, must be obtained as identification verification and a copy kept on file at the Facility.

7. The Alabama Department of Public Safety shall perform criminal history background information checks and request national criminal history checks from the Federal Bureau of Investigation. The Department of Public Safety shall send the Department a criminal history background information report listing all arrests, convictions, punishment, and sentences, etc., on individuals being checked.

8. The Department shall review the criminal history background information report and determine whether the applicant meets the suitability requirement based on the presence of any disqualifying conviction listed on the criminal history background information report.

9. A conviction for any of the following crimes disqualifies an individual for licensure: murder; manslaughter, criminally negligent homicide; sex crimes; physical injury or maltreatment of a child, the elderly, or an individual with disabilities; a crime committed against a child; the sale or distribution of a controlled substance, robbery, other convictions disqualifying the person under other federal or state law; rape in the first or second degree; sodomy in the first or second degree; sexual torture, sexual abuse in the first or second degree, enticing a child to enter a vehicle, room, house, office, or place for immoral purpose, promoting prostitution in the first or second degree; violation of the Alabama Child Pornography Act; kidnapping a child (except by a parent) in the first or second degree; incest (when the offender is an adult and the victim is a minor); soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material to a child by computer; any solicitation, attempt, or conspiracy to commit any of the above crimes; any crime committed in another state or federal, military, Indian, or foreign country jurisdiction which, if it had been committed in this state, would constitute an offense listed above; and any crime subsequently added to the list of crimes covered by the Community Notification Act of 1999.

10. The Department shall issue a suitability determination letter to the applicant and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received. The letter shall state only whether the person is suitable as an applicant for licensing. It will not list any convictions or other criminal history information.

11. The Department shall send the applicant on whom a criminal history background information check has been requested a copy of the letter determining suitability. The individual has thirty days from the date of notification to request in writing a reversal of the determination of suitability. No request for a reversal shall be made for a sex crime or a crime involving a child, an elderly individual, or an individual with disabilities. A request may not be made unless five years have passed for misdemeanors and ten years for felonies from the end of the sentence or probation or parole, whichever is the latest. The individual with the disqualifying criminal conviction shall affirmatively show clear and convincing evidence of successful rehabilitation. All of the following shall be considered:

(i) Nature and responsibility of the position which the convicted person would hold or has held.

(ii) Nature and seriousness of the offense committed.

- (iii) Circumstances under which the offense occurred.
- (iv) Date of the offense.
- (v) Age of the person when the offense was committed.
- (vi) Whether the offense was an isolated or repeated incident.
- (vii) Social conditions which may have contributed to the offense.
- (viii) An available probation or parole record, report, or recommendation.
- (ix) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful business or employment history, and the recommendation of his/her supervisors.
- (x) The Department shall send a copy of the criminal history background information report received from the Department of Public Safety to the individual on whom a criminal history background information check has been requested. The affected individual shall have the opportunity to challenge the accuracy of the report with the Department of Public Safety.
- (xi) The Department shall deny the initial application if the applicant receives a determination of unsuitability.
- (xii) Only one criminal history background information check shall be required per individual. If the individual certifies on the Mandatory Criminal History Check Notice statement that a criminal history check has been performed by the Department of Human Resources or by the Department of Education, the Department shall issue a determination of suitability based on the criminal history report and automated updates received from the Department of Public Safety. If the previous report cannot be obtained or located, a new criminal history check shall be required by the Department.
- (xiii) Any applicant or holder of a license or six month permit shall inform the Department of any subsequent criminal conviction. Oral reports by telephone to the Department or in person shall be made within twenty-four hours and followed by a written report within five days. This information shall be kept on file by the Department. The Department shall require the individual to provide detailed information about the conviction

and submit fingerprints and completed forms for a criminal history background information check if a check has not already been performed. The Department shall use the information gathered to make a suitability determination regarding the conviction.

(xiv) The Department shall not be responsible for the payment of any fees required for obtaining criminal history background information on individuals.

(xv) Anyone who fails or refuses to complete the required forms, fingerprints, photo ID, required fee, or who reveals a disqualifying conviction in completing the form may not be issued a license or permit.

(c) Child Abuse and Neglect History. The character and suitability of an applicant shall also be assessed by a clearance of the State Central Registry on Child Abuse/Neglect.

(i) At the time of initial application, a Request for Clearance of State Central Registry on Child Abuse/Neglect (DHR-DFC-1598) shall be submitted by the applicant to the Department for processing (Obtain form from local DHR office). Completed forms shall be kept in the application file. NOTE: Subsequent Request for Clearance of State Central Registry on Child Abuse/Neglect may be requested at any time.

(ii) A review shall be conducted on all applicants for a license/permit who are discovered to have been determined by a child or adult protective service Agency in any state, to have perpetrated the abuse or neglect of a child or adult.

(iii) Determinations that fall within the general subject area outlined under Criminal Records check above, even if no criminal conviction has occurred, are considered evidence of unsuitable character.

(iv) Approval shall be denied, terminated or the approval revoked if persons are determined to not be of appropriate character or suitability to work with or provide care and supervision for ~~youth~~ Youth.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005.

950-1-4-.06 Licensing Procedures.(1) Application and Procedure for a License.
Application for a license

(i) Any person, group of persons or corporation may ~~obtain-request~~ an application form for a license to operate a ~~F~~facility by contacting the Department of Youth Services Licensure and Standards Division, Atten: Licensing Director, -by letter, or scheduled visit.

(ii) Applications for a license shall be made on a ~~D~~epartmental approved form and shall contain all information requested on the form including social security number if the applicant is an individual.

(iii) With the application form, an applicant ~~is-~~provided must obtain a copy of Minimum Standards for the type of ~~F~~facility they wish to operate. Minimum Standards are contained in this chapter and/or in the applicable publication for standard Standards by the American Correctional Association (ACA), including Supplements. The applicant is responsible for obtaining the applicable ACA Standards.

(iv) The completed application must be returned to the Department within thirty days from the date of written inquiry if such person, etc., wishes to pursue the plan to operate a ~~F~~facility.

(v) The applicant must provide a manual for policies and ~~procedure~~Procedures.

1. Examination and Investigation of Application

(i) Upon receipt of the completed application, a representative of the Department of Youth Services Licensure and Standards Division will examine the premises proposed for the ~~F~~facility and will investigate the person(s) responsible for the ~~F~~facility in accordance with the requirements of Section III of the Licensing Manual.

(ii) The examination and investigation will be based on the Minimum Standards and regulations as prescribed and published by the Department.

2. Disposition of the Application

(i) Upon completion of the examination and investigation, a licensing inspection visit will be scheduled and conducted at the Ffacility.

(ii) When compliance with mandatory and non-mandatory ~~standard~~Standards of the Minimum Standards has been met, the Department will issue a full license.

(iii) If denial of license is indicated, the Department will notify the applicant, verbally and in writing, of the decision, pointing out and discussing those areas of the Mandatory Standards that have not been met.

3. Six Month License/Permit

(i) No license may be issued without compliance with all mandatory ~~standard~~Standards of the Minimum Standards. If ~~specific-certain~~ areas of the non-mandatory ~~standard~~Standards of the Minimum Standards are identified as lacking in the Ffacility, and if the applicant can demonstrate or document good faith action towards full compliance with the regulation(s), the Department may issue a six month license/permit to persons making initial application for a license to allow the Ffacility reasonable time to become eligible for a full license._

(ii) A full license will be issued when the Department determines that all-mandatory Minimum Standards have been met and at least 90% of non-mandatory standards have been met.

4. Renewal of a License

(i) A License Renewal Application to continue operating a Ffacility shall be made to the Department ninety days prior to the expiration date of the current license ~~(See appendix for copy).~~

(ii) The Department shall Audit all mandatory and non-mandatory ~~standard~~Standards of the Ffacility being licensed.

(iii) A renewal of a license shall be issued, if, upon completion of the Audit 100% of the mandatory ~~standard~~Standards and 90% of the non-mandatory ~~standard~~Standards and quality of life are in compliance.

5. Department Visits, Inspections and Consultation

(i) Visits to the Ffacility are made by representatives of the Department to determine continued conformity with licensing ~~standard~~Standards and to provide consultative services.

(ii) The licensee shall have the opportunity to submit, in writing, information regarding complaints alleged against him/her and/or the Facility, and shall have the opportunity for a full discussion about such complaints.

(2) **Corrective Action**

(a) If an Audit indicates non-compliance with the mandatory ~~standards~~ Standards, or the situation warrants, a ~~plan of action~~ Plan of Action may be required to allow the licensee, upon approval, to achieve compliance with the mandatory ~~standard~~ Standards while continuing to care for ~~youth~~ Youth. The ~~plan of action~~ Plan of Action shall include:

1. A statement of each deficiency
2. A description of how the deficiency shall be corrected
3. The date by which corrections shall be completed
4. Approval of the Department of Youth Services Licensure and Standards Division

(4) **Revocation of a License.**

(b) Under certain circumstances as determined by the Department, waiver(s) may be issued for non-compliance with non-mandatory ~~standard~~ Standard(s).

(a) The Department may revoke or refuse to renew a permit of any Facility or refuse to issue a full license to the holder of a six month license, should the licensee or holder of a six month license/permit ~~fail to comply with~~ do any of the following:

1. Fail to maintain ~~maintain~~ ~~standard~~ Standards prescribed and published by the Department
2. Violate the provisions of the license issued.
3. Furnish or make any misleading or any false statements or report to the Department.
4. Fail to immediately submit to the Department any reports, or refuse to make immediately available to the Department any ~~records~~ Records required by the Department in

making inspection of the Ffacility for licensing or investigative purposes.

5. Fail or refuse to aAdmit authorized representatives of the Department at any reasonable time for the purpose of inspection or investigation.

6. Fail to pProvide, maintain, equip and keep in safe and sanitary condition premises established or used for care as required by any law, regulation or ordinance applicable to such Ffacility.

7. MFail to maintain financial records~~Records~~ and resources adequate for the satisfactory proof and care of ~~youth~~Youth served in regard to upkeep of premises and provisions for personal care, medical services, appropriate educational services, clothing, learning experiences and other essentials in the proper care, rearing and ~~training~~Training of youth.

(b) If a routine inspection~~or~~, an inspection conducted in response to a complaint, or conduct for any other reason ~~by the Department~~ discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, the safety, or the physical, moral, or mental well-being of the youth in the care of the Ffacility being inspected, the Department shall have the power to revoke without notice the license or approval or six month license/permit.

(c) The Department will not revoke or refuse to renew a license for failure or refusal to submit reports or records~~Records~~ to the Department unless the Department has made written demand on the person, firm or corporation operating the Ffacility for a period of ten (10) days from the date of such request.

5. Provisions of the License

(a) Licenses issued by the Department to facilities are valid for one year from the date of issuance, unless revoked by the Department or voluntarily surrendered by the licensee.

(b) ~~The number of youth in the facility shall not exceed the number specified on the license.~~ Each fFacility is licensed for a maximum occupancy capacity. Except under circumstances approved by the Department, the facility~~Facility~~ shall not exceed the number specified in the license.

(c) The license is not transferable from one individual or group or corporation to another, or from one building to another.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amendment Filed June 19, 2018 Effective

950-1-4-.07 Hearings.

(1) Procedure for Appeal and Review

(a) In the event an application is denied or a license or a six-month license/permit is revoked or in the event an application for such a license or renewal of a license is not acted upon with reasonable promptness, the aggrieved party may appeal to the Department for a fair ~~hearing~~Hearing on the application.

(b) The decision or action of the Department on any fair ~~hearing~~Hearing shall be final and binding.

(c) Any aggrieved party is entitled to a review of such final decision or action by filing a ~~petition~~Petition for a review with the Circuit Court in the county in which the program ~~or facility is located or in the~~ Circuit Court of Montgomery County, Alabama, within thirty days from the date of the final decision or action.

(d) Notice and opportunity for a fair ~~hearing~~Hearing and notice of the ~~right to counsel~~Right to Counsel shall be given the appellant by the Department, along with a copy of Regulations and Procedures for Hearings.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4; 41-22-20.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amendment Filed June 19, 2018 Effective

950-1-4-.08 Report Requirements.

(1) **Enrollment**

(a) Monthly Population Report of Licensed Facilities
-- This report shall be completed and submitted monthly (See appendix).

(b) Additional enrollment reports shall be submitted to the Department upon written request from the Department.

(2) **Changes.** The following shall be reported in writing to the Department of Youth Services Licensing and Standards Division prior to occurrence:

(a) Change in ownership (if a change in ownership occurs, the ~~facility~~Facility shall not continue to operate until the new owner applies for and is issued a license/permit/approval.)

(b) Change in location (if a change in location occurs, the ~~facility~~Facility shall not continue to operate until a new license is applied for and a license/permit/approval is issued for the new location.)

(c) Change of the director of the ~~facility~~Facility.

(d) Change of chief executive officer of the corporation or a member of the board.

(e) Significant alterations to the ~~facility~~Facility or grounds.

(f) Major change to the basic operating schedule or ~~program~~Program.

(3) **Occurrence of Incidents**

(a) The incidents listed below shall be reported to the Department of Youth Services Licensing and Standards Division within twenty-four hours after occurrence or the first work day following the occurrence, whichever is sooner:

1. any serious injury requiring professional medical treatment of any child or staff person while at the ~~facility~~Facility or away from the ~~facility~~Facility activities;

2. any serious illness occurring at the ~~facility~~Facility, during, or away from the ~~facility~~Facility activities which requires emergency medical treatment;

3. any death occurring at the ~~facility~~Facility, during, or away from the ~~facility~~Facility activities;
4. major damage to the ~~facility~~Facility;
5. any litigation involving the ~~facility~~Facility;
6. any serious traffic accident involving ~~facility~~Facility children using transportation provided by the ~~facility~~Facility;
7. any arrest or conviction of the licensee or any staff person;
8. initial investigation and final disposition of any child abuse/neglect investigation involving the ~~facility~~Facility, the licensee, or any staff person;
9. any incident occurring which places the health, welfare, or safety of a child at ~~risk~~Risk.

(b) A written explanation is to be provided to the Department within five days.

(4) **Child Abuse/Neglect Reports**

(a) Any staff person is required by law (Code of Ala. 1975, 26-14-1 through 26-14-13) to report known or suspected child abuse or neglect to the County Department of Human Resources or the local chief of police, or county sheriff. The report shall be made immediately by telephone or direct oral communication, followed by a written report, containing all known information.

(b) Any person making a report in good faith is immune from any civil or criminal liability.

(c) The law further provides that all reports of child abuse and neglect, investigative reports by the Department of Human Resources and certain other ~~records~~Records of child abuse and neglect are considered confidential under penalty of law.

(d) The licensee and all staff persons shall cooperate with the Department of Human Resources and the Department of Youth Services personnel on any child abuse or neglect investigation, including providing information to workers and allowing access to ~~youth~~Youth and ~~records~~Records.

(e) The Executive Director of the ~~facility~~Facility shall advise the Department of Youth Services Office of Licensure about the report no later than the first work day following the alleged incident. In an investigation of a complaint of child abuse/neglect, the executive and staff shall cooperate in gathering facts relating to the allegations and shall make accessible to the investigation: all personnel, ~~youth~~Youth, and ~~records~~Records directly or indirectly associated with the complaint in line with State statutes.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005.

950-1-4-.09 Forms And Documents.

(1) The Alabama Department of Youth Services requires the use of standard forms to be executed by the applicant/licensee or to be used by the Agency in order to provide information to notify the applicant of action by the Office of Licensing and Standards. Those forms are:

- (a) Mandatory Criminal History Check Notice
- (b) Criminal History Information Release Form
- (c) License Renewal Application
- (d) Monthly Population Report of Licensed Facilities

(2) The forms that are required to be executed by the applicant/licensee are described herein. Copies of those forms will be included in the materials routed to the applicant/licensee upon receipt of the initial request for a application. Applicants may receive information regarding these requirements by reviewing the discussion in the preceding rules. Additional copies of the application materials and forms are available upon request from the Office of Licensing and Standards.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005.

950-1-4-.10 Effective Date.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005.