

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 290 Department or Agency State Department of Education
Rule No. 290-1-5
Rule Title: Local School Board Governance

New Amend
Repeal Adopt by Reference (Check appropriate box)

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? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule does have an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.



Signature of certifying officer

10/29/12

DATE

APA-2
11/96

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-1-5 Local School Board Governance

INTENDED ACTION: Adopt Emergency Rules as New Permanent Rules

SUBSTANCE OF PROPOSED ACTION: This new chapter implements the requirements of the School Board Governance Improvement Act of 2012.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 9:30 a.m., January 10, 2013, Auditorium, Plaza Level, Gordon Persons Building, 50 North Ripley Street, Montgomery, Alabama. All persons wishing to express their views should contact the State Superintendent of Education (334-242-9700) no later than December 26, 2012, in order to be scheduled on the agenda. All persons wishing to express their views in writing to the State Superintendent of Education should address all written comments to the State Superintendent of Education, Gordon Persons Building, P.O. Box 302101, Montgomery, Alabama 36130-2101.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: January 10, 2013

CONTACT PERSON AT AGENCY: Dr. Warren Craig Pouncey
Alabama State Department of Education
P.O. Box 302101
Montgomery, Alabama 36130-2101
(334-242-9755)



Signature of certifying officer

STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION

CHAPTER 290-1-5
LOCAL SCHOOL BOARD GOVERNANCE

TABLE OF CONTENTS

290-1-5-.01	<u>Purpose of Rule</u> , p. 12.09.
290-1-5-.02	<u>Principles of Educational Governance</u> , p. 12.09.
290-1-5-.03	<u>Code of Conduct</u> , p. 12.10.
290-1-5-.04	<u>Sanctioning Members of Local Board of Education A</u> , p. 12.11.

290-1-5-.01 Purpose of Local School Board Governance Rule. Regulations of the State Board of Education are required by the School Board Governance Improvement Act of 2012 enacted as Act No. 2012-221.

(1) School Board Governance Improvement Act of 2012. The purpose of this act is to enhance the effectiveness of public education governance in Alabama by:

(a) establishing training requirements, stewardship standards, and accountability measures that are designed to promote informed deliberations and decisions;

(b) providing minimum qualifications for serving as a member of a local board of education;

(c) providing a code of conduct for each member of a local board of education in order to better ensure that any decision or action of a local board of education is based on the interests of students or the school system;

(d) fostering the development and implementation of organizational practices that promote broad support of the public schools.

Author: Warren Craig Pouncey.
Statutory Authority: Ala. Code §16-3-11 (1975).
History:

290-1-5-.02 Principles of Educational Governance.

(1) In addition to all other requirements imposed by law, before exercising any authority or performing any duties as a member of a local board of education, each elected or appointed member shall be required to affirm:

(a) That each decision, action, and vote taken or made as a member of a local board of education shall be based solely on the needs and interests of students or the system.

(b) That no decision, action, or vote shall be taken or made to serve or promote the personal, political, or pecuniary interests of the member.

(c) That each decision, action, and vote shall be based on the interests of the school system as a whole.

(d) That the views of all members of the local board of education and of the local superintendent of education shall be considered before making a decision or taking an action on any measure or proposal before the local board of education.

(e) That, except to the extent otherwise provided by law, each member of a local board of education shall take formal action upon the written recommendation of and in consultation with the local superintendent of education, and may not individually or jointly attempt to direct or corrupt the operations of the school system in a manner that is inconsistent with the discharge of the statutory functions and responsibilities of the local superintendent of education.

(f) That each member of a local board of education shall actively promote public support for the school system and a sound statewide system of public education, and shall endorse ideas, initiatives, and programs that are designed to improve the quality of public education for all students.

(g) That each member of a local board of education shall attend scheduled meetings and actively participate in school system functions, activities, and training programs that promote quality boardsmanship unless good cause is shown.

(2) The State Superintendent shall prepare the form containing the required affirmation statements in Rule No. 290-1-5-.02(1) that each elected or appointed member of a local board of education must sign before assuming each term of office. Each signed affirmation shall be recorded in the minutes of the board by the secretary of the local board of education.

(3) The State Superintendent shall, in cooperation with the Alabama Association of School Boards, develop continuing education and training programs for the members of the local boards of education. The continuing education and training programs shall be designed to meet the goal of comprehensive board member proficiency in governance standards that focus on student and school performance standards, the roles and responsibilities of board members and the local superintendent of education, and the delineation of each board member's role as a public official holding public trust.

Author: Warren Craig Pouncey.
Statutory Authority: Ala. Code §16-3-11 (1975).
History: .

290-1-5-.03 Code of Conduct.

(1) The State Board of Education shall adopt a model code of conduct for members of local boards of education before January 1, 2013. The model code of conduct shall be designed to better ensure that any decision or action by a local board of education is based on the best interests of the students and local school system, without self-interest. The State Board of Education may periodically adopt revisions to the model code of conduct as it deems necessary.

NEW

290-1-5-.03(2)

LOCAL SCHOOL BOARD GOVERNANCE

290-1-5-.04(3)

(2) Before April 1, 2013, each local board of education shall adopt a code of conduct that includes, at a minimum, the model code of conduct adopted by the State Board of Education.

(3) Within three months after adoption of any revisions to the model code of conduct by the State Board of Education, each local board of education shall incorporate the revisions into its code of conduct.

Author: Warren Craig Pouncey.

Statutory Authority: Ala. Code §16-3-11 (1975).

History:

290-1-5-.04 Sanctioning Members of Local Board of Education. A member of a local board of education who fails to comply with the code of conduct adopted by the local board of education or other statutory requirements, under circumstances that constitute neglect of duty or willful misconduct, may be subject to one or more of the following actions:

(1) A member of the local school board may be subject to an action of formal censure or reprimand by the vote of a majority of the members of the local board of education.

(a) Before the vote of formal censure or reprimand, the local board of education must first, by vote of a majority of the whole board, provide a minimum of 30 days advance written notice of the proposed action to the member. The notice of proposed action shall be provided to the member by the secretary of the local board of education, shall specify the reasons for the proposed action, and shall state that the member may respond orally or in writing to the notice before the vote of formal censure or reprimand.

(2) A member of the local school board may be subject to one or more of the following actions by majority vote of the State Board of Education upon the recommendation of the State Superintendent:

(a) A formal censure or reprimand of the board member.

(b) Disqualification from eligibility for future appointment, reappointment, or election to any local board of education in the state, if the board member fails to meet required training and attendance requirements.

(c) Disqualification from eligibility for future appointment, reappointment, or election to any local board of education in the state, if the State Superintendent determines that the conduct of board member constitutes neglect of duty or willful misconduct.

(3) Before recommending approval of sanctions by the State Board of Education, the State Superintendent or designee shall conduct investigations, reviews, and hearings as follows:

NEW

290-1-5-.04(3)(a)

LOCAL SCHOOL BOARD GOVERNANCE

290-1-5-.04(5)

(a) The State Superintendent or designee may investigate serious and substantial allegations of neglect of duty, misconduct, or breach of duty on the part of any member or members of a local board of education upon a written complaint by a majority vote of the local board of education or the State Superintendent determines sufficient cause to conduct the investigation. As a result of the investigation, the State Superintendent may take any of the following actions:

1. Decline to pursue formal sanctions.
2. As a result of the investigation, issue a written notice to any board member or members whose conduct is in question.
 - (i) The notice shall specify the proposed imposition of any sanctions.
 - (ii) The notice shall identify the specific incidents or findings of neglect of duty, misconduct, or other breach of legal duty upon which each proposed sanction is based.
 - (iii) The notice must provide the board member a minimum of 30 days to show cause, in person or in writing, to object to the proposed sanction or determinations by the State Superintendent.
 - (iv) The board member may request a hearing before the State Superintendent or designee for the purpose of contesting any proposed sanction.

(4) The State Superintendent may propose or initiate a negotiated resolution of any action if the written agreement with the member of a local board of education is executed as a matter of public record.

(5) No sanction of a member of a local board of education may be imposed on the basis of the exercise of personal, political, or other rights of a board member that are protected by the United States Constitution or by any state or federal statute.

Author: Warren Craig Pouncey.
Statutory Authority: Ala. Code §16-3-11.(1975).
History: