

APA-2
07/04

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-4-1-.04 Flexibility For Students In Failing Schools

INTENDED ACTION: Amend Existing Rule

SUBSTANCE OF PROPOSED ACTION: The Board proposes to amend specified language and dates to Rule No. 290-4-1-.04 to align with the current amended State law. The amended law removes the following statement: Beginning on June 1, 2017, the school earns a grade of "F" on the school grading system developed pursuant to Section 16-6C-2, Code of Alabama 1975 for one of the previous three years or earns a grade of "D" on the school grading system for three of the previous four years. In addition, the Board proposes to amend dates specified within the code. Therefore, the Board is proposing to remove the same language from Rule No. 290-4-1-.04.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m., November 9, 2017 at the 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 October 30, 2017, 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: December 6, 2017

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Ed Richardson
Interim State Superintendent of Education

290-4-1-.04 Flexibility For Students In Failing Schools.

(1) The State Superintendent of Education shall prepare a list of failing schools under the provisions of the Alabama Accountability Act of 2013 **as amended by Alabama Act 2015-434**. The list of failing schools will be provided to local school superintendents and will be posted to the State Department of Education's web site before **the end of** November~~4~~. A failing school is determined by the State Department of Education through the approved accountability formula that contains the following criteria:

(a) The school meets the criteria for a failing school included in the Alabama Accountability Act of 2013 **as amended by Alabama Act 2015-434**.

~~(b) Beginning on June 1, 2017, the school earns a grade of "F" on the school grading system developed pursuant to Section 16-6C-2, Code of Alabama 1975 for one of the previous three years or earns a grade of "D" on the school grading system for three of the previous four years.~~

(2) Before January 1 of each year, a local board of education that has a school included on the annual list of failing schools shall provide notification to parents or legal guardians of students enrolled in a failing school or, upon completion of the highest grade in the school currently attending, the student is scheduled to enroll in a failing school the following school year. The notification will outline options those parents or legal guardians may pursue related to school choice for the following school year. The options for school choice must be presented in the order listed below:

(a) Option 1 - The student will remain or enroll in the failing school.

(b) Option 2 - The student will transfer to a comparable school that is not included on the annual list of failing schools within the same local school system that has available space and is willing to accept the student. The local school system will be responsible for the transportation costs for the student if the school system provides transportation for other enrolled students. The local school system may negotiate transportation options with a parent of the student.

(c) Option 3 - The student will transfer to a comparable school that is not included on the annual list of failing

schools within another Alabama local school system that has available space and is willing to accept the student.

(d) Option 4 - Student transfers to a qualifying nonpublic Alabama school that is willing to accept the student.

(e) The option for the student to transfer to another Alabama local school system is not available if a comparable school that is not included on the annual list of failing schools within the same local school system has available space and is willing to accept the student.

(f) A comparable school does not include a school that limits admission due to established academic or selection criteria for incoming students.

(3) After notification of the options to transfer a student from a failing school, the parents or legal guardian must submit the required notice of transfer to a qualifying Alabama school for the following school year. The State Department of Education will provide the notice of transfer form and accompanying instructions to the failing school.

(a) The notice of transfer must be submitted to the local school superintendent or designee by March 1.

(b) The notice of transfer must include verification, from the school administrator of the qualifying school that the student will attend the following year, that the school will accept the student. The student must first attempt to enroll in a comparable school that is not included on the annual list of failing schools within the same local school system.

(c) The notice of transfer, for a student who was attending another Alabama public school system on April 1 and enrolls in and attends a failing school for the following school year, must be submitted to the local school superintendent or designee before the tenth day after Labor Day.

(d) The parent or legal guardian of a student who transfers from a failing school after March 14, 2013, shall remain eligible for the state income tax credit or educational scholarship until the student completes the highest grade level that the failing school offered at the time of the transfer.

(4) A student with disabilities enrolled in or scheduled to enroll in a failing school the following school year that

transfers to a qualifying Alabama school will be provided with the services as outlined in the current Individualized Education Plan (IEP).

(a) A student with disabilities who transfers to a comparable school that is not included on the annual list of failing schools within the same local school system will be provided with the services as outlined in the current IEP.

(b) A student with disabilities who transfers to a comparable school that is not included on the annual list of failing schools within another Alabama local school system will transfer with the current IEP services and the receiving local school system may convene an IEP meeting to make any revisions to the IEP based on the needs of the student within the new environment.

(c) A student with disabilities who transfers to a qualifying nonpublic Alabama school will be eligible for the services provided to nonpublic school students contained in the LEA Non-Public School Services Plan.

(5) Qualifying nonpublic schools include private schools and church schools providing educational services to Alabama students. A qualifying nonpublic school does not include a school providing educational services through homeschooling or ~~on-line courses~~. A qualifying nonpublic school must meet the requirements to participate in the scholarship program authorized by the Alabama Accountability Act of 2013, as amended by Alabama Act 2015-434. A qualifying nonpublic school must be accredited by one of the six regional accrediting agencies recognized by the State Board of Education or meet all of the conditions for a qualifying school provided by the Alabama Accountability Act of 2013, as amended by Alabama Act 2015-434.

Author: Dr. Warren Craig Pouncey

Statutory Authority: Code of Ala. 1975, §§16-3-11.

History: New Rule: Filed September 12, 2013 **Amended:** Filed November 9, 2017; Effective December 24, 2017.