

APA-2
07/04

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-2-1-.01 Annual Apportionment of the Foundation
Program Funds;

INTENDED ACTION: The Department of Education will propose to amend Rule:
290-2-1-.01.

SUBSTANCE OF PROPOSED ACTION: The Alabama State Board of Education will
be asked to update and amend Rule: 290-2-1-.01.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held
at 10:00 a.m., December 10, 2020, at the Auditorium, Plaza Level, Gordon
Persons Building, 50 North Ripley Street, Montgomery, Alabama. All
persons wishing to express their views should contact Ms. Nora Thorington
in the Office of the State Superintendent of Education (334-694-4900) no
later than December 1, 2020, 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 10, 2020

CONTACT PERSON AT AGENCY: Mr. Andy Craig
Division of Administrative and Finance
Alabama State Department of Education
5202 Gordon Persons Building
Montgomery, Alabama 36104-2101
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Eric G. Mackey
State Superintendent of Education

STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION

CHAPTER 290-2-1
APPORTIONMENT OF FUNDS

TABLE OF CONTENTS

290-2-1-.01	<u>Annual Apportionment of the Foundation Program Funds</u> , p. 14.
290-2-1-.02	<u>Annual Apportionment of Current Unit Funds</u> , p. 18.
290-2-1-.03	<u>Annual Apportionment of Transportation Funds</u> , p. 19.
290-2-1-.04	<u>Annual Apportionment of Public School Fund</u> , p. 20.
290-2-1-.05	<u>Annual Apportionment of At-Risk Funds</u> , p. 21.

290-2-1-.01 Annual Apportionment of Foundation Program Funds. Regulations of the State Board of Education pertaining to the annual apportionment of the foundation program funds effective October 1, ~~2019~~ 2020. The cost of the foundation program shall be determined, and the allotments made in accordance with the provisions of Ala. Acts 95-314, 95-313, ~~2019-403~~ 2020-169 and as hereinafter provided:

(1) Cost of the Foundation Program. The cost of the foundation program shall be computed in four categories for each public school with students in attendance in each local board of education. Small groups of special populations housed at a non-school site shall be aggregated under a school code of 0001. The four categories are salaries for foundation program units, fringe benefits for foundation program salaries, classroom instructional support for foundation program, and other current expense for foundation program units. The total of the cost in the four categories calculated as defined herein is the cost of the foundation program for each school.

(a) Salaries for Foundation Program Units. Teacher units and instructional support units shall be used to calculate the cost of salaries for foundation program units for 187 day contracts.

1. Foundation program weighted grade divisors are established for kindergarten through grade 12. The grade divisors include an adjustment for weighting special education and career and technical education to reflect increased programmatic costs. The adjustment for special education reflects 5% average daily membership (ADM) weighted 2.5 in all grades. The adjustment for career and technical education reflects 7.4% ADM weighted 1.4 in grades seven and eight and 16.5% ADM weighted 2.0 in grades nine through twelve. Foundation program calculations for FY ~~2020~~ 2021 are based on the following funding divisors: 14.25 in kindergarten through grade three; 20.43 in grades four through six; 19.70 in grades seven and eight; and 17.95 in grades nine through twelve.

(i) Teacher units are calculated by dividing the grade ADM by the grade divisor and summing over all grades in the school. The ADM by grade is the average number of students enrolled on a daily basis for the first 20 scholastic days following Labor Day of the preceding school year.

(ii) Instructional support units are calculated in the classifications of principal, assistant principal, counselor, and librarian as recommended in the accreditation standards for elementary schools, middle schools, and secondary schools, according to the AdvancED standards.

(iii) A principal unit and a counselor unit shall be calculated for each state approved career technical education center (CTE center). A local board that does not operate a CTE center shall receive a pro rata portion of a unit allocation to provide system-wide supervision of career technical education as determined by the students enrolled in career technical education courses in grades 9-12.

(iv) Principal units shall be extended by .45 for secondary schools and CTE centers, by .31 for elementary schools, and by .35 for middle schools for salary calculations. Assistant principal units shall be extended by .10 for elementary schools, middle schools, and secondary schools for salary calculations. Counselor units shall be extended by .03 for secondary schools and CTE centers for salary calculations.

(v) The total of teacher units, instructional support units, and CTE center units shall constitute the foundation program units at each school in the foundation program cost calculations.

2. Units shall be converted to dollars in the cost calculations through the use of a salary matrix (state minimum salary schedule) as specified in the FY ~~2020~~ 2021 Education Trust Fund (ETF) appropriations act.

(i) The state minimum salary schedule gives consideration to experience, certification, and the degree level at which a certificated employee is employed for a standard 187 day contract. The degree levels are Bachelor's, Master's, Sixth-year Program, Doctoral, and non-degree.

(I) Teachers holding career and technical education certificates endorsed in technical education or healthcare science and technology shall be paid at the appropriate degree equivalency in accordance with Rule 290-3-2.

(II) Experience shall be considered in three year increments up to 30 years. Experience is defined as public education experience with fractional year as defined by the Alabama Teachers' Retirement System for earning years of service. Local boards shall place employees holding positions requiring certification on the salary schedule considering the highest degree earned from a regionally accredited institution and years of experience served in public education. Employees advance to the next experience step of the salary schedule on the anniversary date of experience. Local boards shall notify the State Department of Education of the earned advanced degree for each employee in a timely fashion. An employee shall be paid for an advanced degree in the pay period that begins after the advanced degree is recognized by the State Department of Education, provided that, if an employee has completed service under contract for the scholastic year, the advanced degree pay shall begin with the first pay period for service under contract in the subsequent scholastic year.

(ii) A percentage of each year's foundation program units shall be calculated at each cell of the state minimum salary schedule. The percentage is the actual number of state and local certificated personnel employed by a school in each cell divided by the total number of state and local certificated personnel employed by the same school in the prior year. The product of units, percentage by cell, and state minimum salary amount for the cell summed over all cells is the foundation program salary cost for each school.

(b) Fringe Benefits for Foundation Program Salaries. Fringe benefits costs shall be computed on salaries for foundation program units at rates established in the ETF appropriations act or as otherwise required by state or federal law. Fringe benefits are computed for FICA, Medicare, health insurance (PEEHIP), matching retirement, unemployment compensation, and leave (sick and personal). The total of fringe benefits in the categories listed for all foundation program units at a school shall be the fringe benefits costs on foundation program units at each school.

(c) Classroom Instructional Support for the Foundation Program. Classroom instructional support costs are calculated for all foundation program units in the category of student materials, technology, professional development, and library enhancement at a rate per unit and for textbooks or digital resources at a rate per ADM, specified in the ETF appropriations act.

(d) Other Current Expense for Foundation Program Units. Other Current Expense (OCE) cost shall be calculated as a fixed amount multiplied times the number of foundation program units. OCE may be used to pay salaries and fringe benefits for support personnel.

(e) Total School Foundation Program Cost. The total foundation program cost for a school shall be the total of the salaries, fringe benefits, classroom instructional support, and other current expense calculated for that school.

(f) Total Local Board Foundation Program Funds. The sum of the calculated foundation program cost for all schools within a local board is the total foundation program funds for a local board in FY ~~2020~~ 2021.

(2) Allotment of the Foundation Program Cost. The local board foundation program cost from (1)(f) above less the required local effort shall be the foundation program allotment for each local board from the ETF to be allocated to local boards on a monthly basis in twelve installments. The required local effort for each local board for its share of the cost of the foundation program shall be the equivalent of 10 district mills of ad valorem tax.

(3) Requirements for Expending Foundation Program Funds. In expending foundation program funds, each local board shall meet the following conditions:

(a) provide a school year of at least 180 full instructional days, or the hourly equivalents thereof;

(b) provide the equivalent of at least 10 district mills of local ad valorem tax support;

(c) adopt a salary schedule for certificated personnel that reflects at least 100% of the state minimum salary schedule per cell as well as 100% of the state minimum salary schedule adjusted for extended contracts for career and technical education personnel

(d) meet federally mandated maintenance of effort requirements;

(e) spend all calculated salaries for foundation program units for instructional salaries;

(f) continue operations at all career and technical education centers in existence in FY95 and pay a pro rata share of the cost of any CTE center providing service to more than one school system;

(g) distribute foundation program allocated funds based on current year student population and programs needed to serve the current year students.

(4) Requirements to Receive State Funds. In order to receive state funds, local boards of education are required to furnish information and file reports and records required by the State Board.

(a) Local boards of education are required to prepare budgets and financial statements that meet reporting requirements of the State Department of Education. The State Superintendent shall prepare the forms and procedures for completing budgets and financial statements.

1. Local boards of education are required to maintain a supplemental inventory of equipment items not classified as fixed assets.

2. Local boards of education are required to reconcile bank statements on a timely basis.

3. Local boards of education are required to maintain accounting records and to follow accounting and internal control procedures that comply with generally accepted accounting principles.

(b) Local boards of education are required to provide the annual accountability reports required by Ala. Code §16-6B-7 (1975). The State Superintendent shall prepare the procedures for completion and distribution of annual accountability reports.

(c) Local boards of education are required to be audited in accordance with state laws, federal laws and regulations, and the audit standards issued by the State Department of Education. The State Superintendent shall issue audit standards requiring a single audit of local school funds, federal funds, state funds, local funds, and other funds under the control of school officials.

(d) Local boards of education are required to provide attendance data, personnel data, and other information necessary to calculate the cost of the Foundation Program and other state funds. The State Superintendent shall establish procedures for collecting this information.

(e) Local superintendents are required to provide monthly financial reports, monthly check register report, and other information for the local boards of education as required by the Act No. 2006-196.

(f) The State Superintendent may withhold state funds from a local board of education that fails to provide data necessary to calculate the cost of the Foundation Program and other state funds.

(g) The State Superintendent may withhold state funds from a local board of education that fails to successfully complete other reporting requirements set forth by the State Superintendent.

(5) Penalties. Penalties shall be imposed against local boards for:

(a) Failure to operate schools the minimum 180 full instructional-day term, or hourly equivalent thereof, pursuant to Ala. Acts 2011-235 or 2015-430;

(b) Deficit spending pursuant to Ala. Code § 16-13-144 (1975), however, the State Superintendent may waive all or part of the penalty if the school system has made a substantial effort to remove the deficit and agrees to develop an approved financial plan; and,

(c) Assigning a teacher to teach a subject for which the teacher does not hold proper certification as defined in Rule 290-3-2-.02(2)(d). The penalty will be a minimum of \$500 per teacher per year.

(d) Failure to timely notify parents of the options available for a parent of a student enrolled in or assigned to attend a failing school as required by Act No. 2013-265.

(6) Flexibility. For FY ~~2020~~ 2021, local boards of education may exercise flexibility among line item expenditures, according to the provisions of Section ~~44 10~~ of the Education Trust Fund Budget approved in Alabama Legislative Act No. ~~2018-481~~ 2020-169.

Author: Ed Richardson.

Statutory Authority: Ala. Code §§16-13-230 et. seq. (1975).

History: Amended 8-12-93, effective 9-17-93; emergency rules 7-21-94, new rules 9-8-94, effective 10-13-94; emergency rules 9-14-95, effective 9-14-95; amended 4-11-96, effective 5-16-96; emergency rules 7-9-96, effective 7-9-96; emergency rules 10-10-97, effective 10-10-97; emergency rules 7-14-98, effective 8-7-98; amended 11-18-99, effective 12-23-99; amended 12-14-00, effective 1-18-01; amended 11-8-01, effective 12-13-01; amended 9-12-02, effective 10-17-02; amended 1-8-04, effective 2-12-04; amended 9-9-04, effective 10-14-04; amended 11-10-05, effective 12-15-05; amended 11-9-06, effective 12-14-06; amended 9-13-07, effective 10-18-07; amended 11-13-08, effective 12-18-08; amended 9-10-09, effective 10-15-09; amended 11-18-10, effective 12-23-10; amended 12-8-11, effective 1-11-12; emergency rule 9-13-12; amended 11-8-12, effective 12-13-12; amended 9-12-13, effective 10-17-13; amended 9-10-14, effective 10-15-14; amended 10-8-15, effective 11-12-15; amended 10-3-15, effective 11-7-15; amended 10-13-16, effective 11-27-16; amended 10-12-17, effective 11-27-17; amended 9-13-18, effective 10-29-18; amended _____, effective _____;