

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 290 Department or Agency State Department of Education  
Chapter No. 290-8-8

Chapter Title: Specialized Treatment Centers in Alabama  
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? 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 action relate to or affect in any matter 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 Reference Service.

Signature of certifying officer Eric G. Mackey  
Eric G. Mackey  
State Superintendent of Education

Date 9-7-2021

REC'D & FILED  
SEP 9 2021  
LEGISLATIVE SVC AGENCY

APA-2  
07/04

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-8-8 Specialized Treatment Centers in Alabama

INTENDED ACTION: The Department of Education will amend Chapter 290-8-8;

SUBSTANCE OF PROPOSED ACTION: The Alabama State Board of Education will be asked to update and amend Chapter 290-8-8. The purpose of the amendment is to clarify the definition of a Specialized Treatment Center and update existing administrative regulations pertaining to existing and new treatment centers in Alabama.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 10:00 a.m., November 11, 2021, 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 (334-694-4900) no later than November 1, 2021, 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: November 11, 2021

CONTACT PERSON AT AGENCY: Mr. Terry Roller  
Assistant State Superintendent  
Alabama State Department of Education  
Gordon Persons Building  
P.O. Box 302101  
Montgomery, Alabama 36130-2101  
(334-694-4868)



Eric G. Mackey  
State Superintendent of Education

ALABAMA DEPARTMENT OF EDUCATION  
 DIVISION OF SPECIAL EDUCATION SERVICES  
 ADMINISTRATIVE CODE  
 AMEND  
 CHAPTER 290-8-8  
 SPECIALIZED TREATMENT CENTERS IN ALABAMA

TABLE OF CONTENTS

290-8-8-.01	Specialized Treatment Center Endorsement
290-8-8-.02	Definitions
290-8-8-.03	Funding
290-8-8-.04	Assurances
290-8-8-.05	Initial Endorsement Procedure
290-8-8-.06	Endorsement Renewal
290-8-8-.07	Minimum Center Rules
290-8-8-.08	Monitoring
290-8-8-.09	LEA Responsibilities
290-8-8-.10	Specialized Treatment Center Closing, Loss Or Change Of Licensure
290-8-8-.11	Operational Fees
290-8-8-.12	Appeals Proceedings

**290-8-8-.01 Specialized Treatment Center Endorsement.**

Effective August 1, 2014, all specialized treatment centers that are licensed or certified by other state or federal agencies serving Alabama students in grades P-12 shall, before receiving any appropriation from the Education Trust Fund, be required to obtain an Educational Endorsement of Operation from the Alabama State Department of Education. The rules and regulations in this chapter are not designated for facilities regulated under Code of Ala. 1975, Title 14, Chapter 12.

**Author:** Dennis Coe

**Statutory Authority:** Code of Ala. 1975, §§16-46-7, 16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014.

**290-8-8-.02 Definitions.**

(1) CURRICULUM. ~~A group of organized programs.~~  
The planned interaction of pupils with instructional content, materials, resources, and processes for evaluating the attainment of educational objectives.

(2) DEPARTMENT. The Alabama State Department of Education.

(3) EDUCATIONAL ENDORSEMENT OF OPERATION. A confirmation by the Alabama State Department of Education that an entity operating in the State of Alabama and licensed or certified by another state or federal agency has met requirements. ~~necessary to receive allocations from the Education Trust Fund.~~

(4) LEA. A local board of education agency. ~~-serving as the fiscal agent for all specialized treatment centers located within their jurisdiction.~~

(5) TREATMENT. Treatment means a planned, individualized program of educational, medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disability disturbance, physical disability or alcohol or drug problem or designed to reduce delinquency and rehabilitate delinquent youth with the expectation of establishing a more favorable environment for students.

(6) SPECIALIZED TREATMENT CENTER. A Specialized Treatment Center (STC) provides various levels of specialized services to students who demonstrate needs not typically addressed in a regular educational setting. These state-endorsed centers ~~A center which receives appropriations from the Education Trust Fund and to provides treatment educational services to students in grades Pk-12.~~

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. Amended \_\_\_\_\_; effective \_\_\_\_\_;

**290-8-8-.03 Funding.**

(1) An endorsed Specialized Treatment Center may be funded based upon a method developed by the State Superintendent of Education. This method may be modified as needed with appropriate notification to centers receiving allocations. In addition to the allocation from the Education Trust Fund, appropriations of IDEA STCs can receive additional fundings support shall may be made based upon the number of eligible students enrolled through the LEA. STCs cannot receive IDEA funding directly from the state. ~~at the center identified in-~~

~~the Alabama Child Count the preceding school year.~~

(2) The funds for the educational programs shall be appropriated by the Department through the LEA fiscal agent from the Education Trust Fund and shall be used only for educational purposes, except when an emergency situation exists as identified approved by the Department and upon such a determination, the STC director may transfer funds between items of educational and non-educational sources of funding.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014; Amended \_\_\_; effective \_\_\_;

**290-8-8-.04      Assurances.**

(1) Effective August 1, 2014, before receiving any state allocations from the Education Trust fund, all eligible specialized treatment centers operating in the state of Alabama must annually assure their compliance with the following:

(a) Comply with all State and Federal laws and regulations as they pertain to special education students.

(b) Comply with procedural due process relating to applicable notices, timelines, and safeguards in accordance with State and Federal laws and regulations.

(c) Comply with the Department's requirements regarding the qualifications of teachers and paraprofessionals.

(d) Ensure that all students ~~enrolled or admitted~~ placed in the ~~center~~ STC ~~for more than 10 consecutive calendar days shall be~~ are offered provided a curriculum consistent in quality and content approved by the department ~~with and similar~~ specialized treatment ~~center programs and standards established for specific programs by the Department and approved by the~~ appropriate accrediting agency.

(e) Use state-approved student information software ~~and the Special Education Tracking System (SETS)~~ for all children in order to complete required forms and pertinent educational information.

(f) Complete requested or required reports in a timely manner.

(g) Maintain all appropriate records and provide them to the Department as requested.

(h) Submit an annual fiscal audit to ensure that federal or state-appropriated funds are expended in an appropriate manner and in accordance with applicable state and federal laws and regulations.

(i) Work with the LEA ~~fiscal agent~~ to ensure that all students ~~with disabilities~~ participate in the State Assessment Program.

(j) Maintain and safeguard the confidentiality of personally-identifiable data and records pursuant to the Family Educational Rights and Privacy Act (FERPA).

(k) Ensure ~~S~~students are not discriminated against on the basis of race, color, religion, national origin, sex, age, or disability.

(2) Upon submitting an assurance of compliance in each of these areas, an Educational Endorsement of Operation will be awarded to the specialized treatment center from the Department. The endorsement will be valid for 3 years and can be revoked at any time for failure to comply with the assurances listed above.

(3) Each endorsed Specialized Treatment Center ~~demanded~~ in the State of Alabama may be subject to a visit with or without prior notification by an official of the Department to determine compliance with Alabama Administrative Code Chapter 290-8-8.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. **Amended:**

**290-8-8-.05 Initial Endorsement Procedure.**

(1) Application for a specialized treatment center educational endorsement of operation shall be made on forms supplied by the Department ~~and shall be accompanied by the items required in Alabama Administrative Code Chapter 290-3-5.~~ In addition, a copy of the Memorandum of Agreement between the center and the LEA ~~fiscal agent~~ where the center is physically located shall be provided to the Department.

(2) Any educational endorsement of operation applied for shall be granted, deferred, or denied within twenty eight (28) days of the receipt by the Department of all materials required for consideration of application. The center shall be notified by the Department of an incomplete application.

(3) Each specialized treatment center endorsement of operation shall be valid for three years from the date of issue and shall be publicly displayed on the premises where the center operates in the State of Alabama.

(4) Any educational endorsement of operation shall be denied, deferred, suspended, or revoked if ~~information or materials specified by Alabama Administrative Code Chapter 290-3-5 are not provided or~~ if the center fails to maintain assurances set forth in Alabama Administrative Code Rule 290-8-8-.04.

(5) Each center that undergoes a transfer of ownership shall notify the Department in order that a review by the Department may be conducted to determine compliance with Alabama Administrative Code Chapter ~~290-3-5~~ 290-8-8. An educational endorsement of operation shall not be transferred to new ownership.

(a) The new owner is required to apply to the Department for a new specialized treatment center endorsement of operations.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-46-7.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. **Amended:**

**290-8-8-.06** **Endorsement Renewal.** Each specialized treatment center will be notified by the Department ~~by mail~~ of the requirement for renewal and will supply the necessary forms for renewal action not less than sixty (60) days prior to the educational endorsement of operation expiration date. A review of each specialized treatment center endorsed may be made at the time of educational endorsement renewal to determine whether operating conditions are equal to or exceed the center's rules for continued operation.

**Author:** Dennis Coe

**Statutory Authority:** Code of Ala. 1975, §16-46-7.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014.

290-8-8-.07 Minimum Center Rules.

(1) Center Purpose and Objectives. Each specialized treatment center's purpose and objectives shall be stated in the catalog, bulletin, or brochure of the center. A clear description of the educational program and target population will be identified.

(2) The Educational Program.

(a) Each course, the curriculum, and instruction provided by each specialized treatment center shall be consistent in quality and content ~~with similar specialized treatment center programs and~~ based on standards established for specific programs by the Department and appropriate licensing or certifying agency.

(b) No specialized treatment center shall sell, award, grant, or confer ~~any credit, a diploma, or certificate~~ unless prior permission has been granted in writing by the State Superintendent of Education.

(3) Student information.

~~(a) Each student enrolled in state supported specialized treatment centers shall be withdrawn from their home school and enrolled in the center.~~

~~(b) Each student's attendance, grades and other pertinent demographic and academic data shall be maintained while the student is enrolled in the center on forms utilizing the state-approved student information software. prescribed by the State Superintendent of Education.~~

(c) Student Records. Each student's record shall be safeguarded to protect the student records from damage, loss, or compromise by unauthorized persons as mandated by federal and state statutes.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History:** **New Rule:** Filed January 17, 2014; effective February 21, 2014. Amended \_\_\_; effective \_\_\_;

290-8-8-.08 Monitoring. Each specialized treatment center ~~demanded~~ in the State of Alabama may be subject to a visit with or without prior notification by an official of the Department



to determine compliance with Alabama Administrative Code Chapter ~~290-3-5~~ 290-8-8.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. Amended\_\_\_\_; effective\_\_\_\_;

**290-8-8-.09      LEA Responsibilities.**

Student Placements

(a) Placed by a Local Education Agency (LEA)

A student placed by an LEA at an approved STC will remain enrolled at the LEA of origin.

A student placed in an approved STC by an LEA and meets the requirements for receiving a high school diploma will receive the diploma from the LEA placing the student in the facility.

For children with disabilities who have been placed by an LEA, it is the responsibility of the LEA who placed the student to ensure that a free and appropriate public education is provided.

(b) Placed by State Agency

A student placed by a state agency at an approved STC shall be enrolled in the LEA where the facility is located within three business days.

A student placed in an approved STC by a state agency and meets the requirements for receiving a high school diploma should receive a high school diploma from the LEA in which the facility is located.

For children with disabilities who have been placed by a state agency or determined to be wards of the state, it is the responsibility of the LEA where the facility is located to ensure that a free and appropriate education is provided.

(c) Parentally Placed Students in a public STC

A student placed by parents at an approved public STC shall be enrolled in the LEA where the facility is located within three business days.

A student placed in an approved public STC by parents and

meets the requirements for receiving a high school diploma should receive a high school diploma from the LEA in which the facility is located.

The LEA where the approved public STC is located is responsible for implementing the *Individuals with Disabilities Education Act* (IDEA) requirements for parentally placed children with disabilities in the public STC.

(d) Public school students parentally placed in a non-public/private STC

A public school student placed by parents at an approved public STC shall be enrolled in the LEA where the facility is located within three business days.

A public school student placed in an approved public STC by parents and meets the requirements for receiving a high school diploma should receive a high school diploma from the LEA in which the facility is located.

The LEA where the approved public STC is located is responsible for implementing the *Individuals with Disabilities Education Act* (IDEA) requirements for parentally placed public-school children with disabilities.

(e) Private school students parentally placed in a non-public/private STC

A private school student placed by parents at an approved non-public/private STC shall be enrolled at the facility in the student management system within three business days.

Private-school students placed in a non-public/private STC by parents are not the financial responsibility of the LEA in which the students would have resided since the parent chose to enroll his or her child in the STC. In addition, the LEA does not have the authority to issue an Alabama high school diploma to a student that did not complete the high school graduation requirements under its authority. Accordingly, parentally-placed students in an approved STC would not be entitled to be issued an Alabama high school diploma.

Private school children enrolled in non-public/private STCs by their parents do not have an individual entitlement to the special education and related services they would receive if they were enrolled in a traditional public school. The LEA where the STC is located is responsible for implementing the *Individuals with Disabilities Education Act* (IDEA)

requirements for parentally placed children with disabilities in the non-public/private STC. This includes requirements related to child find and equitable services.

~~For children with disabilities who have been determined to be wards of the State or who reside in group homes, detention facilities, nursing homes, and private facilities, it is the responsibility of the LEA where the facility is located to ensure that a free and appropriate education (FAPE) is made available.~~

~~(a) The responsible LEA where the facility is located will ensure FAPE is available and will notify the Department of any concerns regarding lack of compliance related to FAPE for each student served in the applicable group home, detention facility, nursing home, or private facility.~~

(2) The LEA will name a representative that shall collaborate with a representative named by the center to develop a Memorandum of Agreement which shall include, but not be limited to, specific processes for shared services, implementation of Individualized Education Program (IEP) and FAPE, testing schedules for state assessments, the oversight of educational offerings, assistance with compliance with Alabama Administrative Code Chapter 290-8-9, and distribution of funds.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. Amended \_\_\_; effective \_\_\_;

**290-8-8-.10 Specialized Treatment Center Closing, Loss, Or Change Of Licensure.** A specialized treatment center that closes shall comply with the requirements for repository of records in accordance with Code of Ala. 1975, §16-46-3(e). Specialized Treatment Centers that have licenses suspended, revoked, or deferred shall immediately notify the Department and the LEA fiscal agent. Any center which has a license suspended, revoked, or deferred shall not receive allocations from the Education

Trust Fund until such license has been restored in full. Specialized Treatment Centers that change capacity by either increasing or decreasing the licensed bed count shall provide the appropriate documentation from the licensing agency to the Department. Notifications of any adjustments to the licensed bed count must be made to the Department no later than the 20<sup>th</sup> day after Labor Day each calendar year.

**Author:** Dennis Coe and Dr. Daniel Boyd

**Statutory Authority:** Code of Ala. 1975, §16-46-3.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014. Amended \_\_\_\_\_; effective\_\_\_\_\_;

**290-8-8-.11**     **Operational Fees.** There will be a \$500 fee assessed for issuing an Educational Endorsement of Operation. An Educational Endorsement of Operation shall be valid for a period of three years.

**Author:** Dennis Coe

**Statutory Authority:** Code of Ala. 1975, §§16-46-7, 16-4-13.

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014.

**290-8-8-.12**     **Appeals Proceedings.** A person or center aggrieved by the actions of the Department with respect to issuance, denial, deferral, probation, suspension, or revocation of an endorsement provided for in Alabama Administrative Code Chapter 290-8-8 may file a petition for review with the Alabama State Board of Education. The petition shall be filed with the State Superintendent of Education within thirty (30) calendar days after the person or center has been served a notice of proposed action.

**Author:** Dennis Coe

**Statutory Authority:** Code of Ala. 1975, §§16-46-9

**History: New Rule:** Filed January 17, 2014; effective February 21, 2014.