

ALABAMA DEPARTMENT OF HUMAN RESOURCES GENERAL ADMINISTRATION
DIVISION
ADMINISTRATIVE CODE

CHAPTER 660-1-3
RULE-MAKING AND RELATED MATTERS

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660-1-3-.01 Rule-making Authority And Conduct.

The Department has express statutory authority to promulgate rules and regulations and the authority to amend or repeal such rules and regulations. In the exercise of this authority the Department shall be governed in its conduct by the provisions of the Alabama Administrative Procedure Act, as amended and codified, and by any additional provisions required by law in all matters pertaining thereto.

Author:

Statutory Authority: Code of Ala. 1975, §§ 38-2-3, 5, 6, 8, 10, 12, § 38-4-2, § 38-7-7; Administrative Procedure Act, as amended and codified (Code, § 41-22).

History: Effective June 28, 1983.

660-1-3-.02 Emergency Rule Procedures.

(1) The Commissioner of the Department, upon express finding or determination that there exists an immediate danger to the public health, safety or welfare, or that loss of federal funds is imminent, may adopt and implement one or more Emergency rules, without giving notice required by law.

(2) An emergency rule may be effective up to 120 days. The emergency rule shall state its effective dates, both beginning and ending.

(3) During the period that an emergency rule is in effect the Department shall give notice of and promulgate a permanent rule to

replace the emergency rule, unless the emergency rule is one designed to fill a specific need or to solve a specific problem and that need or problem is not expected to reoccur.

Author:

Statutory Authority: Code of Ala. 1975, § 41-22-5.

History: Effective June 28, 1983.

660-1-3-.03 Public Petitions For Adoption, Repeal Or Change Of A Rule.

(1) Any authorized person or organization may petition the Department for the adoption of a new rule or for the repeal or change of an existing rule. A petition for such actions requires the submission of a Departmental Petition for a Rule Change form (or facsimile), a copy of which can be found in Appendix A. Copies of the form may be obtained, without cost, from the State Office of the Department.

(2) Action by the Department on such a petition shall be within 60 days of receipt by the Department.

(3) A petitioner or his or her representative must meet the requirements related to persons authorized to practice before the Department. These requirements are set forth in Rule No. 660-1-3-.05.

(4) A petition for the adoption of a new rule or the repeal or change of an existing rule if presented by other than the true party in interest must be accompanied by a Departmental Appointment of Representative form (or facsimile), a copy of which can be found in Appendix A. Copies of the form may be obtained, without cost, from the State Office of the Department.

Author:

Statutory Authority: Code of Ala. 1975, § 41-22-8.

History: Effective June 28, 1983.

660-1-3-.04 Public Petition For A Declaratory Ruling.

(1) Any person or organization substantially affected by an existing rule may, as provided for in the Alabama Administrative Procedure Act, as amended and codified, challenge the validity and/or applicability of said rule by petitioning the Department to issue a declaratory ruling on the substance pertaining thereto. A petition for such action requires the submission of a Departmental Petition for Declaratory Ruling form (or facsimile), a copy of which can be found in Appendix A. Copies of the form may be obtained, without cost, from the State Office of the Department.

(2) If such a petition cannot be acted upon within 45 days of its receipt by the Department, the petition may be deemed denied as provided by § 41-22-11(b) of Code, or the petitioner may agree to an extension in order to obtain a ruling. The Department will advise the petitioner if an extension would aid the Department. The petitioner need not agree to the extension, but may agree if a ruling is desired.

(3) A petitioner or his or her representative must meet the requirements related to persons authorized to practice before the Department. These requirements are set forth in Rule No. 660-1-3-.05.

(4) A petition for a declaratory ruling by the Department if presented by other than the true party in interest must be accompanied by a Departmental Appointment of Representative form (or facsimile), a copy of which can be found in Appendix A. Copies of the form may be obtained, without cost, from the State Office of the Department.

Author:

Statutory Authority: Code of Ala. 1975, § 41-22-11.

History: Effective June 28, 1983.

**660-1-3-.05 Rules Of Practice Before The Department Related To
The Rule-making Process.**

(1) In matters related to public participation in rule-making and the challenge of existing rules through the declaratory ruling process, any properly authorized person over 18 years of age may practice before the Department. Persons acting in behalf of the true party in interest may include, but are not limited to:

- (a) Attorneys;
- (b) Accountants;
- (c) Officers or employees of service contractors or providers;
- (d) An adult relative or friend of an applicant or recipient;
or
- (e) The legal guardian of an applicant or recipient.

(2) Any person acting as a representative must have written authority to do so. If the true party in interest is unable to sign an authorization, it must be signed by his or her legal guardian if there is one; if there is no legal guardian, the authorization may be signed by a member of his or her immediate family.

(3) Any attorney or public accountant who is under suspension or has had his or her license revoked shall not represent any person before the Department, except members of his or her immediate family, unless and until his or her license is restored or suspension ended; nor shall any person otherwise disqualified practice before the Department.

Author:

Statutory Authority: Code of Ala. 1975, § 41-22-4(a)(2).

History: Effective June 28, 1983.

660-1-3-A Appendix A.

APPENDIX A - CHAPTER 660-1-3 FORMS

ALABAMA DEPARTMENT OF HUMAN RESOURCES

PETITION FOR A RULE CHANGE

1. This is a petition:

☐ To adopt a new rule

☐ To modify an existing rule

☐ To repeal an existing rule

2. This Petition is presented by (Petitioner):

Name: _____

Address: _____

Phone: _____

3. The person signing the petition is:

☐ The true party in interest and is the Petitioner

☐ An officer or employee of the Petitioner

State Title: _____

☐ The attorney of the Petitioner

☐ Other (specify): _____

4. The Petitioner's representative is:

Name: _____

Address: _____

Phone: _____

5. If this Petition proposes to modify or repeal an existing rule, specify the rule:

Rule No. _____

6. If this Petition proposes the adoption of a new rule, specify all existing rules it would affect, and specify what chapter of the Department Administrative Code it should be a part of.

7. Attach a typed (double-spaced) narrative as to why the new rule, the modification or the repeal is needed, specifying:

- (1) The persons or class of persons it would affect and how it would affect them.
- (2) The benefits and disadvantages of the proposed rule, modification or repeal.
- (3) The estimated cost or cost savings to the Department.
- (4) Any other reasons why the rule, modification or repeal should be accepted by the Department.
- (5) The legal authority for the proposed rule, modification or change.
- (6) The names and addresses of any persons, organizations and the identity of any class of persons who would be or could be adversely affected by the proposed rule, modification or repeal.

This is to be labeled "Exhibit A."

8. Attach as "Exhibit B" etc. any other documents, reports or

studies that you want to be considered in connection with your petition.

Date this the _____ day of _____, 19____.

Signature of Petitioner or Representative

NOTE: The original form and five (5) copies must be submitted to: Administrative Procedures Secretary, Department of Human Resources, State of Alabama, 64 North Union Street, Montgomery, Alabama 36130-1801.

APPENDIX A - CHAPTER 660-1-3 FORMS

ALABAMA DEPARTMENT OF HUMAN RESOURCES

PETITION FOR A DECLARATORY RULING

1. Information about Petitioner:

Name: _____

Address: _____

Phone: _____

2. Information about Petitioner's Representative:

Name: _____

Address: _____

Phone: _____

Title: _____

3. Petitioner is:

[] Recipient (# _____)

[] Applicant (SSAN _____)

[] Contractor/Provider (# _____)

[] Other (specify) _____

If you checked "Other" specify how a Department of Human Resources rule affects you and indicate what legal standing you have to request a ruling.

4. What rules or laws are involved in this report?

5. Attach a typed (double-spaced) narrative stating the facts upon which you based this petition. Be specific. Give dates. Include a proposed resolution of the problem Chapter 660-1-3 Human Resources Supp. 12/31/92 1-3-8 presented by your petition. Label this narrative "Exhibit A. "

NOTE: The declaratory ruling will be based solely on the facts you give. If you omit a material fact or facts, the Department may not honor the ruling if you attempt to rely on it later.

6. Attach as "Exhibit B," etc., any other documents that you want to be considered in giving you a ruling.

Date this the _____ day of _____, 19__.

Signature of Petitioner or Representative

NOTE: Send the original and five (5) copies to: Administrative Procedures Secretary, Department of Human Resources, State of Alabama, 64 North Union Street, Montgomery, Alabama 36130-1801.

APPENDIX A - CHAPTER 660-1-3 FORMS

ALABAMA DEPARTMENT OF HUMAN RESOURCES

A. APPOINTMENT OF REPRESENTATIVE

I appoint _____ (Name)
_____ (Address)

_____ (Phone)

to act as my representative in connection with:

☐ Petition for a Rule Change

☐ Petition for a Declaratory Ruling

I hereby authorize my representative to fully act in my stead in connection with the petition involved. This appointment shall remain in full force and effect until I notify the Department of Human Resources in writing that my representative's authority has been withdrawn.

Date _____ Signature _____
_____ (Petitioner) Address: _____

_____ Phone: _____

B. ACCEPTANCE OF APPOINTMENT

I, _____, hereby accept the above appointment. I certify that I have not been suspended or prohibited from practice before the Department of Human Resources; that I am not, as an officer or employee of the State of Alabama, disqualified or otherwise exempted by law from acting as the petitioner's representative.

My relationship to the petitioner is _____
(attorney, legal guardian, relative, etc.)

Date _____ Signature _____
_____ (Representative)

Address: _____

Phone: _____

NOTE: The original form must be submitted to: Administrative Procedures Secretary, Department of Human Resources, State of

Alabama, 64 North Union Street, Montgomery, Alabama
36130-1801.

Author:

Statutory Authority:

History: