

ALABAMA DEPARTMENT OF REHABILITATION SERVICES
ADMINISTRATIVE CODECHAPTER 795-1-1
ORGANIZATION AND ADMINISTRATION

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795-1-1-.01 Purpose And Mission Statement.

The Alabama Department of Rehabilitation Services provides a continuum of services from birth to old age for Alabamians with disabilities. Its mission is to enable Alabamians with disabilities to achieve their maximum potential. The Department was created by the Alabama Legislature "to provide rehabilitation services, to the extent needed and feasible within resources available, to eligible children and adults with disabilities throughout the state, so that they may engage in meaningful education and employment opportunities and live independently to the extent of their capabilities, thereby increasing their social and economic well-being and that of their families, and the productive capacity of this state and nation, also thereby reducing the burden of dependency on families and taxpayers." Code of Ala. 1975, §21-9-1 (Acts 1994, 1st Sess., No. 94-824, §1).

Author: Alabama Board of Rehabilitation Services
Statutory Authority: Code of Ala. 1975, §§21-9-1.
History: New Rule: Filed April 13, 1995; effective May 18, 1995.
Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.02 Policy Against Discrimination.

It is the policy of the Board of Rehabilitation Services and the Department of Rehabilitation Services that no person shall ever be excluded from participation in, denied the benefits of, or subjected to discrimination under any program, activity, employment, or service administered by the department, on the basis of race, color, creed, religion, national origin, sex, disability, or age.

Author: Alabama Board of Rehabilitation Services
Statutory Authority: Code of Ala. 1975, §21-9-9.
History: New Rule: Filed April 13, 1995; effective May 18, 1995.
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795-1-1-.03 Definition Of Terms.

To the extent not otherwise defined within these rules and regulations or otherwise by law, the follow definitions shall apply:

- (a) Board. The Alabama Board of Rehabilitation Services.
- (b) Commissioner. The Commissioner of the Department of Rehabilitation Services.
- (c) Department. The Alabama Department of Rehabilitation Services.

Author: Alabama Board of Rehabilitation Services
Statutory Authority: Code of Ala. 1975, §21-9-2.
History: New Rule: Filed April 13, 1995; effective May 18, 1995.
Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.04 General Description Of Organization And Operation.

The Alabama Department of Rehabilitation Services is an independent department of government within the State of Alabama directly responsible to the Board of Rehabilitation Services for

the direction and supervision of rehabilitation services for the citizens of the state from birth to old age, through, among others, the following component programs:

(1) Early Intervention Program, a system that provides early intervention services under Part H of Public Law 99-457, 20 U.S.C. §§1471 to 1485 inclusive, for children, birth through two years of age, who are experiencing developmental delay(s) in one or more of the five developmental areas (cognitive, physical including vision and hearing, communication, social or emotional, adaptive), or who have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay(s). Under Alabama law, the Department serves as the designated lead agency for this statewide system. Cf. Code of Ala. 1975, §§21-3A-1, et seq. and 21-9-2(3)b.

(2) Children's Rehabilitation Service, a service program that provides educational, medical and rehabilitative services for children with special health care needs, including coordination and support for their families through community-based programs.

(3) Hemophilia Program, a service program that provides educational, medical and habilitative services for persons who require continuing treatment with blood, blood derivatives, or a manufactured pharmaceutical product to avoid disabling conditions, hospitalization, or other effects associated with hemophilia.

(4) Adult Vocational Rehabilitation Service, a service program that provides training and employment-related services for persons who have disabilities that present a substantial barrier to employment and who, as a result of services, have a reasonable expectation of becoming employed. Adult Vocational Rehabilitation Service also offers special services for the sensory impaired and provides employment opportunities for those who have hearing or visual impairments or both.

(5) Business Enterprise Program, a specialized program that provides merchandise and food service vending employment opportunities for individuals who are legally blind.

(6) Homebound Service, a service program that provides nursing, counseling, patient and family education, and attendant care services for persons with severe disabilities to enable them to achieve maximum independence in their home environment.

(7) Community Support Services, a service program that helps people with severe disabilities to fully participate in their community and achieve an independent lifestyle. Services

available include peer counseling, information and referral assistance, independent living skills training and advocacy.

(8) Client Assistance Program, a consumer and client advocacy service program designed to provide information and resolve problems or questions related to the provision of vocational rehabilitation services.

(9) Governor's Committee on Employment of People with Disabilities, a program that is funded by the state to increase awareness, provide information, and reduce barriers to employment for people with disabilities.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-3A-1 et seq.; 16-38-1 et seq.; 21-5-1 et seq.; 21-6-1 et seq.; 21-1-40 et seq.; 21-8-1 et seq.; 21-9-2(3).

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.05 Appointment And Composition Of The Board.

The Board of Rehabilitation Services is composed of seven members, appointed from each the United States Congressional Districts by the Governor and confirmed by the Senate, whose makeup reflects the diversity of the population of the State of Alabama Three of its members are individuals with a disability selected from consumer disability organizations; one member is a parent of a child with a disability; and three members are selected from organizations of business and industry within the state. Members serve staggered seven-year terms and continue to serve upon the expiration of their term until appointment of their successor by the Governor and confirmation by the State Senate or 60 days after the expiration of their term, whichever occurs first, provided that no member may serve as a member of the Board for more than two consecutive seven-year terms, and provided further that no board member shall be an employee or elected official of the State of Alabama or a political subdivision thereof.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-4 and 21-9-5.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.06 Appointment, Powers And Duties Of The Commissioner.

The Board appoints a Commissioner who is responsible for the operation, management, control, supervision, maintenance, regulation and improvement of the department. Except as otherwise clearly indicated, the Commissioner shall have full authority to act, transact business and make decisions concerning the management of the department. Pursuant to Code of Ala. 1975, §§21-9-9 through 21-9-11, the Board of Rehabilitation Services delegates to the Commissioner such powers as are necessary to execute each of the duties prescribed below. The powers granted herein are in addition and supplemental to any other powers delegated to the Commissioner by law or the rules and regulations of the Board and shall not be construed to constitute a limitation on the powers of the Commissioner of Rehabilitation Services. The Commissioner is authorized and empowered to perform all acts necessary in pursuit of the following specific duties and activities:

(1) Enforce the rules and regulations of the board governing the department's services and programs.

(2) Appoint to positions of employment those professional, clerical, and other assistants, including specialists and consultants, on a full-time or part-time basis as may in the judgment of the Commissioner be required to fulfill the mission and carry out the functions of the department.

(3) Prepare, or cause to be prepared, an annual report to the board on activities of the department, submitted on the first day of December, or as early thereafter as practicable, for its approval and adoption, as well as prepare, or cause to be prepared, all other reports which are required of the board.

(4) Initiate and promulgate, subject to the ratification of the board, all rules and regulations necessary to carry out the purposes of the board and to conform with state and federal law. In the event that prior approval of the board is impractical, the Commissioner shall have full authority to promulgate and implement emergency rules and regulations subject to board review at its next regularly scheduled meeting.

(5) Establish subordinate administrative units within the department.

(6) Prepare and submit to the board and the Legislature annual reports of activities and expenditures and, before each

regular session of the Legislature, coordinate budget requests required to conduct the affairs of the department.

(7) Supervise all institutions, offices, programs, and services now existing or hereafter acquired or created under the jurisdiction of the department.

(8) Certify the disbursement of available funds.

(9) Delegate to any officer or employee of the department those powers and duties necessary to conduct the affairs of the department

(10) Prepare or cause to be prepared, subject to approval and adoption or clarification by the board, legislative measures needed for the further development and improvement of rehabilitation services.

(11) Negotiate and enter into all contracts and agreements necessary in the judgment of the Commissioner for the department to carry out its functions.

(12) Execute orders approved by or on behalf of the Board.

(13) Accept and hold, acquire, invest, reinvest, dispose of, divest, or otherwise use gifts, donations, devises, or bequests of money, or real or personal property made for the purpose of furthering rehabilitation services.

(14) Hold, lease, or rent in the name of the department real or personal property and make any repair and improvement on all property under the control of the department; and subject to the approval of the Governor, construct, acquire, sell, or convey title to real estate.

(15) Consult with and advise other state agencies to assist them in meeting the needs of people with disabilities more effectively and to achieve maximum coordination among programs for people with disabilities.

(16) Establish advisory councils consistent with the needs of the board and the department.

(17) Support, assist, and cooperate with the Governor's Committee on Employment of People with Disabilities.

(18) Take any necessary or appropriate action for cooperation with public and private agencies and organizations which may include, but is not limited to the development and execution of:

- (a) Reciprocal agreements with other states to provide for the rehabilitation of individuals with the states concerned.
 - (b) Contracts or other agreements with public and other nonprofit agencies and organizations for the construction or establishment and operation of community rehabilitation programs and facilities.
 - (c) Cooperative agreements with the federal government for carrying out any federal requirements pertaining or related to disability and facilities.
 - (d) Requirements necessary to obtain federal funds in the maximum amount and the most advantageous proportion for the state as possible.
- (19) Conduct, sponsor, or participate in research and demonstration projects, including inquiries concerning the causes of disability and its prevention; provide training and instruction, including the establishment and maintenance of research fellowships and internships together with necessary stipends and allowances; disseminate information; and provide technical assistance relating to disability and rehabilitation.
- (20) Plan, establish, and operate programs, facilities, and services relating to disability and rehabilitation.
- (21) Establish a program of attendant care and home case management.
- (22) Establish and provide consultative services for small business enterprises operated by individuals who are eligible for rehabilitation services.
- (23) Appear in person or through a designated delegate or agent and represent the Board and the department before the Permanent Joint Legislative Committee on Finances and Budget.
- (24) Represent the Board and the department before any committee or session of the House of Representatives or Senate of the Alabama Legislature, and before all executive departments, boards and agencies, and the courts.
- (25) Appear in person or through a designated delegate and represent the Board and the department before any federal agency, bureau, department, or commission; the United States House of Representatives and Senate or any subcommittee thereof, and the courts.
- (26) Perform such other functions as may be necessary to supervise, direct, conduct and administer the day-to-day

duties of the Department as authorized by law or by rules and policies adopted by the Board of Rehabilitation Services.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-9 through 21-9-11.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.07 Requests For Information.

The Commissioner is designated agent for the Board for service of legal process upon the Board and its members in their official capacities. All correspondence to the Board, including requests for information and all submissions and other requests should be made to the Commissioner at the Board's headquarters in Montgomery, Alabama.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-8 through 21-9-11.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.08 Election Of Officers, Quorum, And Meetings.

(1) Election. The Board shall elect a chair and vice-chair each of whom shall serve for two-year terms.

(2) Quorum. Four members of the Board shall constitute a quorum. The elected chair or the chair's designee shall preside at all meetings of the Board. In the absence of the chair, the vice-chair shall preside.

(3) Secretary. The Commissioner of the Department shall serve as secretary to the Board.

(4) Compensation and expenses. Board members are compensated on a per diem basis, not to exceed the current per diem allowed for state employees, for days actually spent in performance of their duties. Additionally, members the Board shall be reimbursed for travel and all actual expenses incurred in performance of their duties as provided in §21-9-7 and 36-7-20, Code of Ala. 1975.

(5) Meetings. Regular meetings of the Board shall be held at a time and on a date set by the Board. The Board shall hold at least one regular meeting each calendar quarter to conduct its business. Such meetings shall be open to the public and shall be for the purpose of transacting those items of business which may be required.

(6) Special Meetings. Special meetings may be called as necessary by the Commissioner, the chair, or at the request of any four members of the Board to the Commissioner or the chair, and may be held at any place agreed upon by a quorum of the Board. Each member of the Board shall be given at least ten days' notice of the time, place, and purpose of any special meeting by the chair or Commissioner, unless such notice is waived by the individual member or unless such member is present at the called meeting. Unless approved by a two-thirds majority of the Board present, items which have not been placed on the agenda in advance of the meeting as required by this rule shall not be considered by the Board.

(7) Voting. All members of the Board, including the chair, are entitled to vote and to make or second motions. A majority of those members of the Board present and voting on any matter shall decide the matter before the Board, except on procedural and evidentiary matters provided for elsewhere in these rules, or as otherwise provided by law.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§ 21-9-5 through 21-9-8, 36-7-20.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.09 Agenda, Order Of Business, And Rules Of Order.

(1) The agenda for any regular meeting of the Board shall be prepared by the Commissioner in consultation with the chair of the board. Requests for an item to be placed on the agenda including resolutions shall be filed together with a copy of any proposed resolution or other pertinent information with the secretary to the Board at least fourteen (14) calendar days prior to the scheduled meeting. Unless approved by a two-thirds majority of the Board present, items which have not been placed on the agenda in advance of the meeting as required by this rule shall not be considered by the Board.

(2) The order of business for a meeting shall be as follows unless otherwise amended by the Board:

(a) Call to order.

(b) Verification by the secretary that a quorum of members is present

(c) Approval of the minutes of last meeting. (d) Approval of the agenda.

- (e) Commendations and awards.
- (f) Presentations and delegations.
- (g) Public Hearings pursuant to the Administrative Procedures Act.
- (h) Commissioner's reports
- (i) Unfinished business.
- (j) New business.
- (k) Announce date, time and place of next regular meeting.
- (l) Adjournment.

(3) All proceedings of the Board shall be governed by Robert's Rules of Order, latest revised edition, except where otherwise provided by law or in these rules.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-8 and 21-9-9.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.10 Use Of Forms.

All applications and requests for which the Board has prescribed a form must be made on the prescribed form. Copies of forms in use and instructions for their completion are available from the Commissioner.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-9, 41-22-4.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.11 Public Records.

(1) To the extent not otherwise defined within department rules and regulations, or otherwise by law, the following definitions shall apply:

- (a) "Public records" for the purpose of these rules means all Board or department records which are reasonably necessary to record the business and activities required to be done or carried on by the Board and department. Records which do not constitute "public records" include, but are not necessarily

limited to, those received by a public officer in confidence, sensitive personnel records, applicant, client and patient records, complaints against persons deemed licensees of the department (e.g., blind vendors licensed by the department to participate in the Business Enterprise Program), pending criminal and quasi-criminal investigations and records, those matters protected by statute, case law, or administrative rule, and records the disclosure of which would be detrimental to the best interests of the public. All questions regarding classification of a document as public or confidential should be referred to the Legal Office.

(b) A "standard request" is a public-records request that requires no or minimal clarification from the requestor and seeks one or more specifically and discretely identified public records that the department determines will take less than eight (8) hours of staff time to process considering the time needed to identify and retrieve the records, and to redact legally protected information.

(c) A "time-intensive request" is a public-records request the department determines will take more than eight (8) hours of staff time to process. Factors include, but are not limited to, a request that is vague or overly broad, a large volume of responsive records, and the amount of redaction required in order to withhold legally protected information.

(2) Public records are available for inspection at Board headquarters during regular business hours upon reasonable notice to department and upon such terms and conditions so as not to disrupt the orderly conduct of the department's affairs.

(3) Any person who desires to inspect or obtain copies of public records may forward a request to the Commissioner or Public-Records Coordinator, either electronically by email to public.records@rehab.alabama.gov or by completing the Public Records Request Form located on the public records webpage of the department's website. Requests can also be made by mail, or in person, pursuant to the provisions of the Alabama Open Records Act, Code of Ala. 1975, §36-12-40.

(a) The department will send a written acknowledgment of receipt within two business days of receiving a request for public records. The acknowledgment will include an estimate of fees, if applicable. Responses to standard requests will be provided within fifteen (15) business days of acknowledging receipt. The department may extend this period in fifteen (15)-business day increments upon written notice to the requestor if it determines additional time is required.

(b) Requestors will be notified within fifteen (15) business days after acknowledgment of receipt of a public records request if the department determines the request time-

intensive. The notification will include an estimate of fees the department will charge and the mandatory Public Records Request Form required for time-intensive requests. Upon receiving notice that a request has been deemed time-intensive and of the fees that will be charged for processing, a requestor will have the opportunity to withdraw the original request and submit a new request narrowing the scope of the records sought. Should the requestor decide to proceed with the original public records request, the department will provide the requested records or deny the request within forty-five (45) business days after receiving notice of the requestor's decision, the completed Public Records Request Form, and payment of fees. The department may extend this period in forty-five (45)-business day increments upon written notice to the requestor.

(c) Copies of records will be provided at a cost of \$20 per hour for time spent locating, retrieving, and preparing records for production. There will be a standard \$20 minimum fee. Hard copies will be provided for an additional \$.50 per-page fee. There will be no per-page fee for documents produced electronically. Reimbursement for actual costs incurred in processing (e.g., flash drives, DVD's, search of electronic databases, including servers, etc.) will be sought. The requestor will be notified in advance of being charged.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-9, 41-22-4.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021. **Amended:** Published July 31, 2023; effective September 14, 2023.

795-1-1-.12 Electronic Records And Electronic Signatures.

(1) Legal Basis. The Alabama Uniform Electronic Transactions Act, Code of Ala. 1975, §§8-1A-1, et seq., facilitates the use of electronic documents in business, commercial, and governmental transactions. The act promotes but does not require the use of electronic signatures and the creation of electronic documents.

(2) Definitions. Including the definitions provided in the Alabama Uniform Electronic Transactions Act, the following words where used in this rule shall have the following meanings:

(a) Electronic. Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, telephonic, or similar capabilities. This definition shall be applied broadly as new technologies develop.

(b) Electronic Record. A record created, generated, sent, communicated, received, or stored by electronic means.

(c) Electronic Signature. A secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(3) Use of Electronic Documents. Department may create retrievable electronic records or copy, by optical scan or otherwise, paper original documents or make other images or paper copies which accurately reproduce the original document. The electronic document has the same confidential and public document characteristics of a paper document.

(4) Use of Electronic Signatures. The Department may create and accept electronic signatures for any signature that is required by the Department.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §8-1A-18.

History: New Rule: Published June 30, 2021; effective August 14, 2021.

Ed. Note: Previous Rule .12 was renumbered .13 per certification published June 30, 2021; effective August 14, 2021.

795-1-1-.13 Confidentiality Of Information And Client Records.

All client and applicant information acquired shall remain the property of the Alabama Department of Rehabilitation Services. This information shall only be used and released for purposes directly related to the administration of programs, within the Department. Use and release of personal information shall conform to applicable state and federal law and regulations.

(1) An applicant, client, or parent or legal guardian in the case of a minor, or authorized representative may, upon reasonable notice received in writing and at a reasonable time during normal business hours, review all of the applicant's, client's, or minor's records maintained by the Department relating to the grant, denial, or provision of services. A Department staff member shall be present during any review. The Department make all information in the case record available except:

(a) an applicant, client, or parent in the case of a minor, or authorized representative may review only his or her own records, or the records of his or her own child or client;

(b) when the Department believes medical, psychological, or other information may be harmful to the individual, the information may not be released to the individual, but shall be provided through his or her authorized representative, a physician, or licensed or certified psychologist; and

(c) information obtained from another organization or agency may be released only under the conditions established by the outside agency, organization, or provider.

(2) All applicants and clients, or their authorized representatives, shall be informed of the confidentiality of records. Release of information must be by written consent of the client or applicant or authorized representative and must include:

(a) the nature of the information to be released;

(b) designation of the parties to whom the information may be released;

(c) the specific purpose for which the information is sought to be released;

(d) designation of the agency or person authorized to disclose the information; and

(e) dates of initiation and termination of consent.

(3) Upon written consent of an individual or an individual's authorized representative, the Department may release information that could otherwise be released to that individual, to the client's designee

(4) The Department may disclose information pertaining to an applicant, or client without consent of the individual to its employees, agents, and providers who have a need for access to the information.

(5) Except as authorized above, employees of the Department shall not divulge the contents of any records to any person, or testify in court or in an administrative hearing, nor release records without the consent of the individual unless served with an appropriate subpoena or process and ordered to do so by a judge, hearing officer, or other lawful authority.

(6) The Department may charge a reasonable fee for any copies of records reproduced, said reasonable fee to be set from time-to-time in the discretion of the Commissioner, but not in excess of \$1.00 per page.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-5, 41-22-4.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

Ed. Note: Previous Rule .12 was renumbered .13 per certification published June 30, 2021; effective August 14, 2021.

795-1-1-.14 Declaratory Rulings.

(1) The Commissioner may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of the rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board and the Department, or with respect to the meaning and scope of any order of the Board. Such rulings shall be issued provided:

(a) The petitioner shows that he/she is substantially affected by the rule in question;

(b) Sufficient facts are supplied in the request to permit the Commissioner to make a valid determination; and

(c) The request arises from an actual question or controversy.

(2) In order to be considered, a petition for a declaratory ruling shall contain the following minimum information:

(a) A title reflecting that the petition seeks a declaratory ruling on a rule or rules.

(b) The Petitioner's name, address, and telephone number.

(c) A statement identifying all rules or statutes that may be involved in the petition, if known

(d) A clear and concise statement of the precise factual situation involved.

(e) The exact question to which an answer is desired. (f) The reason for submitting the petition.

(g) Full disclosure of the petitioner's interest.

(h) A statement as to whether the petitioner's case or question presented is presently under consideration by the Department of Rehabilitation Services or by any judicial or quasi-judicial body in any pending proceedings, and if so where.

(i) A certification and signature of Petitioner before a notary public or other person authorized by law to administer oaths that the information contained in the petition is true and correct to the best of petitioner's information and belief, and that the petition has not been filed for any improper purposes, or for delay or harassment.

(3) Failure or refusal to completely disclose or provide the minimum information required by these rules shall be grounds for dismissal of the petition.

(4) Declaratory rulings shall not issue with respect to generalized grievances or matters that are currently pending before the Department or any judicial or quasi-judicial body in any administrative review, formal hearing, proceeding, contested case or litigation, nor be utilized as a means of collateral attack on or appellate review of any final decision of the Department, or any judicial or quasi-judicial body.

(5) All rulings will be made in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, §41-22-11.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §§21-9-9, 41-22-11.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

Ed. Note: Previous Rule .13 was renumbered .14 per certification published June 30, 2021; effective August 14, 2021.

795-1-1-.15 Petitions For Adoption, Repeal, Or Change Of Rule.

(1) Any person may petition the Department for the adoption of a new rule or for the repeal or change of any existing rule.

(2) Action by the Department on any such petition shall be as provided in the Code of Ala. 1975, §41-22-8.

(3) In order to be considered, a petition for a rule change shall be in writing and contain the following minimum information:

(a) A title reflecting that the petition seeks the adoption of a new rule, or the modification or repeal of an existing rule or rules.

(b) The Petitioner's name, address, and telephone number.

(c) A statement identifying all rules or statutes that may be involved should the relief sought in the petition be granted in whole or in part.

(d) A clear and concise statement or narrative as to why the new rule, or modification or repeal of an existing rule is needed, specifying:

1. the persons or class of persons it would affect and how it would affect
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 complete addresses of any persons, firms, organizations, and the identity of any class of persons known to the petitioner who would be or could be adversely affected by the proposed rule, modification or repeal.

(e) The reason for submitting the petition, if not apparent from the face of the petition.

(f) Full disclosure of the petitioner's interest.

(g) A statement as to whether the issues presented by the petition are presently under consideration by the Alabama Department of Rehabilitation Services or by any judicial or quasi-judicial body in any pending proceedings, and if so where.

(h) A certification and signature of Petitioner before a notary public or other person authorized by law to administer oaths that the information contained in the petition is true and correct to the best of petitioner's information and belief, and that the petition has not been filed for any improper purposes, or for delay or harassment.

Author: Alabama Board of Rehabilitation Services

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

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

795-1-1-.16 Severability.

If any of the rules and regulations of the Board which shall be known as the Alabama Department of Rehabilitation Services

Administrative Code, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each rule and/or any portions thereof, are severable.

Author: Alabama Board of Rehabilitation Services

Statutory Authority: Code of Ala. 1975, §21-9-9.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

Ed. Note: Previous Rule .15 was renumbered .16 per certification published June 30, 2021; effective August 14, 2021.

795-1-1-.17 Adoption Of Existing Rules By Reference.

(1) In order to provide continuity in services, and to the extent not otherwise provided for by these rules, the Board of Rehabilitation Services, subject to the amendments provided for in subsection (2) of this rule, adopts by reference those rules, policies and guidelines promulgated and in effect as of December 31, 1994, pertaining to the provision of services by or within the following programs:

- (a) Early Intervention System
- (b) Children's Rehabilitation Service
- (c) Hemophilia Program
- (d) Adult Vocational Rehabilitation Service
- (e) Business Enterprise Program
- (f) Homebound Service
- (g) Community Support Services
- (h) Client Assistance Program
- (i) Governor's Committee on Employment of People with Disabilities.

Copies of the original of any rule referred to and adopted herein may be obtained from the Department subject to reasonable costs of copying.

(2) References to the State Board of Education; the Superintendent of Education; and the Department of Education, Division of Rehabilitation Services, within any rule adopted by reference here

and as applied to any program identified in the preceding subsection, shall be understood to refer to the Alabama Board of Rehabilitation Services, the Commissioner, and the Alabama Department of Rehabilitation Services. Where mentioned in any enabling legislation or statute, or in any part of the Alabama Administrative Code adopted by reference here, references to the Division of Rehabilitation and Crippled Children Service shall be understood to refer to the Alabama Department of Rehabilitation Services; the State Director shall be referred to as the Commissioner of the Department; Vocational Rehabilitation shall be referred to as Adult Vocational Rehabilitation Service; State Homebound Program shall be referred to as Homebound Service; and State Crippled Children Service shall be referred to as Children's Rehabilitation Service.

(3) Questions concerning the construction and applicability of any rule adopted by reference herein shall be submitted first to the Department, care of legal counsel for the Department, before presentation to the Commissioner. The decision of the Commissioner as to the meaning and construction of any rule adopted by reference here shall be final.

(4) It is the intention of the Board of Rehabilitation Services that common sense and plain meaning shall govern the construction of any rule herein adopted by reference and as applied to the Department of Rehabilitation Services and any division or unit thereof. In the event the application of this rule and the substitution of the State Board, Department and Commissioner of Rehabilitation Services for the State Board, Department and Superintendent of Education shall create any conflict incapable of reasonable construction of any rule adopted by reference, then any person adversely affected by the rule may petition the Department to amend or repeal that rule, or adopt a new rule as elsewhere provided in the Alabama Administrative Code.

Author: Alabama Board of Rehabilitation Services Statutory

Statutory Authority: Code of Ala. 1975, §§21-9-9; 41-22-9.

History: New Rule: Filed April 13, 1995; effective May 18, 1995.

Repealed and New Rule: Published June 30, 2021; effective August 14, 2021.

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