

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 950
Department or Agency: Alabama Department of Youth Services Administrative Division
Rule No.: 950-1-4-.06
Rule Title: Licensing Procedures
Intended Action: Amend

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? Yes

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making 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 manner 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 Services Agency.

Signature of certifying officer

Dudley Perry
Dudley Perry

Date

Tuesday, October 15, 2024 OCT 15, 2024

REC'D & FILED

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF YOUTH SERVICES ADMINISTRATIVE DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Youth Services

RULE NO. & TITLE: 950-1-4-.06 Licensing Procedures

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The Alabama Department of Youth Services proposes to amend Rule 950-1-4.07 of the administrative code to correct typographical errors, and enhance accountability measures relating to licensing standards, including nonmandatory standards.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing during regular business hours to the ADYS Legal Division, P.O. Box 66, Mt. Meigs, AL 36057, or orally at the ADYS Legal office after December 5, 2024, and before January 29, 2025, located at 1000 Industrial School Rd., Mt. Meigs, AL 36057.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, January 29, 2025

CONTACT PERSON AT AGENCY:

T. Dudley Perry, Jr. (334)
215-3803

Dudley Perry

Dudley Perry

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

950-1-4-.06 Licensing Procedures.

(1) **Application and Procedure for a License.** Application for a license

(a) Any person, group of persons or corporation may request an application form for a license to operate a ~~facility by contacting the Department of Youth Services Licensure and Standards Division, Atten: Licensing~~ Facility by contacting the Department of Youth Services Community Services Division, Attention: Deputy Director, by letter.

(b) Applications for a license shall be made on a Departmental approved form and shall contain all information requested on the form including social security number if the applicant is an individual.

(c) With the application form, an applicant must obtain a copy of Minimum Standards for the type of Facility they wish to operate. Minimum Standards are contained in this chapter and/or in the applicable publication for Standards by the American Correctional Association (ACA), including Supplements. The applicant is responsible for obtaining the applicable ACA Standards.

(d) The completed application must be returned to the Department within thirty days from the date of written inquiry if such person, etc., wishes to pursue the plan to operate a Facility.

(e) The applicant must provide a manual for policies and Procedures.

~~(i)~~

(f). Examination and Investigation of Application

~~(i)~~

1. Upon receipt of the completed application, a representative of the Department of Youth Services Licensure and Standards Division will examine the premises proposed for the Facility and will investigate the person(s) responsible for the Facility in accordance with the requirements of Section III of the Licensing Manual.

~~(ii)~~

2. The examination and investigation will be based on the Minimum Standards and regulations as prescribed and published by the Department.

~~2~~

(g). Disposition of the Application

~~(i)~~

1. Upon completion of the examination and investigation, a licensing inspection visit will be scheduled and conducted at the Facility.

~~(ii)~~

2. When compliance with mandatory and non-mandatory Standards of the Minimum Standards has been met, the Department will issue a full license.

~~(iii)~~

3. If denial of license is indicated, the Department will notify the applicant, verbally and in writing, of the decision, pointing out and discussing those areas of the **Mandatory** Standards that have not been met.

~~3.~~

(h) Six Month License/Permit

~~(i)~~

1. No license may be issued without compliance with all mandatory Standards of the Minimum Standards. If certain areas of the non-mandatory Standards of the Minimum Standards are identified as lacking in the Facility, and if the applicant can demonstrate or document good faith action towards full compliance with the regulation(s), the Department may issue a six-month license/permit to persons making initial application for a license to allow the Facility reasonable time to become eligible for a full license.

~~(ii)~~

2. A full license will be issued when the Department determines that mandatory Minimum Standards have been met and at least 90% of non-mandatory standards have been met.

~~4.~~

(i) Renewal of a License

~~(i)~~

1. A License Renewal Application to continue operating a Facility shall be made to the Department ninety days prior to the expiration date of the current license.

~~(ii)~~

2. The Department shall Audit all mandatory and non-mandatory Standards of the Facility being licensed.

~~(iii)~~

3. A renewal of a license shall be issued, if, upon completion of the Audit 100% of the mandatory Standards and 90% of the non-mandatory Standards and quality of life are in compliance.

~~5.~~

(j) Department Visits, Inspections and Consultation

~~(i)~~

1. Visits to the Facility are made by representatives of the Department to determine continued conformity with licensing Standards and to provide consultative services.

~~(ii)~~

2. The licensee shall have the opportunity to submit, in writing, information regarding complaints alleged against him/her and/or the Facility, and shall have the opportunity for a full discussion about such complaints.

(2) Corrective Action.

(a) If an Audit indicates non-compliance with the mandatory Standards, repeated non-compliance with non-mandatory Standards, or the situation otherwise warrants, a Plan of Action may be required to allow the licensee, upon approval, to achieve compliance with ~~the mandatory~~ Standards while continuing to care for Youth. Notice shall be given to the licensee of the deficiency or deficiencies, the Standards in issue, and the date by which the Plan of Action must be submitted, such that the licensee has sufficient opportunity to devise a Plan of Action within the time allowed. The Plan of Action shall include:

1. A statement of each deficiency and the Standard in issue
2. A description of how the deficiency shall be corrected
3. The date by which corrections shall be completed
4. Approval of the Department of Youth Services Licensure and Standards Division

(3) Accountability Measures.

1. If after notice and an opportunity to respond, a licensee fails to correct a deficiency as described in this Chapter including non-mandatory Standards, the Department may exercise its discretion to initiate accountability measures. In such event the Deputy Director of Community Services will notify licensee of its intent to proceed as described in this section. Such notice will:
 - a. Reference prior enforcement efforts,
 - b. Summarize licensee's responses and the continuing deficiencies,
 - c. Reference the Standards in issue, and
 - d. Allow 5 business days for compliance.
2. If the deficiencies have not been corrected within 5 business days after notice, the Department may proceed to any or all of the following accountability measures:
 - a. Increased Monitoring;
 - b. Increased frequency of site visits, including:
 - i. Annual license renewal Audits;
 - ii. Unannounced pre and post Audits;
 - iii. Six-Month reviews to monitor program efforts to improve compliance;
 - c. Mandatory licensing consultative meeting;

- d. Mandatory face-to-face meeting with the program's administrative staff, licensing and standards staff, the Administrator of Community Services, and/or the Deputy Director of Community Services to address consistent patterns of non-compliance with non-mandatory standards.
- e. Reduction, in an amount determined by the Executive Director, of grant funds, subsidy funds, contract per diem, or other funds provided or paid through or by the Department;
- f. Reduction in occupancy, referrals, or licensed capacity;
- g. Suspension of license--If after a reasonable time DYS determines insufficient incremental improvement toward compliance has not been achieved, the Department may suspend the license.

(4) Revocation of a License.

(a) Under certain circumstances as determined by the Department, waiver(s) may be issued for non-compliance with non-mandatory Standard(s).

~~(a)~~

(b) The Department may revoke or refuse to renew a permit of any Facility or refuse to issue a full license to the holder of a ~~six-month license, should the licensee or holder of a six-month~~ license, should the licensee or holder of a six month license/ permit do any of the following:

1. Fail to maintain Standards prescribed and published by the Department
2. Violate the provisions of the license issued.
3. Furnish or make any misleading or any false statements or report to the Department.
4. Fail to immediately submit to the Department any reports, or refuse to make immediately available to the Department any Records required by the Department in making inspection of the Facility for licensing or investigative purposes.
5. Fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of inspection or investigation.

6. Fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for care as required by any law, regulation or ordinance applicable to such Facility.

7. Fail to maintain financial Records and resources adequate for the satisfactory proof and care of Youth served in regard to upkeep of premises and provisions for personal care, medical services, appropriate educational services, clothing, learning experiences and other essentials in the proper care, rearing and Training of youth.

~~(b)~~

(c) If a routine inspection, an inspection conducted in response to a complaint, or conduct for any other reason discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, the safety, or the physical, moral, or mental well-being of the youth in the care of the Facility being inspected, the Department shall have the power to revoke without notice the license or approval or six-month license/permit.

~~(e)~~

(d) The Department will not revoke or refuse to renew a license for failure or refusal to submit reports or Records to the Department unless the Department has made written demand on the person, firm or corporation operating the Facility for a period of ten (10) days from the date of such request.

~~(4)~~

(5) Provisions of the License

(a) Licenses issued by the Department to facilities are valid for one year from the date of issuance, unless revoked by the Department or voluntarily surrendered by the licensee.

(b) Each Facility is licensed for a maximum occupancy capacity. Except under circumstances approved by the Department, the Facility shall not exceed the number specified in the license.

(c) The license is not transferable from one individual or group or corporation to another, or from one building to another.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a), (b); 44-1-24(4), (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January 21, 2005. Amended: Filed November 6, 2018; effective December 12, 2018.

Author: Alabama Department of Youth Services, Office of Licensing and Standards

Statutory Authority: Code of Ala. 1975, §§44-1-27(a) (b);
44-1-24(4) (6); 38-13-4.

History: New Rule: Filed December 17, 2004; effective January
21, 2005. **Amended:** Filed November 6, 2018; effective December
21, 2018. **Amended:** Published October 31, 2023; effective
December 15, 2023. **Amended:** Published ; effective
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