APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No.: 660

Department or Agency: Alabama Department of Human Resources Social Services Division

Rule No.: 660-5-34-.08

Rule Title: Due Process

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

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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: *Felicia M. Brooks*

Felicia M. Brooks

REC'D & FILED

Date: Friday, October 16, 2026

OCT 19, 2026

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Human Resources

RULE NO. & TITLE: 660-5-34-.08 Due Process

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:
To align the language of the Admin. Code provision with that of the Alabama Code.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
All interested parties may submit data, views, or arguments respecting the proposed amendment by mail or in person through the close of business on December 4, 2026. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330, or set up an appointment for such oral/in-person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, December 4, 2026

CONTACT PERSON AT AGENCY:
Kenneth Elmer, APA Secretary
Department of Human Resources
Legal Division
P.O. Box 304000
Montgomery, AL 36130
(334) 242-9330

Felicia M. Brooks

Felicia M. Brooks

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

660-5-34-.08 Due Process.

The following rules apply to CA/N assessments conducted by County Departments of Human Resources and child abuse/neglect investigations conducted by law enforcement agencies and state agencies operating child residential facilities except for incidents involving military personnel and incidents occurring on Indian reservations where the Department does not have jurisdiction to conduct an CA/N assessment.

(1) All ~~persons allegedly responsible~~alleged perpetrators for abuse/ neglect with substantiated (i.e., indicated) CA/N dispositions must be given an opportunity to disagree with the Department's findings through either a CA/N hearing or an administrative record review. If the ~~persons allegedly responsible~~alleged perpetrator(s) are age fourteen (14) or above, the notice is sent in care of the persons' parents or custodians who may request the hearing or record review on their behalf. For foster children in the department's care, the request is to be submitted by child welfare staff of the county department that holds legal custody of the child.

(2) Any person who is approved, licensed, or certified to care for children; and any person who is employed (i.e., professional, non-professional, contract) by, serves as a volunteer for, or is connected with (e.g., students completing an educational practicum, board members) any facility, agency, or home which cares for and controls any children **and** the facility is licensed, approved, or certified by the state; operated as a state facility; or is any public, private, or religious facility or agency that may be exempt from licensing procedures must be offered a CA/N hearing when they have been identified as the ~~person allegedly responsible~~alleged perpetrator for abuse/neglect and the preliminary CA/N disposition is "indicated." These individuals must be offered a hearing even if they were reported to have abused/neglected their own children.

(3) Any ~~person allegedly responsible~~alleged perpetrator for abuse/neglect who has a preliminary "indicated" disposition and is **not initially** entitled to a CA/N hearing must be offered an administrative record review. The record review is completed to determine if the CA/N assessment contains sufficient documentation based on a preponderance of credible evidence to support the "indicated" disposition of child abuse/neglect.

(a) Except where written consent or a release is obtained, written notification of an opportunity for a

child abuse/neglect hearing or administrative record review must be given to the ~~person allegedly responsible~~alleged perpetrator for abuse/neglect before releasing information from reports to employers, prospective employers, or licensing/certifying agencies or groups in out-of-home care settings as described in 660-5-34-.05 and under the following circumstances:

1. ~~Persons identified as allegedly responsible~~The alleged perpetrator(s) for abuse/neglect have contact with children or other vulnerable persons as a part of their employment or potential employment;

2. The child abuse/neglect report involves the person's biological children or any other children in any setting, or the care of vulnerable persons in any setting;

3. The CA/N assessment involves a preliminary disposition of "indicated" for the ~~person allegedly responsible~~alleged perpetrator for the abuse/neglect in a pending CA/N assessment; and

4. The Department determines that a completed CA/N assessment with an "indicated" disposition already entered into the Child Abuse/Neglect Central Registry without a hearing or review being offered should be shared for the protection of children.

(4) The ~~person allegedly responsible~~alleged perpetrator for abuse/neglect is given ten (10) departmental working days from the receipt of the notification to request a hearing or administrative record review. That request must be in writing, and if no such request is received in the Department's office within ten (10) working days, the person's opportunity for a hearing or record review is considered to be waived. The "indicated" disposition is then entered into the State Child Abuse/Neglect Central Registry, and the person's employer, prospective employer, facility administrator, or licensing/certifying agency or group may be notified about the findings of the CA/N assessment.

(5) If the findings of the child abuse/neglect report are upheld by the State administrative record reviewer(s) for an individual who is not initially entitled to an administrative hearing, then the ~~person allegedly responsible~~alleged perpetrator for child abuse/neglect is entitled to an administrative hearing. The ~~person allegedly responsible~~alleged perpetrator has ten (10) working days from the date of the notification to submit a request for an

administrative hearing. If the person fails to provide the written request to the record reviewer within the designated time frame, the opportunity for an administrative hearing is considered to be waived. If the opportunity for a hearing is waived, then a copy of the decision, which is considered final, will be sent to the county for filing in the CA/N record. State DHR child welfare staff shall then enter the final disposition into the Central Registry.

(6) If the Department determines that a child is in imminent danger of abuse or neglect, any person in a position to discover, prevent or protect the child from abuse or neglect may be informed of the information in a pending or concluded CA/N assessment. The person identified as responsible for the abuse/neglect may be offered a hearing or record review, if one has not already been held, subsequent to the dissemination of this information.

(7) A child abuse/neglect hearing is an internal investigatory hearing that is fact finding in nature and designed to elicit the facts in an atmosphere that allows the ~~person responsible~~alleged perpetrator for the abuse/neglect to contest the evidence presented against him. The following hearing procedures shall apply:

(a) Except as indicated below, the hearing procedures outlined in Chapter 660-1-5 shall apply to child abuse/ neglect hearings.

(b) The State Department of Human Resources shall conduct a hearing to determine by a preponderance of credible evidence that the child has been abused or neglected. Credible evidence means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that the ~~person~~ alleged ~~to be responsible~~perpetrator was responsible for the abuse/ neglect.

(c) The Department bears the burden of persuasion at the hearing.

(d) In the case of indicated reports, the function of the hearing officer in a pending investigation is to make: (1) a determination or finding regarding the facts of the case, and (2) a determination of whether the report is "indicated," according to the CA/N assessment guidelines and procedures outlined in the Department's Child Protective Services policy and the Department of Human Resources Administrative Rules.

(e) The hearing will not strictly follow the rules of evidence as followed by the circuit courts of the State.

(f) The evidence will be received at the discretion of the hearing officer if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(g) Relevant and material evidence, including hearsay evidence, visual drawings and testimony about the use of anatomically correct dolls, is admissible at the hearing.

(h) A child victim or witness may testify at the hearing without prior qualification.

(i) The hearing officer shall determine the weight and credibility to be given to the testimony of all witnesses.

(j) Videotaped testimony of a child victim or child witness may be allowed.

(k) Leading questions may be allowed of a child victim or child witness.

(l) Testimony and evidence admissible under the following statutes are also admissible in child abuse/neglect investigative hearings: Code of Ala. 1975, §~~12-15-65(g)~~12-15-310, §§15-25-1 through -6, and §§15-25-30 through -40.

(m) The hearing shall not be open to the public. However, an employer or licensing/certification representative may be present as a non-participant with the consent of the Department and the ~~person allegedly responsible~~alleged perpetrator for the abuse/neglect.

(n) The rules of discovery as followed by the courts of this State do not apply to the hearing. The ~~person allegedly responsible~~alleged perpetrator for the abuse/neglect has the following rights of access to information after providing a written request:

1. To be provided a short and plain written statement of the matters asserted which will be presented at the hearing. The request must be made prior to the date set for the hearing to be timely.

2. To review and copy, at cost, any written or recorded statement made by the ~~person allegedly~~

~~responsible~~alleged perpetrator to Department personnel in the course of the child abuse/neglect CA/N assessment. The request must be made prior to the date set for the hearing to be timely.

3. To review and copy at cost, before or during the hearing, the written material and other evidence in possession of the Department which will be placed into evidence at the hearing.

4. To an in camera (i.e., private) inspection by the hearing officer or an order issued to the Department by the hearing officer to review relevant Department child abuse/neglect record(s) to determine if there is any exculpatory evidence (i.e., evidence tending to clear or exonerate) in those records not available to the ~~person allegedly responsible~~alleged perpetrator through other sources which must be released as necessary to the constitutional fairness of the hearing. Such a request must be made at least five working days prior to the date set for the hearing to be timely.

5. To review and copy, at cost, all non-confidential Department documents.

6. To review and copy, at cost, all documents in the official hearing file maintained by the hearing officer.

(o) The hearing may be postponed or continued, as necessary, to ascertain all the facts or in order to provide a full and adequate opportunity for all the parties to present their case.

(8) Administrative record reviews are conducted by Departmental staff who are not involved with the case. Prior abuse/neglect reports involving the ~~person allegedly responsible~~alleged perpetrator are considered during the record review process to assist in determining the disposition. The reviewers have the authority to overturn the dispositional finding of the worker and supervisor, and their decision is final.

(9) Child abuse/neglect hearings and administrative reviews do not apply to child abuse/neglect CA/N assessments involving military personnel. Child abuse/neglect investigative procedures and disclosure of information involving military personnel are governed by military regulations and working agreements with military authorities.

Author: Felicia M. Brooks, Shawanda Harris
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 14, §12-15-310, Act No. 2026-375.
History: New Rule: Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007. **Amended:** Published April 30, 2025; effective June 14, 2025. **Amended:** Published _____; effective _____.