

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 290 Department or Agency State Department of Education
Rule No. 290-4-1-.04
Rule Title: Flexibility for Students in Failing Schools

New Amend
Repeal Adopt by Reference (Check appropriate box)

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

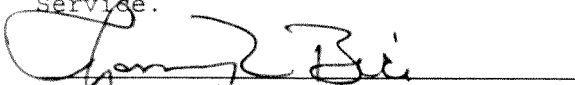
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule does have 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.


Thomas R. Bice
State Superintendent of Education

DATE 7/9/0

APA-2
11/96

STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: State Department of Education

RULE NO. & TITLE: 290-4-1-.04 Flexibility for Students in Failing Schools.

INTENDED ACTION: The State Department of Education proposes to adopt an emergency rule as a permanent new rule.

SUBSTANCE OF PROPOSED ACTION: This new rule implements the requirements of the Alabama Accountability of 2013.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 9:30 a.m., September 12, 2013, 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 (334-242-9700) no later than September 11, 2013, 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: September 12, 2013

CONTACT PERSON AT AGENCY: Dennis Heard
Alabama State Department of Education
P.O. Box 302101
Montgomery, Alabama 36130-2101
(334-242-9747)



Thomas R. Bice
State Superintendent of Education

290-4-1-.04 Flexibility for Students in Failing Schools.

(1) The State Superintendent of Education shall prepare a list of failing schools under the provisions of the Alabama Accountability Act of 2013. The list of failing schools will be provided to local school superintendents and will be posted to the State Department of Education's web site before November 1. A failing school is determined by the State Department of Education through the approved accountability formula that contains the following criteria:

(a) The school meets the criteria for a failing school included in the Alabama Accountability Act of 2013.

(b) Beginning on June 1, 2017, the school earns a grade of "F" on the school grading system developed pursuant to Section 16-6C-2, Code of Alabama 1975 for one of the previous three years or earns a grade of "D" on the school grading system for three of the previous four years.

(2) Before January 1 of each year, a local board of education that has a school included on the annual list of failing schools shall provide notification to parents or legal guardians of students enrolled in a failing school or, upon completion of the highest grade in the school currently attending, the student is scheduled to enroll in a failing school the following school year. The notification will outline options those parents or legal guardians may pursue related to school choice for the following school year. The options for school choice must be presented in the order listed below:

(a) Option 1 – The student will remain or enroll in the failing school.

(b) Option 2 – The student will transfer to a comparable school that is not included on the annual list of failing schools within the same local school system that has available space and is willing to accept the student. The local school system will be responsible for the transportation costs for the student if the school system provides transportation for other enrolled students. The local school system may negotiate transportation options with a parent of the student.

(c) Option 3 – The student will transfer to a comparable school that is not included on the annual list of failing schools within another Alabama local school system that has available space and is willing to accept the student.

(d) Option 4 – Student transfers to a qualifying nonpublic Alabama school that is willing to accept the student.

(e) The option for the student to transfer to another Alabama local school system is not available if a comparable school that is not included on the annual list of failing schools within the same local school system has available space and is willing to accept the student.

(f) A comparable school does not include a school that limits admission due to established academic or selection criteria for incoming students.

(3) After notification of the options to transfer a student from a failing school, the parents or legal guardian must submit the required notice of transfer to a qualifying Alabama school for the following school year. The State Department of Education will provide the notice of transfer form and accompanying instructions to the failing school.

(a) The notice of transfer must be submitted to the local school superintendent or designee by March 1.

(b) The notice of transfer must include verification, from the school administrator of the qualifying school that the student will attend the following year, that the school will accept the student. The student must first attempt to enroll in a comparable school that is not included on the annual list of failing schools within the same local school system.

(c) The notice of transfer, for a student who was attending another Alabama public school system on April 1 and enrolls in and attends a failing school for the following school year, must be submitted to the local school superintendent or designee before the tenth day after Labor Day.

(d) Failure to submit the required notifications by the designated deadlines will disqualify eligibility for the state income tax credit or educational scholarship.

(e) The parent or legal guardian of a student who transfers from a failing school after March 14, 2013, shall remain eligible for the state income tax credit or educational scholarship until the student completes the highest grade level that the failing school offered at the time of the transfer.

(4) A student with disabilities enrolled in or scheduled to enroll in a failing school the following school year that transfers to a qualifying Alabama school will be provided with the services as outlined in the current Individualized Education Plan (IEP).

(a) A student with disabilities who transfers to a comparable school that is not included on the annual list of failing schools within the same local school system will be provided with the services as outlined in the current IEP.

(b) A student with disabilities who transfers to a comparable school that is not included on the annual list of failing schools within another Alabama local school system will transfer with the current IEP services and the receiving local school system may convene an IEP meeting to make any revisions to the IEP based on the needs of the student within the new environment.

(c) A student with disabilities who transfers to a qualifying nonpublic Alabama school will be eligible for the services provided to nonpublic school students contained in the LEA Non-Public School Services Plan.

(5) Qualifying nonpublic schools include private schools and church schools providing educational services to Alabama students. A qualifying nonpublic school does not include a school providing educational services through homeschooling or on-line courses. A qualifying nonpublic school must meet the requirements to participate in the scholarship program authorized by the Alabama Accountability Act of 2013, as amended. A qualifying nonpublic school must be accredited by one of the six regional accrediting agencies recognized by the State Board of Education or meet all of the conditions for a qualifying school provided by the Alabama Accountability Act of 2013, as amended.