

APA-1

TRANSMITTAL SHEET FOR NOTICE
OF INTENDED ACTION

Control: 290

Department or Agency: Alabama State Board of Education State Department of Education

Rule No.: 290-2-1-.01

Rule Title: Annual Apportionment Of The Foundation Program Funds

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 Eric G. Mackey
Eric Mackey

Date Friday, August 15, 2025

ALABAMA STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Education

RULE NO. & TITLE: 290-2-1-.01 Annual Apportionment Of The
Foundation Program Funds

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

To amend the Rule for FY2026 according to and in compliance with Act No. 2025-270.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

A public hearing will be held on October 9, 2025, beginning at 10:00 a.m. at the Auditorium, Plaza Level, Gordon Persons Building, 50 North Ripley Street, Montgomery, AL. All persons who wish to express their views should contact the State Superintendent of Education (334-694-4900) no later than October 3, 2025, to be scheduled on the agenda. All persons who wish to express their views in writing must address written comments to the State Superintendent of Education, Gordon Persons Building, Post Office Box 302101, Montgomery, AL 36130-2101.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, October 3, 2025

CONTACT PERSON AT AGENCY:

Sonja Peaspanen
Division of Administration and
Finance
Alabama State Department of
Education
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Eric G. Mackey

Eric Mackey

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

Regulations of the State Board of Education pertaining to the annual apportionment of the foundation program funds effective October 1, 202~~4~~⁵. The cost of the foundation program shall be determined, and the allotments made in accordance with the provisions of Ala. Acts 95-314, 95-313, 2021-166, ~~2024-351~~²⁰²⁵⁻²⁷⁰, and as hereinafter provided:

(1) Cost of the Foundation Program. The cost of the foundation program shall be computed in five categories for each local board of education. The five categories are salaries for foundation program units, fringe benefits for foundation program salaries, classroom instructional support for foundation program, other current expense, and student growth. The total of the cost in the five categories calculated as defined herein is the cost of the foundation program.

(a) Salaries for Foundation Program Units. Teacher units and instructional support units shall be used to calculate the cost of salaries for foundation program units for 187 day contracts.

1. Foundation program weighted grade divisors are established for kindergarten through grade 12. The grade divisors include an adjustment for weighting special education and career and technical education to reflect increased programmatic costs. The adjustment for special education reflects 5% average daily membership (ADM) weighted 2.5 in all grades. The adjustment for career and technical education reflects 7.4% ADM weighted 1.4 in grades seven and eight and 16.5% ADM weighted 2.0 in grades nine through twelve. Foundation program calculations for FY202~~5~~⁶ are based on the following funding divisors: 14.25 in kindergarten through grade three; 20.06 in grades four through six; 19.70 in grades seven and eight; and 17.95 in grades nine through twelve.

(i) Teacher units are calculated by dividing the grade ADM by the grade divisor and summing over all grades in the school. The ADM by grade is the average number of students enrolled on a daily basis for the first 20 scholastic days following Labor Day of the preceding school year.

(ii) Instructional support units are calculated in the classifications of principal, assistant principal, counselor, and librarian as recommended

in the accreditation standards for elementary schools, middle schools, and secondary schools, according to the Cognia standards. Elementary and middle schools with an ADM of 300-499.99 will earn an assistant principal unit of 0.5 and 1.0, respectively.

(iii) A principal unit and a counselor unit shall be calculated for each state approved career technical education center (CTE center). A local board that does not operate a CTE center shall receive a pro rata portion of a unit allocation to provide system-wide supervision of career technical education as determined by the students enrolled in career technical education courses in grades 9-12.

(iv) Principal units shall be extended by .45 for secondary schools and CTE centers, by .31 for elementary schools, and by .35 for middle schools for salary calculations. Assistant principal units shall be extended by .10 for elementary schools, middle schools, and secondary schools for salary calculations. Counselor units shall be extended by .03 for secondary schools and CTE centers for salary calculations.

(v) The total of teacher units, instructional support units, and CTE center units shall constitute the foundation program units at each school in the foundation program cost calculations.

2. Units shall be converted to dollars in the cost calculations through the use of a salary matrix (state minimum salary schedule) as specified in the FY2025⁶ Education Trust Fund (ETF) appropriations act.

(i) The state minimum salary schedule gives consideration to experience, certification, and the degree level at which a certificated employee is employed for a standard 187 day contract. The degree levels are Bachelor's, Master's, Sixth-year Program, Doctoral, and non-degree.

(I) Teachers holding career and technical education certificates endorsed in technical education or healthcare science and technology shall be paid at the appropriate degree equivalency in accordance with Rule 290-3-2.

(II) Experience shall be considered in three year increments up to 9 years and one year increments up to 35 years. Experience is defined as public education experience with fractional year as defined by the Alabama Teachers' Retirement System for earning years of service. Local boards shall place employees holding positions requiring certification on the salary schedule considering the highest degree earned from a regionally accredited institution and years of experience served in public education. Employees advance to the next experience step of the salary schedule on the anniversary date of experience. Local boards shall notify the State Department of Education of the earned advanced degree for each employee in a timely fashion. An employee shall be paid for an advanced degree in the pay period that begins after the advanced degree is recognized by the State Department of Education, provided that, if an employee has completed service under contract for the scholastic year, the advanced degree pay shall begin with the first pay period for service under contract in the subsequent scholastic year.

(ii) A percentage of each year's foundation program units shall be calculated at each cell of the state minimum salary schedule. The percentage is the actual number of state and local certificated personnel employed by a school in each cell divided by the total number of state and local certificated personnel employed by the same school in the prior year. The product of units, percentage by cell, and state minimum salary amount for the cell summed over all cells is the foundation program salary cost for each school.

(b) Fringe Benefits for Foundation Program Salaries. Fringe benefits costs shall be computed on salaries for foundation program units at rates established in the ETF appropriations act or as otherwise required by state or federal law. Fringe benefits are computed for FICA, Medicare, health insurance (PEEHIP), matching retirement, unemployment compensation, and leave (sick and personal). The total of fringe benefits in the categories listed for all foundation program units at a school shall be the fringe benefits costs on foundation program units at each school.

(c) Classroom Instructional Support for the Foundation Program. Classroom instructional support costs are calculated for all foundation program units in the category of classroom materials and supplies, technology, professional development, and library enhancement, ~~and common purchases~~ at a rate per unit and for textbooks or digital resources at a rate per ADM, specified in the ETF appropriations act. 100% of funds allocated for classroom materials and supplies shall be used for in classroom expenses. Funds for classroom materials and supplies shall not be used to maintain, repair, or replace technology equipment or devices, or other instructional material that is mandated by the State Department of Education, and is used in the classroom to provide instruction for students.

(d) Other Current Expense for Foundation Program Units. Other Current Expense (OCE) cost shall be calculated as a fixed amount multiplied times the number of foundation program units. OCE may be used to pay salaries and fringe benefits for support personnel.

(e) Foundation Program Allowance for Student Growth. The Foundation Program allowance for student growth shall be determined by multiplying the combined allowance in paragraphs a. through d. (salaries, benefits, classroom instructional support, and other current expenses) on a per ADM basis times the net year over year growth of ADM for non-virtual students for the two preceding school years. The net ADM growth attributable to full-time virtual students shall be funded at a rate determined by the State Department of Education based on the average cost to districts of educating a full-time virtual student beginning in fiscal year 2022.

(f) Total Local Board Foundation Program Funds. The sum of the calculated foundation program costs (salaries, fringe benefits, classroom instructional support, other current expenses, and student growth) for a local board is the total foundation program funds for the local board in FY202~~5~~6.

(2) Allotment of the Foundation Program Cost. The local board foundation program cost from (1)(f) above less the required local effort shall be the foundation program allotment for each local board from the ETF to be allocated to local boards on a monthly basis in twelve installments. The required local effort for each local board for its share of the cost of the foundation program shall be the equivalent of 10 district mills of ad valorem tax.

(3) Requirements for Expending Foundation Program Funds. In expending foundation program funds, each local board shall meet the following conditions:

(a) provide a school year of at least 180 full instructional days, or the hourly equivalents thereof;

(b) provide the equivalent of at least 10 district mills of local ad valorem tax support;

(c) adopt a salary schedule for certificated personnel that reflects at least 100% of the state minimum salary schedule per cell as well as 100% of the state minimum salary schedule adjusted for extended contracts for career and technical education personnel;

(d) meet federally mandated maintenance of effort requirements;

(e) spend all calculated salaries for foundation program units for instructional salaries;

(f) continue operations at all career and technical education centers in existence in FY95 and pay a pro rata share of the cost of any CTE center providing service to more than one school system;

(g) distribute foundation program allocated funds based on current year student population and programs needed to serve the current year students;

(h) provide an hourly rate of not less than \$15 per hour for all full time employees on a salary schedule.

(4) Requirements to Receive State Funds. In order to receive state funds, local boards of education are required to furnish information and file reports and records required by the State Board.

(a) Local boards of education are required to prepare budgets and financial statements that meet reporting requirements of the State Department of Education. The State Superintendent shall prepare the forms and procedures for completing budgets and financial statements.

1. Local boards of education are required to maintain a supplemental inventory of equipment items not classified as fixed assets.

2. Local boards of education are required to reconcile bank statements on a timely basis.

3. Local boards of education are required to maintain accounting records and to follow accounting and internal control procedures that comply with generally accepted accounting principles.

(b) Local boards of education are required to provide the annual accountability reports required by ~~Code of Ala.~~ 1975, Code § 16-6B-7 (1975). The State Superintendent shall prepare the procedures for completion and distribution of annual accountability reports.

(c) Local boards of education are required to be audited in accordance with state laws, federal laws and regulations, and the audit standards issued by the State Department of Education. The State Superintendent shall issue audit standards requiring a single audit of local school funds, federal funds, state funds, local funds, and other funds under the control of school officials.

(d) Local boards of education are required to provide attendance data, personnel data, and other information necessary to calculate the cost of the Foundation Program and other state funds. The State Superintendent shall establish procedures for collecting this information.

(e) Local superintendents are required to provide monthly financial reports, monthly check register report, and other information for the local boards of education as required by the Act No. 2006-196.

(f) The State Superintendent may withhold state funds from a local board of education that fails to provide data necessary to calculate the cost of the Foundation Program and other state funds.

(g) The State Superintendent may withhold state funds from a local board of education that fails to successfully complete other reporting requirements set forth by the State Superintendent.

(5) Penalties. Penalties shall be imposed against local boards for:

(a) Failure to operate schools the minimum 180 full instructional-day term, or hourly equivalent thereof, pursuant to Ala. Acts 2011-235 or 2015-430;

(b) Deficit spending pursuant to ~~Code of Ala. 1975~~, Code § 16-13-144 (1975), however, the State Superintendent may waive all or part of the penalty if the school system has made a substantial effort to remove the deficit and agrees to develop an approved financial plan; and,

(c) Assigning a teacher to teach a subject for which the teacher does not hold proper certification as defined in Rule 290-3-2-.02(2)(d). The penalty will be a minimum of \$500 per teacher per year.

(d) Failure to timely notify parents of the options available for a parent of a student enrolled in or assigned to attend a failing school as required by Act No. 2013-265.

(6) Flexibility. For FY202~~5~~6, local boards of education may exercise flexibility among line item expenditures, according to the provisions of Section 10 of the Education Trust Fund Budget approved in Alabama Legislative Act No. ~~2024-351~~2025-270.

Author: Ed Richardson; Dr. Eric G. Mackey

Statutory Authority: Code of Ala. 1975, §§16-13-230 et seq.

History: Amended May 25, 1982; August 11, 1983 adopted 290-2-1-.01-.02ER; October 13, 1983 adopted 290-2-1-.01 effective November 28, 1983; June 14, 1984 adopted 290-2-1-.01-.04ER; August 9, 1984 adopted 290-2-1-.01 effective September 26, 1984; May 22, 1985 adopted 290-2-1-.01-.15ER effective June 19, 1985; June 27, 1985 adopted 290-2-1-.01-.25ER effective July 10, 1985; September 12, 1985 adopted 290-2-1-.01-.25ER effective October 28, 1985; June 12, 1986 adopted 290-2-1-.01-.30ER effective June 16, 1986; August 14, 1986 adopted 290-2-1-.01-.30ER effective September 24, 1986; August 13, 1987 adopted 290-2-1-.01-.34ER effective August 17, 1987; October 22, 1987 adopted 290-2-1-.01-.34ER as regular rule effective November 28, 1987; September 12, 1988 adopted 290-2-1-.01-.39ER effective September 16, 1988; November 10, 1988 ADOPTED 290-2-1-.01-.39ER as a regular rule effective December 15, 1988; July 11, 1989 amended 290-2-1-.01 effective August 16, 1989; June 28, 1990 adopted 290-2-1-.01-.42ER effective June 28, 1990; September 13, 1990 adopted 290-2-1-.01-.42ER as a regular rule effective October 18, 1990; August 22, 1991 adopted 290-2-1-.01-.62ER effective August 22, 1991; October 10, 1991 adopted ER as regular rule effective November 19, 1991; August 13, 1992 adopted amendments to 290-2-1-.01 effective September 18, 1992. August 12, 1993 amended 290-2-1-.01, .01(1)(a)2.(i), .01(1)(a)3., .01(1)(d)1., .01(1)(d)3., and adopted new .01(1)(a)2.(vi) effective September 17, 1993; Emergency Rules Adopted July 21, 1994, effective July 21, 1994. **Repealed and New Rule:** Filed September 13, 1994; effective October 18, 1994. **Repealed and**

Replaced: Filed November 16, 1995; effective December 21, 1995.
Amended: Filed April 12, 1996, effective May 17, 1996. **Amended:**
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 2025; effective _____.