

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency: Department of Labor  
Rule No. 480-4-3-.38  
Rule Title: Temporary Employment within Educational Institutions  
 New  Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

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

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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.

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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.

Signature of certifying officer /s/ Stephen McCormick

Date 12-14-15

(DATE FILED)  
(STAMP)

Department of  
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-4-3-.38 Temporary Employment within  
Educational Institutions

INTENDED ACTION: New rule

SUBSTANCE OF PROPOSED ACTION: The adoption is necessary to enforce provisions of a new law passed by the Alabama Legislature to apply between term denials for school employees supplied by a temporary employment agency.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including February 08, 2016. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: February 08, 2016

CONTACT PERSON AT AGENCY:

Stephen McCormick  
Department of Labor  
649 Monroe Street  
Montgomery, AL 36131  
Telephone: (334) 242-8274

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Stephen McCormick  
Director, Governmental Affairs

ALABAMA DEPARTMENT OF LABOR  
ADMINISTRATIVE CODE

CHAPTER 480-4-3  
BENEFITS

**480-4-3-.38**     **Temporary Employment within Educational Institutions**

(1) Definitions - the following definitions will be used in applying the provisions of the Administrative Rule.

(a) Employer Primarily Engaged. An employer will be considered primarily engaged if seventy-five percent (75%) or more of the company's employees are performing work for an educational institution.

(b) Reasonable Assurance. A written, verbal, or implied agreement that the employee will perform services during the ensuing academic year or term and the term "contract" is intended to include tenure status.

(2) Benefits based on service in employment for a temporary employer contracting with an educational institution may not be paid during the period between two successive academic years or terms, or during any vacation or holiday period provided the employee will have reasonable assurance that he/she will perform services for the educational institution in the second of such academic years or terms. The employer must be either primarily (see (1)(a) above) or exclusively engaged in providing temporary employees work within education institutions on a contract basis to be eligible for designation under Section 25-4-70(d), Code of Alabama 1975.

(3) Employer Certification

(a) All employers must certify by written affidavit that the entity is primarily or exclusively engaged in supplying employees for educational institutions within the State of Alabama.

(b) The employer must provide documentation upon request for any issue concerning employment of a temporary employee (claimant) at an educational institution. The employer must provide: claimant's name, social security number, dates of employment with the employer, and the educational institution where the temporary employee is working. The employer must also provide a name and contact information for the educational institution to verify the work history of the temporary employee.

(c) An employer must notify the Alabama Department of Labor immediately if less than seventy-five percent (75%) of their temporary employees within the state of Alabama are engaged in employment with educational institutions. A temporary revocation of the employer's educational relief status will remain in place until such time that the employer resumes activities in which the entity is primarily engaged in supplying temporary employees to educational institutions. There will be no relief given for claims filed during the temporary revocation period.

(4) Temporary Employee/Client Listings

(a) The Alabama Department of Labor may request the temporary employer to provide a list of all educational/non-educational employees indicating each employee's place of employment and type of employment with the educational institution.

(b) Failure to submit a response within 15 days of the written request will result in temporary revocation of the employer's educational relief status for all employees. The revocation will remain in effect until all information is submitted to the Alabama Department of Labor. There will be no relief given for claims filed during the temporary revocation period.

(5) Employees who are employed as a temporary educational employee under this rule **will not** be held as a temporary employee under the terms of Administrative Rule 480-4-3-.37, Alternative Staffing.

**Author:** Thomas Daniel, Director Unemployment Compensation Director.

**Statutory Authority:** Code of Ala. 1975, §§25-4-70(d)

**History: New Rule:** Filed December 14, 2015.