

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:		July 2020	
CONSIDERATION OF A NOTICE OF EMERGENCY RULEMAKING AND PROPOSED RULEMAKING TO ADOPT 5 CSR 30-660.085, ATTENDANCE HOUR REPORTING			
STATUTORY AUTHORITY:	<input type="checkbox"/>	Consent Item	<input checked="" type="checkbox"/> Action Item
Sections 161.092, 161.021, and 171.031, RSMo			<input type="checkbox"/> Report Item
PRIORITY AREA			
Success-Ready Students & Workforce Development			
SUMMARY			
The proposed rule and emergency rule establish policies and standards for local education agencies (LEAs) for maintaining attendance hour records in accordance with Chapter 163, RSMo, to meet the health and safety needs of students and faculty if social distancing is necessary due to COVID-19 during the 2020-2021 school year.			
PRESENTER			
Kari Monsees, Deputy Commissioner, Division of Financial and Administrative Services, will assist in the presentation and discussion of this agenda item.			
RECOMMENDATION			
The Department recommends that the State Board of Education authorize publication in the <i>Missouri Register</i> of a notice of proposed rulemaking to adopt 5 CSR 30-660.085, relating to attendance hour reporting.			
The Department also recommends that the State Board of Education authorize publication in the <i>Missouri Register</i> of the emergency rule to adopt Rule 5 CSR 30-660.085 to provide for the health, safety, and welfare of affected students.			
The State Board of Education finds this proposed rule and the emergency rule are necessary to carry out the purposes of Sections 161.092, 161.021, and 171.031, RSMo.			

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of Financial and Administrative Services
Chapter 660—School Finance

EMERGENCY RULE

5 CSR 30-660.085 Attendance Hour Reporting

PURPOSE: This emergency rule establishes policies and standards for local education agencies (LEAs) for maintaining attendance hour records in accordance with Chapter 163, RSMo, to meet the health and safety needs of students and faculty if social distancing is necessary due to COVID-19 during the 2020-2021 school year.

*EMERGENCY STATEMENT: This emergency rule is necessary due to the novel COVID-19 pandemic and school districts' need for flexibility in their methods to address their students' educational needs. The State Board of Education (board) voted on ____, 2020, to grant the ability for local educational agencies (LEAs) to provide instruction and claim attendance hours in an alternative method otherwise not outlined in statute. This applies only for the 2020-2021 school year. Because COVID-19 has caused a disruption in the provision of educational services during the 2020-2021 school year, this emergency rule is necessary to protect the health, safety, and welfare of those students by ensuring that there will be regulations in place that provide school districts with notice of the criteria set forth by the board on ____, 2020. As a result, the board finds a compelling governmental interest, which requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed on _____, 2020, becomes effective _____, 2020, and expires _____, 2020.*

(1) The following definitions apply to this rule:

- (A) Alternative Methods of Instruction (AMI) Plan: The AMI plan is the plan submitted to and approved by the Department of Elementary and Secondary Education (department), enabled by section 171.033.5(2), and that allows the claiming of limited attendance when schools are closed due to exceptional circumstances.
- (B) Alternative Methods of Instruction-Extended (AMI-X) Plan: The AMI-X plan is the plan submitted to and approved by the department, enabled by this rule, and that allows the claiming of attendance when schools are closed or onsite attendance is modified due to COVID-19 during the 2020-2021 school year.
- (C) Distanced Instruction: Students are offsite and receive instruction through online means or through the use of physical materials. Instruction includes teacher interaction as approved by the department in the LEA's AMI-X plan.
- (D) Fixed Blended Instruction: Students receive instruction under a planned pattern of onsite and distanced instruction that includes a minimum equivalent of two (2) full days of onsite instruction per week. For the purpose of this rule, fixed-blended calendars are designed to support social distancing.
- (E) Instruction During Quarantine: A group of students, such as a classroom or bus roster, receive distanced instruction for an identified period of time to protect public health.
- (F) Intermittent Blended Instruction: Students in an entire school building or LEA receive distanced instruction during a period of interruption to the planned pattern. The planned pattern of onsite or fixed blended instruction is interrupted by local conditions that prevent any onsite instruction.

(G) Onsite Instruction: Students are physically present at the school under the guidance and direction of teachers in the teaching process.

(2) LEAs that choose to offer instruction using fixed blended, instruction during quarantine, and/or intermittent blended models, must submit an AMI-X plan to be approved by the department prior to implementation to claim attendance for payment purposes. AMI-X plans may be submitted electronically to the department via the following link: <https://dese.mo.gov/quality-schools/alternative-methods-instruction>.

(A) LEAs may submit plans with models other than those defined in this rule for review and consideration by the department. The department's approval will be conditioned on the plan's compliance with state law and the ability to safely provide high quality instruction to students.

(3) LEAs that have received department approval for AMI-X plans under section (2) prior to their implementation may claim attendance hours for distanced instruction as part of fixed blended, instruction during quarantine, and intermittent blended instruction. In such instances, distance instruction attendance will be calculated using the individual student actual onsite rate for the year.

(4) Hours associated with distanced instruction learning as part of fixed blended instruction and intermittent blended instruction are considered hours in session for the purposes of establishing minimum calendar requirements per sections 163.021 and 171.031, RSMo.

AUTHORITY: sections 161.092, 161.021, and 171.031, RSMo 2016. Emergency rule filed on _____, 2020, becomes effective _____, 2020 and expires _____, 2020.

PUBLIC COST: This emergency rule is estimated to cost state agencies or political subdivisions one hundred twenty-five thousand dollars (\$125,000) for the duration of this rule.

PRIVATE COST: This emergency rule is estimated to cost each private vendor up to twenty-five thousand dollars (\$25,000) for the duration of this rule.

**FISCAL NOTE
PUBLIC COST**

**I. Department Title: 5
Division Title: 30
Chapter Title: 660**

Rule Number and Name:	5 CSR 30-660.085 Attendance Hour Reporting
Type of Rulemaking:	Emergency Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
0-555 Local Education Agencies (LEAs) and Charter Schools	\$0-\$125,000

III. WORKSHEET

The Missouri Department of Elementary and Secondary Education (department) estimates that individual costs associated with changes to Local Education Agencies' (LEAs') student information systems, which are necessary to comply with this Emergency Rule will vary, depending on the LEA and vendor.

The department estimates the vendor's absorbed costs to be from \$0-\$50,000 per vendor. There may be additional costs assessed by the vendor to the LEA.

There are potentially five vendors that may assess costs to LEAs to update their student information systems.

The department estimates 50% of these costs may be assessed during the time this Emergency Rule is in effect.

$$5 \times \$50,000 = \$250,000 \times 50\% = \$125,000.$$

IV. ASSUMPTIONS

The department contacted the following Missouri student information system vendors to attempt to determine the fiscal impact of this Emergency Rule:

- Chalkable
- Common Goal Systems
- EduPoint

- Harris Computer Systems
- Infinite Campus
- Lumen
- PowerSchool
- STI
- Tyler

Of these nine vendors, only four responded to the department.

Three vendors indicated that they did not intend to pass any anticipated costs associated with this regulation on to the LEAs.

A fourth vendor stated that it could not promise that it would not waive its fees to the LEA that it contracts with. The vendor did not provide what the estimated cost to the LEA would be. Without this information, the department does not have any mechanism by which to produce a public fiscal impact. The department would note that it did estimate, based on prior experience, that the cost to update the LEA student information systems for those vendors that do not pass on their costs will range from \$0-\$50,000, depending on LEA and vendor need. The department is unable to estimate any additional costs the vendor may assess to the LEAs.

The department assumes that approximately half of any costs assessed by vendors to LEAs will be applied before the 2020-2021 school year begins, and that half of the costs may be assessed after the expiration of the Emergency Rule. That being the case, there are continuing costs reflected in the Proposed Rule the department filed in conjunction with this Emergency Rule.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 5
Division Title: 30
Chapter Title: 660**

Rule Number and Title:	5 CSR 30-660.085 Attendance Hour Reporting
Type of Rulemaking:	Emergency Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5	education software vendors	\$0-\$125,000

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The department has estimated, based on prior experience, that the cost to update the LEA student information systems for those vendors that do not pass on their costs will range from \$0-\$50,000, depending on LEA and vendor need.

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Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 30—Division of Financial and Administrative Services
Chapter 660—School Finance

PROPOSED RULE

5 CSR 30-660.085 Attendance Hour Reporting

PURPOSE: This rule establishes policies and standards for local education agencies (LEAs) for maintaining attendance hour records in accordance with Chapter 163, RSMo, to meet the health and safety needs of students and faculty if social distancing is necessary due to COVID-19 during the 2020-2021 school year.

(1) The following definitions apply to this rule:

- (A) Alternative Methods of Instruction (AMI) Plan: The AMI plan is the plan submitted to and approved by the Department of Elementary and Secondary Education (department), enabled by section 171.033.5(2), and that allows the claiming of limited attendance when schools are closed due to exceptional circumstances.
- (B) Alternative Methods of Instruction-Extended (AMI-X) Plan: The AMI-X plan is the plan submitted to and approved by the department, enabled by this rule, and that allows the claiming of attendance when schools are closed or onsite attendance is modified due to COVID-19 during the 2020-2021 school year.
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(4) Hours associated with distanced instruction learning as part of fixed blended instruction and intermittent blended instruction are considered hours in session for the purposes of establishing minimum calendar requirements per sections 163.021 and 171.031, RSMo.

AUTHORITY: sections 161.092, 161.021, and 171.031, RSMo 2016. Original rule filed _____.

PUBLIC COST: This proposed rule is estimated to cost state agencies or political subdivisions one hundred twenty-five thousand dollars (\$125,000) for the duration of this rule.

PRIVATE COST: This proposed rule is estimated to cost each private vendor up to twenty-five thousand dollars (\$25,000) for the duration of this rule.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Elementary and Secondary Education, ATTN: Kari Monsees, Division of Financial and Administrative Services, PO Box 480, Jefferson City, MO 65102-0480, or by email to DESE.AdminRules@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

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Division Title: 30
Chapter Title: 660**

Rule Number and Name:	5 CSR 30-660.085 Attendance Hour Reporting
Type of Rulemaking:	Proposed Rule

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