

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY
EDUCATION**

**Division 20—Division of Learning Services
Chapter 100—Office of Quality Schools**

PROPOSED AMENDMENT

5 CSR 20-100.230 Virtual Instruction Program. The State Board of Education (board) is amending the purpose, section (1), section (2), section (7), subsections 3(A), (6)(B), (6)(C), (4)(B), adding section (9), subsections (2)(A), (2)(B), 3(B), paragraph (6)(B)1., subparagraphs (6)(B)1.A-F, and renumbering as needed.

PURPOSE: *This amendment codifies additional operating procedures for Missouri Course Access and Virtual School Program (MOCAP) courseware providers (providers) that join the catalog through LEA partnerships including reporting and instructional processes. This amendment also clarifies access requirements for LEAs and providers.*

PURPOSE: *This rule establishes policies and procedures for the Missouri Department of Elementary and Secondary Education (department) to implement a public virtual school program to serve school-age students residing in the state, as authorized by section 161.670, RSMo. There are two (2) paths to become an approved Missouri Course Access and Virtual School Program (MOCAP) provider, through the Request for Proposal (RFP) process or in partnership with a local education agency (LEA). This rule specifically addresses requirements for LEAs, the same requirements are addressed by the RFP.*

(1) General information. *[Missouri Course Access and Virtual School Program (MOCAP)]* publishes a course catalog of *[MOCAP]* approved courses on its website for any kindergarten through grade twelve (K-12) students residing in Missouri. All MOCAP teachers are Missouri appropriately certified. All courses offered through MOCAP are aligned with Missouri Learning Standards. **Failure of a LEA provider established through section 161.670.3(14), RSMo, to stay in compliance with this rule may result in the department revoking, suspending, or taking other corrective action regarding the authorization of the provider and/or courses.**

(2) Access. *[School officials will advise students who are considering MOCAP courses about whether those courses are in the best educational interest of that child.]*

(A) LEAs.

1. LEAs shall inform parents/guardians of their child’s right to participate in MOCAP. LEAs shall ensure that the availability of the program is made clear in the:

- A. Parent/Guardian Handbook;**
- B. Registration documents; and**
- C. Homepage of the LEA website.**

2. Kindergarten students are considered eligible to enroll in MOCAP after their first semester of full-time enrollment in a Missouri public school, provided the student meets the other MOCAP requirements. This applies to students fully enrolled in a school-sponsored early childhood program. Virtual learning in Missouri does not begin until kindergarten as required by section 161.670.1, RSMo.

(B) Providers.

1. Providers shall ensure students have weekly, ongoing interaction with their assigned teachers, for the purposes of instruction, feedback, and/or communication.

2. Providers shall ensure enrolled students have multiple methods of communication with teachers such as email, telephone, office hours, and synchronous tools (e.g., online chat, etc.) This must include providing students with a direct telephone number or extension for each teacher. A general phone number that requires students to “hold for the next available teacher,” or something similar, is not acceptable. Provider teachers should respond to student messages within 24 hours on school days, defined as non-holiday weekdays, when school is in session.

3. The LEA shall have the ability to be able to interact with the providers’ educators from whom the LEA has students receiving instruction, as needed, throughout the online course via multiple methods such as email, telephone, office hours, and synchronous tools (e.g., online chat, etc.). This communication shall not be limited to one specific method.

(3) Credit. Course credit earned through MOCAP shall be recognized by all LEAs in Missouri.

(A) *[Courseware p]* Providers will notify *[local education agencies]* LEAs of the percentage complete and the grade percentage earned in each course.

(B) LEAs shall recognize course credit earned through MOCAP, as long as the provider meets all the criteria set forth in this rule.

[(B)] (C) LEAs will accept all transfer credit earned from any MOCAP course.

[(C)] **(D)** LEAs will ensure transcripts specify which credits were earned through MOCAP courses.

(4) Provider and Course Inclusion in the MOCAP Catalog. There are two (2) methods by which virtual providers and virtual coursework will be included in the MOCAP Catalog:

(B) LEAs.

1. LEAs may request that the department include virtual courses offered by the *[school district or charter school]* LEA in the MOCAP catalog.

2. *[Requests]* **In order to be included in a MOCAP catalog, LEAs must *[be made]* make requests to the MOCAP office** by January 1 for inclusion in the fall catalog and **by July 1** for inclusion in the spring catalog.

3. The LEA is deemed to be an approved provider; however, before courses are included in the MOCAP catalog, the LEA must demonstrate that they meet the requirements of sections 161.670 and 162.1250, RSMo, **and other requirements for doing business in Missouri, if requested**, including, but not limited to:

A. Pricing and billing structures meet the requirements of section 161.670, RSMo;

B. Student information is secure and the LEA’s designee signs the department’s attestation that they have measures in place to **comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99) and to prevent data breaches** and that data breaches are reported pursuant to sections 162.1475 and 407.1500, RSMo;

C. Courses are taught by teachers appropriately certified by the

department as required by section 161.670, RSMo;

[D. Courses meet the requirements of section 162.1250, RSMo;]

[E] **D. Courses meet the standards of section 161.935, RSMo, to assure compliance with federal **web** accessibility laws; *[and]***

[F] **E. Courses are aligned to Missouri State Learning Standards~~[.]~~;**

F. Provide assurance through Cloud Service Agreement Review;

G. Provide the MOCAP checklist to the department to indicate which accommodations and modifications the provider is able to offer; and if requested:

H. Certify business status, enrollment documentation, and work authorization when services are not provided directly by the LEA; and

I. Provide information to the department regarding products or services performed at sites outside of the United States, employee conflicts of interest, and proposed subcontractors.

4. If a LEA sponsors, co-brands, licenses, purchases, contracts for or otherwise offers through MOCAP any virtual courses or a full-time virtual program *[that is purchased from another vendor,]* the LEA is the approved provider. The approved provider's responsibilities include, but are not limited to, **complying with obligations of this rule;** coordination of enrollment, billing, progress and completion reporting, educator assignment reporting, and dispute resolution.

(6) Reporting. The following are requirements for reporting MOCAP coursework:

(A) LEAs will report MOCAP courses using the appropriate delivery system codes specified by the department~~[.]~~.

(B) Providers *[will transmit reports to the department in a manner and format and on a timeline specified by the department; and]*.

1. The following requirements must be met for providers to be retained in the MOCAP catalog. Failure to meet these requirements will result in corrective action, including possible suspension or revocation, outlined in section 161.670, RSMo. Providers must:

A. Transmit reports to the department in a manner and format and on a timeline specified by the department;

B. Provide LEAs with accurate and timely progress reporting through a secure online portal, updated at least weekly;

C. Provide LEAs access to standard and user-customizable reports for both individual and multiple students;

D. Provide LEAs with monthly billing invoices based on the student's completion of assignments and assessments that includes the student's overall progress and current grade in the course;

E. Ensure the provider's teachers keep records up-to-date in the provider's Learning Management System (LMS), or the provider's student information system, as applicable, to ensure that the MOCAP staff, LEA personnel, and parents/guardians, have online access to view a student's current progress at any time; and

F. Send final grade reports as a percentage of the course completed and as a percentage of the grade earned to the LEA and parent/guardian.

[(C)] **2.** All courses offered by MOCAP providers must use course numbers established by the department.

(7) MOCAP Enrollment Decisions.

(A) If a student, excluding students with an Individualized Education *[Plan]* Program (IEP) or a **Section 504** plan, requests enrollment in a MOCAP course or full-time virtual school, the LEA must either approve or deny the initial request within ten (10) business days, defined as any non-holiday weekday in which the administrative offices operate normal business hours. The ten (10) business day period will begin when the LEA receives the request. A failure to render and communicate the initial decision within ten (10) business days will be deemed to be an enrollment approval.

[(A)] **(B)** MOCAP enrollment decisions for students with disabilities must be made by the student's IEP team or **Section 504** committee.

[(B)] **(C)** Appeals of enrollment in MOCAP courses can be made through the department's website: www.mocap.mo.gov. If a student or parent/guardian (appellant) files an appeal to the department of an enrollment decision, the department will notify the appellant and the LEA of receipt of the appeal. The appellant, when filing the appeal, must submit any and all material previously submitted to the governing board of the LEA whose decision is being appealed along with the final decision of the governing board. The *[school district or charter school]* LEA will have seventy-two (72) hours from the filing of the appeal to submit the full record, including evidence given by the LEA used to make the governing board's decision. The LEA must provide the initial good cause justification for the enrollment decision. If necessary, the department may ask for clarification of the materials presented.

(9) Instructional Process.

(A) LEAs.

1. Special Education/Section 504 Requirements.

A. Pursuant to the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400, et seq., and its implementation regulations at 34 C.F.R. § 300) and the Americans with Disabilities Act (Section 504) (42 U.S.C. § 12101, et seq., and its implementation regulations at 34 C.F.R. § 104), the identification and education of students with disabilities or students who are in need of accommodations contained in an IEP and/or a Section 504 Plan is the responsibility of the LEA that enrolls the student.

B. The IEP team or Section 504 committee of the student is responsible for making the determination that registering a student with an IEP or a Section 504 plan in a MOCAP course is in the educational best interest of the student and will confer a Free Appropriate Public Education (FAPE).

C. If the IEP team or the Section 504 committee determine that a student's enrollment in MOCAP is appropriate, then the IEP or Section 504 plan will be

revised to include the services, aids, supports, accommodations, and modifications that will be required in order for the IEP or Section 504 plan to be reasonably calculated to confer educational benefit to the student.

D. If an IEP team or a Section 504 committee determines that a student should be taking MOCAP courses, the LEA shall send the MOCAP provider a description of the accommodations and modifications contained in the IEP or Section 504 Plan. The LEA and provider(s) must work closely together to develop and implement a monitoring protocol or process to ensure that the provider is implementing the accommodations and modifications as written in the IEP or Section 504 plan. This will include the provision of reports or participation in IEP team or Section 504 committee meetings by the provider's teacher, as necessary.

E. If a provider fails to implement accommodations and modifications, the IEP team or the Section 504 committee may reconsider approval for the student taking virtual courses at any time during the semester.

F. The LEA (through the IEP team or the Section 504 committee) may initially, or after reevaluation, determine that based upon a student's unique needs, an online program is not appropriate to confer FAPE, even with the provision of appropriate and individualized accommodations, modifications, aids, or services. Such a determination is subject to the parents'/guardians' rights and procedural safeguards under IDEA and Section 504, respectively.

G. The LEA shall provide to MOCAP the reasons for any determination by an IEP team or a Section 504 committee to discontinue any online program for a student enrolled in MOCAP, including any failure on the part of the provider to provide the required accommodations and modifications.

(B) Providers.

1. Providers shall ensure that pacing charts are integrated into the LMS and aligned with the LEA's start and end dates.

2. Providers shall furnish LEAs, parents or guardians, and students with policies on academic integrity, internet etiquette, plagiarism, and privacy before the beginning of each course. These policies must be emailed to the LEAs, parents/guardians or guardians, and students. The provider must post copies of all academic integrity, internet etiquette, and privacy information on the provider's website before providing courseware or services to any student.

3. Providers will treat all student personally identifiable information, as that term is defined in 34 C.F.R. § 99.3, as confidential, whether or not the student has been officially enrolled in the provider's program. Providers will notify DESE, any impacted LEAs, and its partnered provider, if applicable, in the event of a data breach relating to student personally identifiable information, within twenty-four (24) hours, and will follow all applicable state and federal law with respect to required parent/guardian and student notifications.

4. Student-teacher ratios shall not exceed a total number of one-hundred fifty (150) students to one (1) teacher. The total number is not of unique students; it is the total number of students the teacher instructs. For example, an elementary teacher who teaches one hundred 100 students and teaches all core subjects would be a ratio of four hundred (400) to one (1), not one-hundred (100) to one (1). Within five (5) business days after receiving a student-teacher ratio request from the department, the course provider

shall provide proof this requirement is being met.

5. Prior to adding a teacher or changing a teacher's course assignment during a semester, the provider shall communicate with the department to ensure certification requirements are met.

6. Special Education/Section 504 Requirements.

A. Providers must:

(I) Sign and return the accommodations and modifications checklist to the department;

(II) Work closely with the LEA to develop and implement a monitoring protocol or process to ensure that the accommodations and modifications are being implemented by the provider as written in the IEP or Section 504 plan. This will include the provision of reports or participation in IEP team or Section 504 committee meetings by the provider's teacher, as necessary; and

(III) Work with the LEA staff to ensure that a student's IEP goals are being met and/or that a student has the required accommodations and modifications.

AUTHORITY: section 161.092, RSMo 2016, and section 161.670, RSMo Supp. 2018. This rule previously filed as 5 CSR 50-500.010. Original rule filed Sept. 12, 2007, effective March 30, 2008. Moved to 5 CSR 20-100.230, effective Aug. 16, 2011. Amended: Filed Jan. 15, 2019, effective Aug. 30, 2019. Amended: Filed June 12, 2020, effective _____, 2020. Amended: Filed December 14, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Chris Neale, Assistant Commissioner, Office of Quality Schools, PO Box 480, Jefferson City, MO 65102-0480 or by email at DESE.MOCAP@dese.mo.gov. To be considered, comments must be received within sixty (60) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*