

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:		August 2019	
<p>CONSIDERATION OF A NOTICE OF PROPOSED RULEMAKING TO AMEND RULE 5 CSR 20-100.320, PREKINDERGARTEN PROGRAM STANDARDS PROPOSED AND EMERGENCY AMENDMENTS*</p>			
STATUTORY AUTHORITY:		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Sections 161.092, 163.011, and 163.018, RSMo</p>		<p>Consent Item</p>	<p>Action Item</p>
<p>Report Item</p>			
<p>STRATEGIC PRIORITY</p> <p>Access, Opportunity, Equity – Provide all students access to a broad range of high-quality educational opportunities from early learning into post-high school engagement.</p>			
<p>SUMMARY</p> <p>The proposed amendment and emergency amendment are to respond to changes in Section 163.018, RSMo, by HB604 which allows a district or a charter school that has declared itself as a local education agency to contract with an early childhood education program to provide early learning services. HB604 gave the board the authority to set standards for any early childhood education program that is under a contract as set forth above and these standards contained herein are entitled “Prekindergarten Program Standards.” The proposed amendment will go into effect in the course of the normal rulemaking process and timeline.</p> <p>The emergency amendment is necessary because HB604 goes into effect August 28, 2019. The emergency amendment will go into effect ten days after filing. The emergency amendment provides a bridge during the proposed amendment process. Because these programs will be enrolling students for the 2019-20 school year, this emergency amendment is necessary to protect the health, safety, and welfare of those students by ensuring that there will be regulations in place that require teachers to undergo background checks, require appropriate teacher-to-child ratios, and require appropriate areas of certification, among other standards.</p> <p>The State Board of Education has the authority to adopt and enforce regulations for the instruction for prekindergarten. The proposed amendment and the emergency amendment will revise Section (1) and add Section (2).</p>			
<p>PRESENTERS</p> <p>Chris Neale, Assistant Commissioner; Jo Anne Ralston, Coordinator, Office of Quality Schools; and Peggy Landwehr, Chief Counsel, will assist in the presentation and discussion of this item.</p>			
<p>RECOMMENDATIONS</p> <p>The Department recommends that the State Board of Education authorize publication in the <i>Missouri Register</i> of a notice of proposed rulemaking to amend Rule 5 CSR 20-100.320, relating to Prekindergarten Program Standards.</p>			

The Department also recommends that the State Board of Education authorize publication in the *Missouri Register* of the emergency amendment to amend Rule 5 CSR 20-100.320 to provide for the health, safety and welfare of affected students.

The State Board of Education finds this proposed amendment and the emergency amendment are necessary to carry out the purposes of Sections 161.092 and 163.018, RSMo.

*Agenda item updated 8/8/2019 and 8/12/2019 to reflect changes to the cover page, to add the Small Business Impact Statement, and to correct a formatting error.

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 100 – Office of Quality Schools

PROPOSED AMENDMENT

5 CSR 20-100.320 Prekindergarten Program Standards. The State Board of Education (board) is amending section (1) and adding section (2).

PURPOSE: This amendment is to respond to changes in section 163.018, RSMo, by HB604, which allows a district or a charter school that has declared itself as a local education agency to contract with an early childhood education program to provide early learning services. HB604 gave the board the authority to set standards for any early childhood education program that is under a contract as set forth above, and these standards contained herein are entitled “Prekindergarten Program Standards.”

(1) Any school district **or charter school** reporting children ages three (3) to five (5) for calculation in their average daily attendance must meet standards approved by the State Board of Education (board) including:

(A) A lead teacher in each prekindergarten classroom who holds a bachelor’s degree and teaching certificate in early childhood education or early childhood special education; and

(B) A teacher assistant or paraprofessional who holds [*a child development associate’s degree,*] **an** associate’s degree in early childhood, **or child development**, or sixty (60) college hours with a minimum of [*three (3)*] **nine (9)** college credit hours in early childhood, child development, or child/family related courses and experience working in a program with young children and their families for any classroom with more than ten (10) children.

(2) **Any school district or charter school contracting with an early childhood education program reporting children ages three (3) to five (5) for calculation in their average daily attendance must meet standards approved by the board set forth in (1) (A) and (B) of this rule, and including:**

(A) **The program provides school day, school year programming with options for full day, full year programming;**

(B) **The program has a teacher-to-child ratio of one (1) to ten (10), maximum class size of twenty (20) children;**

(C) **The program implements a developmentally appropriate curricula aligned with the early learning standards, and approved by the Department of Elementary and Secondary Education (DESE);**

(D) The program aligns with the early learning standards that implement a developmentally appropriate, culturally and linguistically appropriate, authentic, reliable and valid general development and social/emotional screening tool and summative assessment used with all children. Information from the screenings and assessments will be used for educational purposes;

(E) The program develops and implements procedures to ensure all staff members of the early childhood education program shall undergo background checks as described in section 168.133; and

(F) The program is accredited by Missouri Accreditation of Programs for Children and Youth within ninety (90) days of a fully executed contract.

AUTHORITY: sections 161.092, 163.011, 163.018, [RSMo Supp. 2014, and section] and 168.011, RSMo [2000]2016. This rule previously filed as 5 CSR 20-600.140. Original rule filed Feb. 20, 2015, effective Oct. 30, 2015. Amended: filed _____.

PUBLIC COST: This proposed rule is anticipated to cost state agencies or political subdivisions two hundred eighty thousand dollars (\$280,000) in the aggregate.

PRIVATE COST: This proposal is anticipated to cost state agencies or political subdivisions eighty three thousand seven hundred dollars (\$83,700) in the aggregate.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** 5 – Department of Elementary and Secondary Education
Division Title: 20 – Division of Learning Services
Chapter Title: 100 – Office of Quality Schools

Rule Number and Title:	5 CSR 20-100.320 Prekindergarten Program Standards
Type of Rulemaking:	Amendment

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:
56	child care programs	\$83,700.00

III. WORKSHEET

56 private programs x 4 staff x \$50 per background check	\$11,200.00
50 private programs x \$1,450 accreditation fees per program	<u>\$72,500.00</u>
Total	\$83,700.00

IV. ASSUMPTIONS

Fifty-six (56) (approximately 10%) of local education agencies (LEA) contract with child care providers (56)
Six of those child care providers are already accredited
Accreditation fees (50) @ \$1450 per program

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** 5 – Department of Elementary and Secondary Education
Division Title: 20 – Division of Learning Services
Chapter Title: 100 – Office of Quality Schools

Rule Number and Name:	5 CSR 20-100.320 Prekindergarten Program Standards
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Local Education Agencies (LEA)	\$280,000.00

III. WORKSHEET

56 LEAs legal fees for contract execution at \$5,000 per LEA \$280,000.00

IV. ASSUMPTIONS

10% of local education agencies (LEA) contract with child care providers (56)
 contract/legal fees for executing contract with child care provider (56) @ \$5000 each

Small Business Regulatory Fairness Board Small Business Impact Statement

Date: August 7, 2019

Rule Number: 5 CSR 20-100.320

Name of Agency Preparing Statement: Department of Elementary and Secondary Education

Name of Person Preparing Statement: Jo Anne Ralston

Phone Number: 573-751-0397

Email: joanne.ralston@dese.mo.gov

Name of Person Approving Statement: Sarah G. Madden

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

While the rule has an accreditation requirement, it has a 90-day window for compliance, which will particularly benefit small businesses.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The Department of Elementary and Secondary Education (DESE) has met with a coalition of interested parties with respect to contracted pre-kindergarten services for some time to discuss issues and concerns. DESE recently sent its proposed rule to counsel for the coalition for review and discussion.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

No monetary costs or benefits to DESE.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Child care programs contracting with local education agencies. No known adverse effect.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

New staff background checks

56 programs X 4 staff X \$50 per background check = \$11,200.00

Program accreditation fees

50 programs X \$1,450 accreditation fees per program = \$72,500.00

\$83,700.00

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Child care programs contracting with local education agencies.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes No

If yes, please explain the reason for imposing a more stringent standard.

Child care programs are not required to be accredited or have staff that are certificated teachers. The contracting with local education agencies would require staff maintaining their teacher certification. Approved teaching experience for teacher certification requires experience in a Missouri public school or in accredited nonpublic school. Missouri Accreditation of Programs for Children and Youth is a recognized accrediting agency.

For further guidance in the completion of this statement, please see §536.300, RSMo.

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 100 – Office of Quality Schools

PROPOSED EMERGENCY AMENDMENT

5 CSR 20-100.320 Prekindergarten Program Standards. The State Board of Education (board) is amending section (1) and adding section (2).

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*EMERGENCY STATEMENT: This emergency amendment is necessary due to the passage of HB604 which goes into effect August 28, 2019, and allows a district or a charter school that has declared itself as a local education agency to contract with an early childhood education program to provide early learning services outlined in herein in these Prekindergarten Program Standards. Because these programs will be enrolling students for the 2019-20 school year, this emergency amendment is necessary to protect the health, safety, and welfare of those students by ensuring that there will be regulations in place that require teachers to undergo background checks, require appropriate teacher-to-child ratios, and require appropriate areas of certification, among other standards. As a result, the board finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment 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 amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on August xx, 2019, becomes effective August xx, 2019, and expires February xx, 2020.*

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