

**CONSIDERATION OF A NOTICE OF PROPOSED RULEMAKING TO AMEND
RULE 5 CSR 20-500.150, RELATING TO ELIGIBILITY**

STATUTORY AUTHORITY:

Section 178.590 – 178.620, RSMo; Section
161.092, RSMo

Consent
Item

Action
Item

Report
Item

DEPARTMENT GOAL NO. 4:

The Missouri Department of Elementary and Secondary Education will improve departmental efficiency and operational effectiveness.

SUMMARY:

The proposed amendment updates the rule relating to vocational rehabilitation (VR) consumer eligibility. Proposed changes define to whom VR may provide services and clarifies that diagnosis of a disability must be by a qualified professional who is licensed or certified in either Missouri or in another state as approved by VR. It also qualifies that eligibility for services by individuals diagnosed with alcohol or drug dependence must receive treatment prior to receiving VR services connected with an Individual Plan of Employment, and adds a drug court as an entity able to certify a treatment program. Further, the proposed amendments clarify that eligible consumers meeting the Missouri Rehabilitation Services for the Blind (MRSB) will be served by MRSB, and set standards for determining eligibility for the deaf, late-deafened, or hard of hearing. Finally, it removes the term Division from vocational rehabilitation.

PRESENTER(S):

Jeanne Loyd, Assistant Commissioner, Office of Adult Learning and Rehabilitation Services, will assist with the presentation and discussion of this item.

RECOMMENDATION:

The Department recommends that the State Board of Education authorize publication in the *Missouri Register* the proposed amendments of 5 CSR 20-500.150 relating to eligibility in the provision of Vocational Rehabilitation Services.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 500—Office of Adult Learning and Rehabilitation Services

PROPOSED AMENDMENT

5 CSR 20-500.150 Eligibility. The State Board of Education is amending the purpose by adding a new section (1) and amending and renumbering sections (1)-(2).

PURPOSE: This amendment is updating the rule to reflect the name change from the Division of Vocational Rehabilitation to the Office of Adult Learning and Rehabilitation Services, updating to whom services may be provided, updating terminology and standards pertaining to individuals with hearing loss, and clarifying language.

*PURPOSE: This rule establishes the eligibility requirements for applicants for the State Board of Education through the [Division of Vocational Rehabilitation] **Office of Adult Learning and Rehabilitation Services**, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended, 20 USC § 701 et. seq. and the Code of Federal Regulations, 34 CFR § 361.42.*

(1) Vocational rehabilitation (VR) may only provide services to an individual who—

(A) Has been determined to have a physical or mental disability that serves as a substantial impediment to employment and who can benefit from an employment outcome;

(B) Is a Missouri resident, though a duration of residency requirement may not be imposed; and

(C) Is authorized to work in the United States.

*[(1)](2) Diagnosis of disability [as defined in the Rehabilitation Act of 1973 as amended and the applicable rules] must be by a qualified [person,] **professional who** is licensed or certified in Missouri or **in** another state as approved by [the Division of Vocational Rehabilitation (DVR)] **VR**, and in accordance with applicable state law and/or regulation. [Qualified personnel must have a valid, unencumbered, unrestricted, and undisciplined license or certification.]*

*[(2)](3) Eligibility **for services** shall be determined pursuant to the federal act and/or applicable regulations and **shall include** the following qualifications:*

(A) Individuals with conditions diagnosed or related to alcohol and/or drug dependence, must be participating in or have successfully completed an inpatient/outpatient drug and/or alcohol treatment program, prior to receiving services from [D]VR **connected with an Individualized Plan for Employment (IPE). The treatment program must be certified by the Missouri Department of Mental Health, [Division of Alcohol and Drug Abuse or t] **The Joint Commission [on Accreditation of Hospitals (JCAH);] or a drug court;****

(B) All referrals, applicants, and eligible individuals *[with a visual disability]* **who meet the required eligibility requirements set by the Missouri Rehabilitation Services for the Blind (MRSB)** will be referred to **and served by** *[the Missouri Rehabilitation Services for the Blind (RSB)]MRSB* *[when the individual meets the visual disability requirements set forth in MRSB rules]*; and

(C) *[Eligibility for i]* Individuals who are **deaf, late-deafened, or hard of hearing** *[with hearing loss]* must be *[diagnosed]* **evaluated** by a *[Missouri]* certified audiologist or a *[Missouri]* physician skilled in diseases of the ear. Eligibility **criteria** for individuals with a hearing loss *[is]* **are** based upon standards developed by the American Speech-Language-*[and]* Hearing Association *[(ASHA)]*.

1. The following standards *[may]* **will** be considered when determining eligibility:

A. *[Pure tone average, speech receptions, and speech discrimination factors in determining the existence of functional limitations]* **An individual must have a diagnosis at a minimum of a mild to moderate hearing loss in both ears and functional limitations as a result of the hearing loss; and**

B. Pure tone average *[is determined by computing the decibel loss at 500 Hz, 1000 Hz, and 2000 Hz;]* **speech receptions, speech discrimination, and decibel loss at frequencies above 2000Hz.**

[C. An individual with a forty-one (41) decibel loss in the better ear would be considered as having a disability with functional limitations;

D. An individual with a thirty-four to forty (34–40) decibel loss in the better ear may be considered as having a disability with functional limitations if the loss in the other ear is ninety (90) decibels or more; or

E. Other factors, including speech reception, speech discrimination, and decibel loss at frequencies above 2000 Hz may cause functional limitations.]

*AUTHORITY: section 161.092, **RSMo Supp. 2013**, and sections 178.600, 178.610 and 178.620, RSMo [1994]**2000**. This rule previously filed as 5 CSR 90-4.200. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.150, effective Aug. 16, 2011.*

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,

*Attention: Jeanne Loyd, Assistant Commissioner, Office of Adult Learning and Rehabilitation Services, 3024 Dupont Circle, Jefferson City, MO 65109 or by email at info@vr.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.*