

SENATE BILL NO. 421

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

1865S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 162, RSMo, by adding thereto one new section relating to alternative instruction delivery systems for virtual instructional programs, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 162, RSMo, is amended by adding thereto one new section, to be known as section 162.1260, to read as follows:

162.1260. 1. As used in this section, the following terms mean:

(1) "Asynchronous instruction", interaction between instructor and student that is not dependent on real time. Asynchronous instruction allows the student to engage in learning activities anywhere at any time. For instruction to be considered asynchronous, the primary format of instruction does not depend on real-time interaction of the participants;

(2) "Charter school", any charter school established under sections 160.400 to 160.420 and located, at the time it is established, within a school district;

(3) "Department", the department of elementary and secondary education;

(4) "Distance learning plan", a plan, implemented under a public school's distance learning policy, describing any means by which instruction will be delivered to students outside a conventional school setting. A distance learning

19 plan shall meet the standards for virtual programs of
20 instruction listed in section 162.1250;

21 (5) "MOCAP", the Missouri course access and virtual
22 school program established under section 161.670;

23 (6) "Public school", any school for elementary or
24 secondary education, open and public, that is supported and
25 maintained from public funds and that is operated by the
26 board of education of a school district or operated as a
27 charter school;

28 (7) "Synchronous instruction", primary interactions
29 between the instructor and student that are in real time.
30 Regular classroom instruction and two-way interactive video
31 instruction are forms of synchronous instruction. Virtual
32 instruction that requires real-time interaction between the
33 student and instructor as the primary format of instruction
34 is also a form of synchronous instruction;

35 (8) "Two-way interactive video instruction", real-time
36 or synchronous interaction between a student and instructor
37 by means of an electronic medium that provides for both
38 audio and video signals. Students and instructors
39 participating in two-way interactive video instruction may
40 see and hear each other in an approximation of real time;

41 (9) "Virtual instruction", the use of the internet or
42 other such digital information transmission systems as the
43 primary medium of instruction. Virtual instruction may be
44 asynchronous or synchronous or may combine asynchronous
45 instruction and synchronous instruction.

46 2. For all school years beginning on or after July 1,
47 2021, any virtual instructional program offered for
48 instructional purposes or high school credit by any public
49 school shall be an approved MOCAP course consistent with all
50 requirements in section 161.670.

51 3. All public schools shall adopt policies regarding
52 virtual instructional courses that comply with the following
53 guidelines:

54 (1) Virtual instruction and two-way interactive video
55 instruction shall be viewed as methods by which the public
56 school may expand course offerings and access to
57 instructional resources. Such technologies shall not be
58 viewed solely as substitutes for direct, face-to-face
59 student and teacher interactions but as a means of expanding
60 the ability of the public school to support both teaching
61 and learning. With the exception of a charter school
62 authorized by its sponsor to provide virtual instruction
63 only or during emergency circumstances as addressed below, a
64 public school shall offer in-person classroom instructional
65 opportunities in addition to any virtual instructional
66 opportunities offered to students;

67 (2) As authorized in the event of an emergency
68 declared by a federal or state government entity that
69 impacts the operation of public schools in this state, or
70 upon an action taken by the state board of education
71 declaring such an emergency that leads to the temporary
72 emergency closure of school campuses or otherwise
73 significantly impacts the operation of public schools in
74 this state as determined by the state board of education,
75 public schools may implement distance learning plans that
76 provide for distance learning that is accessible to all
77 students. A public school may adopt a policy providing for
78 the short-term implementation of a distance learning plan
79 due to a localized emergency such as a weather-related
80 public school closure or a localized public health
81 emergency. A public school's approved academic calendar may
82 build in one or more emergency closure make-up days to be

83 delivered through the distance learning plan in the same
84 manner as a school district's calendar may build in
85 additional standard school days to be held as make-up days
86 in case of emergency weather closures under section 171.031;

87 (3) A public school may adopt a distance learning plan
88 policy that provides for virtual or partially virtual
89 instruction under sections 161.670 and 162.1250 to deliver
90 home-based education to a student who cannot attend school
91 in person for a period of time due to extended medical or
92 other issues. If a public school delivers the home-based
93 education program solely through virtual instruction, the
94 public school shall provide the internet connectivity and
95 devices necessary to access the instruction free of charge
96 to any participating student who does not already have
97 access to the necessary internet connectivity or devices; and

98 (4) A public school shall submit a copy of the
99 school's distance learning plan to the department within ten
100 business days after adoption by the public school district
101 board of education or charter school governing board. If an
102 update or revision of the policy is adopted, such amended
103 policy shall also be submitted to the department within ten
104 business days after adoption. A public school policy
105 authorizing the implementation of a distance learning plan
106 shall address the following considerations:

107 (a) Participation in the distance learning plan shall
108 be accessible to every student regardless of household
109 resources. If a public school requires students to engage
110 with instruction or content using the internet or other
111 means of remote connectivity, the public school shall ensure
112 the student has access to the internet connectivity and any
113 devices necessary and, if not, the public school shall
114 provide such internet connectivity and devices for student

115 use free of charge. If a public school cannot provide
116 internet connectivity and device access for the use of all
117 students because of budgetary, geographical, or other
118 limitations but plans to use virtual instruction as part of
119 a distance learning plan adopted under subdivision (2) of
120 subsection 3 of this section, the distance learning plan
121 shall provide for alternate methods to deliver equitably
122 equivalent instruction to all students. Such alternate
123 means may include approaches such as paper packets of
124 instructional materials supplemented by periodic direct
125 contact with teachers in person or by telephone or other
126 method of communication. A school district shall ensure
127 that the student has access to all materials necessary for
128 participating in a public school's distance learning plan
129 and, if the student does not already have the necessary
130 materials, shall ensure access free of charge by providing
131 packets of paper instructional materials, blank paper for
132 assignment completion, and writing instruments or other
133 supplies as appropriate for the grade level or subject area
134 if required for assignment completion. If a public school's
135 policy for distance learning allows for different
136 instructional delivery methods because of the inability to
137 provide internet connectivity and devices to all students,
138 the policy shall address the public school's methods for
139 making individualized determinations of which students would
140 be able to access virtual instruction and which students
141 would not and shall address equitable plans for serving
142 students who would not have access to virtual instruction;

143 (b) A public school's distance learning plan shall
144 provide that instruction and content provided through
145 virtual education or other distance learning delivery
146 methods is consistent with the state academic performance

147 standards and learning standards for the subject area or
148 grade level in which credit is awarded. Instruction and
149 content provided through distance learning delivery methods
150 other than virtual instruction shall be equitably equivalent
151 to the instruction and content provided through virtual
152 instruction; and

153 (c) As a condition of adopting a distance learning
154 plan under this section, a public school shall establish
155 clear written policies for students receiving instructional
156 services in the plan such as measurements of attendance for
157 students and staff, awarding of credits for course
158 completion, participation in extracurricular activities, and
159 other policies as determined by the public school.

160 Attendance policies for distance learning provided by means
161 other than virtual education may consider factors such as
162 assignment completion and engagement with instructional
163 supports, but no student shall have a grade lowered or be
164 otherwise penalized for failure to engage with instructional
165 supports if the student does not have the resources to
166 access virtual instruction. Records of student enrollment
167 and attendance in virtual instruction programs shall be
168 maintained through the public school's authorized student
169 information system consistent with all requirements of
170 sections 161.670 and 162.1250. Virtual attendance policies
171 for school districts and charter schools shall include, but
172 not be limited to:

173 a. The attendance for a student participating in a
174 virtual instruction program shall be the date on which the
175 student first completes an instructional activity; and

176 b. The defined time period, assignment completion
177 status, or other means used to determine student attendance
178 in the virtual program shall meet the measures of virtual

179 attendance and comply with all provisions listed in sections
180 161.670 and 162.1250.

181 4. To ensure equitable access to instruction, in the
182 development of a policy authorizing a distance learning plan
183 as provided in subsection 3 of this section, the public
184 school shall consult a working group of community
185 stakeholders. The public school shall include individuals
186 of different backgrounds and experiences to provide for the
187 development of a distance learning plan that is accessible
188 to the entire school community. The working group shall
189 include:

190 (1) School leaders and teachers;

191 (2) Parents or guardians and other community members
192 representing different socioeconomic statuses, racial and
193 ethnic identities, and cultural perspectives; and

194 (3) Other individuals or groups identified by the
195 public school whose perspectives are appropriate to consider
196 in the development of a distance learning plan.

197 5. A certified staff member shall be identified by
198 each public school principal to serve as the building-level
199 contact individual to assist students enrolling in online
200 courses and serve as a liaison to the online teachers and
201 MOCAP providers.

202 6. Courses offered for credit by means of virtual
203 instruction shall be aligned with the state academic
204 performance standards and learning standards.

205 7. Each teacher of two-way interactive video
206 instruction or virtual instruction shall be provided in-
207 service training pertaining to the methodology of
208 instructional delivery and the technical aspects of distance
209 learning.

210 8. The security of individual student data and records
211 shall be addressed by local public school policy. No
212 individual student data obtained through participation in
213 virtual instruction courses shall be used for any purposes
214 other than those that support the instruction of the
215 individual student. Under all circumstances, the provisions
216 of the federal Family Educational Rights and Privacy Act
217 (FERPA) apply to student data held or accessed by any public
218 school or the public school's contractors or agents
219 including any contracted provider of virtual instruction or
220 other distance learning media.

221 9. All federal and state statutes and regulations
222 pertaining to student privacy, the transmission or posting
223 of images or other content on the internet, copyright of
224 materials, Federal Communications Commission (FCC) rules
225 pertaining to the public broadcasting of audio and video,
226 and other such issues shall apply to virtual instruction
227 platforms, media, and any associated content.

228 10. Prior to the beginning of instruction, cooperating
229 public schools sharing courses by means of two-way
230 interactive video instruction technology shall, by means of
231 contractual agreement, address such issues as:

- 232 (1) Instruction costs;
- 233 (2) Instruction schedules;
- 234 (3) School calendars;
- 235 (4) Student behavior;
- 236 (5) Teacher evaluation;
- 237 (6) Textbooks or other course materials;
- 238 (7) Class periods and other such interactive video
239 sessions;
- 240 (8) Student grades and grading policies;
- 241 (9) Teacher load; and

242 (10) Instructor employment.

243 11. Instructors of virtual courses shall be:

244 (1) Certified in Missouri to teach in the content area
245 of the course offered; or

246 (2) A faculty member at an accredited institution of
247 higher education who possesses the specific content
248 expertise necessary to teach the course.

 Section B. Because of the changing role of distance
2 learning in public schools due to the COVID-19 pandemic,
3 section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and
5 safety, and is hereby declared to be an emergency act within
6 the meaning of the constitution, and section A of this act
7 shall be in full force and effect upon its passage and
8 approval.

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