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# Rules of Department of Elementary and Secondary Education

## Division 20—Division of Learning Services Chapter 500—Office of Adult Learning and Rehabilitation Services

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

**Division 20—Division of Learning Services  
Chapter 500—Office of Adult Learning  
and Rehabilitation Services**

**5 CSR 20-500.110 Standards for  
Vocational Rehabilitation**  
(Rescinded June 30, 2019)

*AUTHORITY: section 178.430, RSMo 1986. This rule previously filed as 5 CSR 90-2.011. Original rule filed Jan. 28, 1977, effective June 1, 1977. Rescinded and readopted: Filed July 23, 1982, effective Nov. 15, 1982. Amended: Filed Aug. 1, 1988, effective Nov. 25, 1988. Moved to 5 CSR 20-500.110, effective Aug. 16, 2011. Rescinded: Filed Nov. 5, 2018, effective June 30, 2019.*

**5 CSR 20-500.120 Definitions**

*PURPOSE: This rule establishes definitions for the State Board of Education through the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education for the standards and procedures to provide vocational rehabilitation (VR) services for applicants and eligible individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended, 29 U.S.C. section 701 et. seq.*

(1) Comparable services. Services available under any other program (other than a program carried out under this title), which contribute to the achievement of the individual's rehabilitation goal.

(2) Statewide government agency for order of selection. A governmental agency/program which benefits individuals in terms of their rehabilitation goals and whose mission is compatible with the federal act and/or applicable regulations and is available to persons throughout the state; i.e., a person from any part of the state may be referred to and referred from the governmental agency/program. The governmental agency/program may not be locally operated for the benefit of only local residents.

(3) Disability related expenses. Medication, therapy, medical treatment, prosthetic appliances, repairs to equipment, etc., which directly relates to an individual or family member with a disability and is not covered by insurance, Medicare, Medicaid, or other third party payee.

(4) Independent individual for financial needs purposes. Any individual who meets any one

(1) of the following criteria: is twenty-four (24) years old; a veteran of the U.S. Armed Forces; a ward of the court; both parents are deceased; has legal dependents other than a spouse; is married and not claimed as an income tax exemption during the current tax year; is unmarried and not claimed as an income tax exemption during the past two (2) years.

(5) Dependent. An individual not meeting any of the criteria as an independent individual for financial needs purposes. When the client is a dependent, the vocational rehabilitation financial application must be completed by the parent(s)/guardian to determine the individual's eligibility for services based on financial need.

(6) A secondary service is a service (e.g., child care) that may be required by the eligible individual or an eligible individual's family member to enable the individual to complete the primary rehabilitation service(s).

(7) Extreme medical risk is a probability of substantially increasing functional impairment or death if medical services including mental health services are not provided expeditiously as recommended by an appropriate licensed medical professional.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.100. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.120, effective Aug. 16, 2011. Amended: Filed Sept. 27, 2013, effective May 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

**5 CSR 20-500.130 Confidentiality and  
Release of Information**

*PURPOSE: This rule establishes the procedures for release of information and confidentiality of applicants and/or eligible individuals for the State Board of Education through the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations 34 CFR section 361.38.*

(1) Information about an applicant or eligible individual will not be released without the individual's written permission except in the following situations when it directly relates to the applicant or eligible individual's rehabili-

tation program and is necessary to provide services:

(A) Name, addresses, Social Security number, phone numbers, educational/work histories, and income information to other state agencies that vocational rehabilitation (VR) has a cooperative agreement with, including but not limited to, the Departments of Elementary and Secondary Education, Higher Education, Labor and Industrial Relations, Mental Health, Social Services, the Division of Workforce Development, and school districts; and/or

(B) Information about an applicant or eligible individual to community rehabilitation programs; and/or

(C) Information about an applicant or eligible individual to medical care service providers; and/or

(D) As authorized in the federal act and/or applicable regulations.

(2) An applicant's or an eligible individual's refusal to release information may affect the individual's eligibility to receive services or may result in the denial of services.

(3) Information from an individual's file must be requested in writing.

(A) Upon the determination that information is harmful to the individual, information will not be released to the individual, but will be released to court appointed representatives or a third party chosen by the individual including an advocate, an adult member of the individual's family, or a qualified medical or mental health professional.

(B) Information will be released in response to a law enforcement investigation, fraud, or abuse, and in response to an order by a judge or other authorized judicial officer.

(C) To protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

(4) An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request in writing that VR amend the information. If the information is not amended, the request for the amendment must be documented in the record of services.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.110. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.130, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and*



178.620, RSMo 1963.

### 5 CSR 20-500.140 Minimum Standards

**PURPOSE:** This rule establishes the minimum standards for service providers and vocational rehabilitation counselors for the State Board of Education through the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education to provide vocational rehabilitation services for applicants and eligible individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended, 20 USC section 701 et. seq., and the Code of Federal Regulations, 34 CFR section 361.5(b)(9).

(1) A community rehabilitation program (CRP) is an accredited, non-profit organization, which provides employment-related services to applicants or eligible individuals.

(A) A CRP must demonstrate the ability to deliver appropriate employment-related services.

(B) A CRP must be accredited by a recognized professional accreditation organization that has developed commonly accepted processes for accreditation of the specific employment-related service.

(2) An educational service provider must comply with the provisions found in 5 CSR 20-500.370.

(3) Individuals who provide vocational rehabilitation (VR) authorized services must be properly accredited, certified, or licensed in accordance with applicable state law and/or regulation.

(4) A qualified VR counselor must have these minimum qualifications—

(A) A master's degree from an accredited college or university in rehabilitation counseling, guidance and counseling, psychology, social work, or closely related field; and

(B) Fluency in American Sign Language or other appropriate mode of communication if the counselor provides services to individuals who are deaf or hard of hearing.

**AUTHORITY:** section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.120. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Dec. 7, 2000, effective July 30, 2001. Moved to 5 CSR 20-500.140, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.

\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

### 5 CSR 20-500.150 Eligibility

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

(2) Diagnosis of disability must be by a qualified professional who is licensed or certified in Missouri or in another state as approved by VR, and in accordance with applicable state law and/or regulation.

(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 VR connected with an Individualized Plan for Employment (IPE). The treatment program must be certified by the Missouri Department of Mental Health, The Joint Commission, or a drug court;

(B) All referrals, applicants, and eligible individuals who meet the required eligibility requirements set by the Missouri Rehabilitation Services for the Blind (MRSB) will be referred to and served by MRSB; and

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

1. The following standards will be considered when determining eligibility:

A. 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 speech receptions, speech discrimination, and decibel loss at frequencies above 2000Hz.

**AUTHORITY:** section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 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. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.

\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

### 5 CSR 20-500.160 Order of Selection for Services

**PURPOSE:** This rule establishes the order of selection for vocational rehabilitation services if the State Board of Education through the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education cannot provide services to all eligible individuals with disabilities in the state of Missouri pursuant to the Rehabilitation Act of 1973 as amended, 20 USC section 701et. seq., and the Code of Federal Regulations, 34 CFR section 361.36.

(1) The following definitions apply to this rule:

(A) Individual with the most significant disability. An individual with a significant disability who is seriously limited in three (3) or more of the following functional areas:

1. Self-care;
2. Communication;
3. Mobility;
4. Self-direction;
5. Work tolerance;
6. Work skills; and/or
7. Interpersonal skills;

(B) Individual with a significant disability. An individual with a disability—

1. Who has a severe physical or mental impairment that seriously limits one (1) or two (2) functional capacities in terms of an employment outcome such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, and/or work skills;

2. Whose vocational rehabilitation (VR) can be expected to require multiple VR services over an extended period of time; and

3. Who has one (1) or more physical or mental disabilities resulting from amputation; arthritis; autism; blindness; burn injury; cancer; cerebral palsy; cystic fibrosis; deafness; head injury; heart disease; hemiplegia; hemophilia; respiratory or pulmonary dysfunction; mental retardation; mental illness; multiple sclerosis; muscular dystrophy; musculo-skeletal disorders; neurological disorders (including stroke or epilepsy); spinal cord conditions (including paraplegia or quadriplegia); sickle



cell anemia; specific learning disability; end-stage renal disease; or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and VR needs to cause comparable substantial functional limitation; or

(C) All other eligible individuals with a disability.

(2) In the event VR services cannot be provided to all eligible individuals with disabilities in the state of Missouri, VR will implement a statewide order of selection. In accordance with the following priority categories, individuals with the most significant disabilities will be selected first for the provision of VR services. Services shall be provided based upon the eligible individual's placement in one (1) of the following category priorities:

(A) Priority Category I—An individual with the most significant disabilities as defined above;

(B) Priority Category II—An individual with a significant disability as defined above; or

(C) Priority Category III—All other eligible individuals with a disability.

(3) An eligible individual will be placed in the appropriate priority category and receive written notification of the assigned priority category. The eligible individual's date of application will be used to determine the order of services within a priority category.

(4) An eligible individual will be notified of their right to appeal their category assignment.

(5) All funding arrangements for providing services, including any third-party arrangements and awards by VR shall be consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, VR shall renegotiate these funding arrangements so that they are consistent with the order of selection.

(6) Eligible individuals who are in a priority category that is not open, shall be provided accurate VR information and guidance (including counseling and referral for job placement) using appropriate modes of communication to assist them in preparing for, securing, retaining, or regaining employment. These individuals will also be referred to other appropriate federal and state programs, including the statewide workforce investment career centers.

(7) Individuals being referred to appropriate programs, as mentioned above, shall be provided the following:

(A) A notice of the referral to the agency carrying out the program;

(B) Information identifying a specific point of contact within the agency to which the individual is being referred; and

(C) Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain or regain employment.

(8) An eligible individual's placement in a priority category may be changed under justifiable circumstances.

(9) Rationale for placement will appear in the individual's case file.

(10) The order of selection shall in no way affect the provision or authorization of diagnostic and evaluation services needed to determine eligibility.

(11) Services authorized or provided to any eligible individual shall not be disrupted as a result of an order of selection or the closing of a priority category.

(12) Order of selection priority categories do not apply to post-employment services.

(13) The order of selection shall in no way affect eligible individual's access to services provided through VR's information and referral system.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.300. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Aug. 13, 2002, effective March 30, 2003. Moved to 5 CSR 20-500.160, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.170 Appeals

*PURPOSE: This rule establishes the procedures for appeal by an applicant or eligible individual dissatisfied with a determination made regarding the provision of services by the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended, 29 USC section 701 et. seq. and the Code of Federal Regulations, 34 CFR section 361.57.*

(1) An applicant or eligible individual will be informed of their right to a due process hearing and/or mediation if they are determined ineligible for services, when the Individualized Plan for Employment (IPE) is executed or if

there is a reduction, suspension, or cessation of vocational rehabilitation (VR) services.

(2) If an applicant or eligible individual is dissatisfied with any determination made by VR regarding the provision of services, the applicant or eligible individual may request an informal review, a due process hearing, or mediation.

(3) When an applicant or eligible individual is dissatisfied with any determination made by VR regarding the provision of services, the applicant or eligible individual will be informed in writing about the client assistance program.

(4) VR will not suspend, reduce, or terminate services provided to an eligible client under an existing IPE pending a decision from an informal review, a due process hearing, or a written mediation agreement, unless the eligible individual or the individual's representative requests in writing that services be suspended, reduced, or terminated.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.400. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.170, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.180 Informal Review

*PURPOSE: This rule establishes the procedures for informal review of a decision made by the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended, 29 USC section 701 et. seq. and the Code of Federal Regulations.*

(1) The applicant or eligible individual may request an informal review in writing to the respective district office supervisor.

(2) The district supervisor or regional manager will conduct an informal review within twenty (20) working days from receipt of the applicant's or eligible individual's request.

(3) An applicant or eligible individual may request a due process hearing or mediation without informal review.

(4) If the informal review is not successful, a formal due process hearing will be conducted within sixty (60) days from the applicant or



eligible individual's written request for informal review unless both parties agree to a specified time extension.

(5) The applicant or eligible individual will be informed of the results of their informal review in writing and the right to a due process hearing or mediation.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.410. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003, effective Oct. 30, 2003. Moved to 5 CSR 20-500.180, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.190 Due Process Hearing

*PURPOSE: This rule establishes the procedures for due process hearings for applicants or eligible individuals dissatisfied with a determination made regarding the provision of services by the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended, 29 USC section 701 et. seq. and the Code of Federal Regulations, 34 CFR section 361.57(e), (f), and (g).*

(1) An applicant or eligible individual may request a due process hearing without informal review or mediation.

(2) An applicant or eligible individual may request a due process hearing in writing or by personally contacting the vocational rehabilitation (VR) consumer affairs office.

(3) The assistant commissioner of the Office of Adult Learning and Rehabilitation Services or his/her designee will schedule a hearing and assign an impartial hearing officer to hear the matter.

(4) A hearing will be held within sixty (60) days of the request unless the applicant, the eligible individual, or VR requests a specified time extension.

(5) A hearing will be conducted as a contested case pursuant to the provisions of Chapter 536, RSMo.

(6) The applicant or the eligible individual, or if appropriate, the individual's guardian or other representative of the applicant or the eligible individual, will be allowed an oppor-

tunity to present additional evidence, information, and witnesses during the due process hearing.

(7) Copies of all correspondence, reports of contact, and written decisions rendered by the impartial hearing officer shall be placed in the applicant's or the eligible individual's case file.

(8) The impartial hearing officer will make a decision, including findings of fact and conclusions of law, based upon the provisions of the approved state plan, the federal act and/or applicable regulations, and appropriate state law and/or regulations. A written report from the impartial hearing officer will be submitted to the applicant or eligible client or, if appropriate, the individual's guardian or other representative, and to the assistant commissioner within thirty (30) days of completion of the due process hearing.

(9) Within twenty (20) days of the mailing of the impartial hearing officer's written decision, either party may request in writing, a review of the written decision by the commissioner of the Department of Elementary and Secondary Education (department), or his/her designee.

(10) The commissioner or designee shall provide an opportunity for submission of additional evidence and information relevant to a final decision. The commissioner may not delegate the responsibility for reviewing the written decision of the impartial hearing officer to any VR staff.

(11) The commissioner or designee shall not overturn or modify the impartial hearing officer's decision, or part of the decision supporting the position of the applicant or eligible individual, unless the reviewing official determines, based upon clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved state plan, the federal act and/or applicable regulations, or the appropriate state law and/or regulations.

(12) The commissioner or designee shall provide a written final findings of fact and conclusions of law to the applicant or eligible individual or, if appropriate, the applicant's representative and VR within thirty (30) days of the request for administrative review.

(13) A decision of the commissioner or designee constitutes notice of a final decision on the matter by the department.

*AUTHORITY: section 161.092, RSMo Supp.*

*2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.420. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003, effective Oct. 30, 2003. Moved to 5 CSR 20-500.190, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.200 Mediation

*PURPOSE: This rule establishes the procedures for mediation for applicants or eligible individuals dissatisfied with a determination made regarding the provision of services by the Office of Adult Learning and Rehabilitation Services, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended, 29 USC section 701 et. seq. and the Code of Federal Regulations, 34 CFR section 361.57(d).*

(1) The applicant or eligible individual may request mediation regarding disputes involving any determination by the vocational rehabilitation (VR) that affects the provision of services. This request may be made in writing or by contacting the VR consumer affairs office. Mediation will be held within sixty (60) days of the request unless both parties agree to a specified time extension. Mediation is voluntary on the part of both the individual and VR.

(2) The assistant commissioner of the Office of Adult Learning and Rehabilitation Services or his/her designee will assign a mediator agreed to by both VR and the applicant or eligible individual.

(3) An agreement reached by the parties as a result of mediation shall be set forth in writing.

(4) A written mediation agreement shall be provided to the applicant or eligible individual, or if appropriate, the individual's guardian or other representative, and to the assistant commissioner within thirty (30) days of completion of the mediation process.

(5) All discussions occurring during the mediation process shall be confidential and not used as evidence in any subsequent due process hearing or civil proceeding. Parties may be required to sign a confidentiality pledge prior to the commencement of mediation.

(6) An applicant or eligible individual may



request mediation without informal review or a due process hearing.

(7) Mediation will not be used to deny or delay an individual's due process hearing.

*AUTHORITY: section 161.092, RSMo Supp. 2013, and sections 178.600, 178.610, and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-4.430. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.200, effective Aug. 16, 2011. Amended: Filed Jan. 27, 2014, effective Aug. 30, 2014.*

*\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

### 5 CSR 20-500.210 Services

*PURPOSE: This rule establishes the standards for vocational rehabilitation services for the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) Vocational rehabilitation services as defined in the federal act and/or applicable regulations may be provided to individuals.

#### (A) Financial Need.

1. The following vocational rehabilitation services as defined in the federal act and/or applicable regulations may be provided to individuals based upon financial need:

A. Physical and/or mental restoration, including but not limited to hospitalization, medical treatment, surgery, dentistry, and prosthesis;

B. Training, including tuition, fees, books, supplies, training materials and other services associated with training;

C. Maintenance;

D. Transportation;

E. Placement tools, including initial stock and supplies associated with placement;

F. Self-employment;

G. Rehabilitation technology service, including assistive technology devices and services to assist the individual to achieve an employment outcome;

H. Home modification or remodeling;

I. Vehicle modification;

J. Services to family members to assist the individual to achieve an employment outcome;

K. Personal attendant services;

L. Note-taking services, not involving sign language interpretation; and/or

M. Other goods and services not listed above to assist the individual to achieve an employment outcome.

2. Financial need is based upon the individual's adjusted gross income level of the most recent tax records less unreimbursed disability related expenses as approved by the Division of Vocational Rehabilitation (DVR) and compared to one hundred eighty-five percent (185%) of the U.S. Department of Health and Human Services poverty level for Missouri and the Consumer Price Index as updated on an annual basis.

3. Individuals who are below three hundred percent (300%) of the U.S. Department of Health and Human Services poverty level for Missouri and the Consumer Price Index as updated on an annual basis, and do not receive any services based upon financial need as listed in this subsection, may receive an annual fixed amount as determined by DVR, to be applied toward tuition costs or required fees for training services. This amount may be authorized by DVR for a twelve (12)-month period of time on an annual basis, beginning on the date of services listed on the Individualized Plan for Employment (IPE).

#### (B) Nonfinancial Need.

1. The following vocational rehabilitation services as defined in the federal act and/or applicable regulations may be provided to individuals regardless of financial need:

A. Medical diagnostic services including medical and surgical examination, psychiatric evaluation, dental examination, inpatient hospitalization for specific identified vocational rehabilitation diagnostic and evaluation services including room, board and other services provided by the facility, clinical laboratory tests, diagnostic x-ray procedures and other medically recognized diagnostic services;

B. Psychological diagnostic services including psychological tests and measurements, intelligence tests, achievement tests, assessment of social functioning, educational achievement and other recognized diagnostic services;

C. Social and vocational diagnostic services including evaluation of the individual's employment opportunities and objectives in light of personality factors, intelligence level, educational achievements, work experience, vocational aptitudes and interests, and personal and social adjustment;

D. Maintenance when required to enable the individual to participate in diagnostic evaluation/services;

E. Transportation when required to

enable an individual to participate in diagnostic evaluation/services;

F. Assessment for determining eligibility and vocational rehabilitation needs;

G. Counseling, guidance, information and referral services;

H. Interpreter services for deaf or non-English speaking individuals when necessary to participate in a rehabilitation plan. Note-taking services that include interpreter services are not based upon the individual's financial need; and/or

I. Placement assistance into suitable employment and follow-up on-the-job training fees required to meet a job objective, including fees for: on-the-job training fees, supported employment and work stations in industry. (All other services required during the training such as maintenance and transportation will be based on financial need.)

(2) Individuals must use and make application for all available comparable services including but not limited to federal and state financial aid, which will be used to reduce the costs of services for DVR. Other comparable services, including Medicaid, Medicare and insurance will also be used by DVR to reduce the costs of services.

(A) Prior to providing any services to an individual, DVR will determine whether comparable services or benefits are available under any other program, except in the following instances:

1. Rehabilitation technology service, including assistive technology devices and services to assist the individual to achieve an employment outcome;

2. Counseling, guidance, information and referral services;

3. Assessment for determining eligibility and vocational rehabilitation needs;

4. Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

5. When a determination would delay or interrupt the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment;

6. When a determination would delay and interrupt job placement; and

7. Provision of a service to any individual at extreme medical risk.

(3) DVR funds may not be used for the purchase of the following:

(A) Real property, defined as land, including land improvements, structures and appurtenances thereto, excluding moveable machinery or equipment; and/or

(B) Automobile, truck, van, airplane, boat,



other powered vehicle, or trailer that requires title and/or licensing by the state.

(4) DVR will follow all Missouri procurement policies as specified in the *Revised Statutes of Missouri* for the purchase, retention, repossession and discarding of items including but not limited to prosthetic appliances; home modifications; vehicle modifications; initial tools, stock and equipment and/or rehabilitation technology/devices.

*AUTHORITY: sections 161.092, RSMo Supp. 2003 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.400. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Dec. 7, 2000, effective July 30, 2001. Amended: Filed June 30, 2004, effective Jan. 30, 2005. Moved to 5 CSR 20-500.210, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.220 Fees

*PURPOSE: This rule establishes fees paid by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for services for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) Certain fees may be paid by the Division of Vocational Rehabilitation (DVR). However, if the usual and customary fee charged for the service is less than an amount listed, the usual and customary fee is the maximum that will be paid. No additional moneys can be collected from the applicant or eligible individual. The fees are as follows:

(A) Hospitalization Fees: Daily per diem rate established by Missouri Medicaid;

(B) Surgical and Medical Fees: Medicare formula for surgery and related services as approved by the assistant commissioner of DVR or if the service is not covered by Medicare then the rate will be the usual and customary fee as approved by the assistant commissioner of DVR;

(C) Psychological Diagnostic Fees: Usual and customary fees as approved by the assistant commissioner of DVR;

(D) Dental Fees: Missouri Medicaid rates as approved by the assistant commissioner of DVR or if the service is not covered by Medicaid then the rate will be the usual and customary fee as approved by the assistant commissioner of DVR;

(E) Community Rehabilitation and Supported Employment Programs: Evaluation of a cost analysis report for each program with the fees approved by the assistant commissioner of DVR; and/or

(F) Interpreter Services: Usual and customary fees approved by the assistant commissioner of DVR.

(2) The maximum fee which may be paid by DVR for any services or entity not listed above is the usual and customary fee for said service or entity as approved by the assistant commissioner of DVR.

*AUTHORITY: sections 161.092, RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.410. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003, effective Oct. 30, 2003. Moved to 5 CSR 20-500.220, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

#### 5 CSR 20-500.230 Maintenance and Transportation

*PURPOSE: This rule establishes the standards for maintenance and transportation services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) The following maintenance and transportation services as defined in the federal act and/or applicable regulations may be provided to applicants or eligible individuals regardless of financial need:

(A) Maintenance when required to enable the applicant or eligible individual required to leave their domicile and relocate forty-five (45) miles or more to participate in diagnostic evaluation/services; and/or

(B) Transportation when required to enable an applicant or eligible individual to participate in diagnostic evaluation/services.

(2) The following maintenance and transportation services as defined in the federal act and/or applicable regulations may be provided to applicants or eligible individuals based upon financial need. Exceptions may be made if the individual will suffer economic hardship.

(A) Maintenance (noon meals, personal

maintenance, placement maintenance, room and board) may be authorized in association with an eligible individual's Individualized Plan for Employment (IPE) when the eligible individual is required to leave their domicile and relocate forty-five (45) miles or more and it is necessary for the eligible individual to receive services.

1. Maintenance may be paid if the actual time required for the service is twenty (20) or more hours per week or the actual time required for the service is less than twenty (20) hours per week and the service is not available within the forty-five (45) miles commuting distance of the eligible individual's home.

2. An eligible individual, considered as either independent or dependent in the family household, who is required to leave their domicile and relocate forty-five (45) miles or more, may receive two dollars and fifty cents (\$2.50) maximum per day for lunch. An eligible individual considered as independent in the family household, who is required to leave their domicile and relocate forty-five (45) miles or more, may receive up to an additional fifteen dollars (\$15) maximum per week if the Division of Vocational Rehabilitation (DVR) can establish a strong economic need. Exceptions may be made if the individual will suffer economic hardship under the plan and there are no available financial resources.

3. Personal maintenance, up to ten dollars (\$10) per week, may be authorized for eligible individuals who are considered an independent in the family household and required to leave their domicile and relocate forty-five (45) miles or more.

4. Placement maintenance may be authorized for a period not to exceed four (4) weeks in association with an IPE for those eligible individuals who are required to leave their domicile and relocate forty-five (45) miles or more. This plan should include an emphasis in specific job seeking activities. Placement maintenance may be authorized for a period not to exceed four (4) weeks if the individual is employed or until the individual receives a paycheck (whichever period is shorter).

5. Room and board during college training, up to the amount of the dormitory fees at the nearest Missouri tax supported college, may be authorized for those eligible individuals who are required to leave their domicile and relocate forty-five (45) miles or more.

6. Maintenance will not be paid during holiday breaks, absences, or vacations during the eligible individual's plan except when failure to pay maintenance would jeopardize the planned services.

7. DVR will not authorize maintenance for correspondence or tutorial training, or





during convalescent care or hospitalization.

(B) Transportation may be authorized by DVR in association with an IPE when necessary for the eligible individual to travel to and from the place of primary service. Transportation assistance will be based upon the individual attending the nearest location.

1. If the eligible individual elects to obtain primary rehabilitation services at a location not within commuting distance (generally one (1) hour travel time and/or approximately forty-five (45) miles) and the services are available within commuting distance, the eligible individual is responsible for all costs exceeding those authorized by DVR for primary rehabilitation services within commuting distance.

2. An exception may be approved by DVR if the eligible individual suffers an economic hardship under the plan and there are no other available financial resources.

3. Mileage reimbursement to eligible individuals will be calculated at thirty percent (30%) of the most current mileage reimbursement rate for state of Missouri employees issued by the Missouri Office of Administration.

A. Mileage reimbursement may be authorized under the following conditions:

- (I) The eligible individual is unable to travel by common carrier; or
- (II) Bus service is not available; or
- (III) The cost by private transportation is less.

4. Air travel may be provided in instances of significant impairment necessitating such mode of travel and in instances where the overall cost to DVR would be the most cost effective method.

*AUTHORITY: sections 161.092, RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.420. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed March 27, 2003, effective Oct. 30, 2003. Moved to 5 CSR 20-500.230, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

### 5 CSR 20-500.240 Physical and Mental Restoration

*PURPOSE: This rule establishes the standards for physical and mental restoration services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act*

*of 1973 as amended and the Code of Federal Regulations.*

(1) The following physical and/or mental restoration services as defined in the federal act and/or applicable regulations may be provided to applicants or eligible individuals based upon financial need:

(A) Hospital services for eligible individuals shall be provided from an in-state hospital accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or by the American Osteopathic Association and licensed by the Missouri Department of Health. Preference will be given to hospitals having fifty (50) or more beds and well developed surgical and specialty services.

1. Hospital services for eligible individuals from an out-of-state hospital may be paid according to the rates and methods approved by the vocational rehabilitation agency in the state where the hospital is located;

(B) Surgical services for eligible individuals may be provided upon approval by the Division of Vocational Rehabilitation's (DVR) Medical Review Committee and when necessary to correct or substantially modify a physical or mental impairment which is stable or slowly progressive and constitutes a substantial impediment to employment. The condition must be of such a nature that correction or modification may be reasonably expected to eliminate or substantially reduce the impediment to employment within a reasonable length of time;

(C) Hearing aids may only be provided from a Missouri licensed hearing aid dealer and fitter upon the recommendation of a Missouri physician specializing in diseases of the ear or a Missouri certified audiologist. The recommendation must include the recommended type of aid and specifications or prescriptions. All licenses or certifications must be valid, unencumbered, unrestricted, and undisciplined.

1. Prior to purchase authorization, DVR will—

A. Consult with the physician or audiologist to determine feasibility of any repair or reconditioning of an existing aid;

B. Obtain estimates including the itemized cost of the aid, batteries, service and warranty from more than one (1) licensed dealer when practical;

C. Request agency discounts;

D. Allow for the eligible individual's preference of vendor whenever possible; and

E. Ensure that the quality of aid, accessories, service, warranty and cost effectiveness are evaluated; and/or

(D) Individuals with mental illness may be referred to the Missouri Department of Mental

Health or other mental health providers as a comparable service. Psychotherapy services may be authorized when required for the eligible individual to begin or continue a rehabilitation plan under the following conditions:

1. The need for psychotherapy is clearly related to the expected employment outcome and recommended by a Missouri licensed psychiatrist or psychologist;

2. An Individualized Plan for Employment (IPE) must have been developed or be in the process of development to provide services leading to the attainment of the vocational goal;

3. The eligible individual meets DVR's financial need guidelines;

4. The provider must be a Missouri licensed psychiatrist, psychologist, clinical social worker or professional counselor. The provider must possess a valid, unencumbered, unrestricted and undisciplined Missouri license; and

5. Psychotherapy may be authorized for a period up to three (3) months. An additional three (3) months of therapy may be approved if the therapist feels that the consumer is making satisfactory progress that will lead to the attainment of the vocational goal specified on the IPE.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994.\* This rule previously filed as 5 CSR 90-5.430. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.240, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

### 5 CSR 20-500.250 Training

*PURPOSE: This rule establishes the standards for training services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) The following training services as defined in the federal act and/or applicable regulations, and 5 CSR 60-900.050 may be provided to eligible individuals based upon financial need:



(A) College, vocational, or proprietary training at an accredited institution may be provided to assist eligible individuals in reaching objectives that are within the scope of their functional limitations, interests, aptitudes and abilities.

1. Eligible individuals must be enrolled in and satisfactorily complete courses that constitute a normal course load for full-time students unless circumstances as approved by the Division of Vocational Rehabilitation (DVR), indicate a need for a reduced course load.

2. Colleges, universities, vocational or proprietary schools must comply with the provisions found in 5 CSR 60-900.050.

3. For eligible individuals enrolled in a Missouri tax supported two (2) or four (4) year college, the cost of education for freshman and sophomore years of college will be calculated at the nearest Missouri community college rate or the Missouri four (4) year college, whichever is less, within a forty-five (45) mile commuting distance. For those areas which do not have a Missouri community college within forty-five (45) miles, but have a Missouri state supported four (4) year college in their local area, the calculation will be based on that state supported four (4) year college rate.

4. For eligible individuals enrolled in private or proprietary degree colleges or certificate programs in Missouri, the cost of the education is based upon the nearest Missouri tax supported two (2) or four (4) year college appropriate for the eligible individual to reach their vocational objective. Eligible individuals enrolling in the freshman and sophomore year of college will receive services calculated at the nearest Missouri community college rate, within a forty-five (45) mile commuting distance. For those areas which do not have a Missouri community college within forty-five (45) miles, but have a Missouri state supported four (4) year college in their local area, the calculation will be based on that state supported four (4) year college rate. This includes all primary rehabilitation services (e.g. tuition and fees) and secondary rehabilitation services (e.g. maintenance, transportation, books and supplies) which are determined to be necessary for the eligible individual to attend college or certificate programs. The following are exceptions:

A. The specific job objective which the individual is seeking is not available at the nearest Missouri tax supported two (2) or four (4) year college; and/or

B. The nearest Missouri tax supported two (2) or four (4) year college does not provide appropriate services for the individual's disability-related needs.

5. For eligible individuals enrolled in out-of-state colleges or certificate programs, the cost of the education is based upon the lesser of the hourly rate at the nearest Missouri tax supported two (2) or four (4) year college or the hourly rate of the particular out-of-state college appropriate for the eligible individuals to reach their vocational objective. This amount may be applied to any of the eligible individual's educational cost(s). For out-of-state colleges any grants, aid, loans, and/or work-study awarded will be used to reduce the individual's participation in the educational costs.

A. Division of Vocational Rehabilitation's maximum rate of authorization for out-of-state college tuition is calculated at the nearest Missouri community college rate, within a forty-five (45) mile commuting distance from the individual's permanent domicile for the freshman and sophomore years. For those areas which do not have a Missouri community college within forty-five (45) miles from the individual's permanent domicile, the calculation will be based upon the nearest Missouri state supported four (4) year college.

6. Any change in vocational goals involving college, vocational, or proprietary training must be agreed to and signed by the individual and approved by DVR.

7. The eligible individual is responsible for the cost of the tuition and/or required textbooks when courses are dropped, withdrawn and/or retaken due to poor grades, unless the eligible individual's reason for withdrawing, dropping and/or failing a course is disability-related or a credit or refund has been obtained.

8. The individual and/or parents must complete DVR's Financial Application. The individual and/or parents must apply for all applicable federal grants and campus financial aid. If an individual is awarded any grant(s) and attends an in-state college, the grant(s) will be used to reduce DVR's participation in the educational costs.

A. If an individual attends a Missouri public, private or proprietary degree program, all federal grants and aid must be used to reduce agency participation in the educational costs.

B. If the individual participates in a work-study program or obtains student loans, money received from either may be used for educational costs not covered by DVR.

C. If an individual attends an out-of-state college or university, all federal grants and aid may be used to pay for educational costs which exceed DVR's level of funding.

9. The eligible individual is responsible for the cost of tuition, books and supplies for

elective courses that do not specifically apply to the eligible individual's degree or program.

10. The eligible individual must acquire and maintain at least a minimum grade point average of 2.0 (based on a 4.0 point scale) or a 3.0 (based on a 5.0 point scale).

11. The eligible individual shall provide a grade report after each semester, quarter, trimester, etc., that documents hours taken, hours completed, grades for each course and grade point average;

(B) The eligible individual may be authorized for correspondence training in the following situations:

1. Training cannot be arranged by another method;

2. The eligible individual needs preliminary training which may be obtained most practicably and efficiently by correspondence prior to entering training by another method;

3. Satisfactory living arrangements cannot be made to secure training by any other method; and/or

4. An eligible individual needs one (1) or two (2) courses for a special purpose;

(C) Tutorial training by qualified tutors may be authorized for eligible individuals needing training not offered by any other method.

1. The tutor must have the necessary qualifications to teach the required skills, and sufficient time to devote to the selected course.

2. The tutor must be willing to make arrangements for time and place of instruction which will be convenient for the eligible individual and satisfactory to the conditions under which the client must live and train.

3. Division of Vocational Rehabilitation will authorize reasonable tuition for tutorial training and ensure that the objective of the training is commensurate with the cost; and/or

(D) Books, training materials, tools, equipment and/or initial stock may be purchased for an eligible individual when said materials are required for an eligible individual to successfully participate in training or job placement.

(2) The following training services as defined in the federal act and/or applicable regulations, and 5 CSR 60-900.050 may be provided to eligible individuals regardless of financial need:

(A) On-the-job training fees, supported employment, work stations in industry, and placement assistance into suitable employment; and/or

(B) Eligible individuals who are identified in an Individualized Educational Plan (IEP)



may be certified for Sheltered Workshop employment in the last semester of his/her final year in school. Exceptions must be agreed upon by both the assistant commissioners of the Department of Elementary and Secondary Education for DVR and Special Education.

**AUTHORITY:** sections 161.092, RSMo Supp. 2002 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.440. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Dec. 7, 2000, effective July 30, 2001. Amended: Filed March 27, 2003, effective Oct. 30, 2003. Moved to 5 CSR 20-500.250, effective Aug. 16, 2011.

\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

#### 5 CSR 20-500.260 Home Modification and/or Remodeling

**PURPOSE:** This rule establishes the standards for home modification and remodeling services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Home modification and/or remodeling as defined in the federal act and/or applicable regulations may be provided to eligible individuals who meet the financial need guidelines. The modifications should assist the eligible individual to live independently and participate in employment.

(2) The eligible individual or member of the eligible individual's family must own the residence being modified or remodeled or be in the process of purchasing the residence. If the eligible individual resides in rental property, only ramps or lifts will be authorized by the Division of Vocational Rehabilitation, when written permission from the eligible individual's landlord is obtained authorizing the modifications to the rental property.

**AUTHORITY:** sections 161.092, 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.450. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.260, effective Aug. 16, 2011.

\*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

#### 5 CSR 20-500.270 Vehicle Modification

**PURPOSE:** This rule establishes the standards for vehicle modification services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Vehicle modification as defined in the federal act and/or applicable regulations may be provided to eligible individuals who meet the financial need guidelines.

(2) Eligible individuals may be required to participate in a driver's evaluation provided by a qualified independent organization or individual, to determine the need for vehicle modification and/or adaptive equipment. The driver's evaluation should reflect the minimum modification required for safe operation of the vehicle.

(3) Division of Vocational Rehabilitation (DVR) only authorizes vehicle modification(s) to enable the eligible individual to enter and exit the vehicle, ride in it and operate it if necessary. Optional equipment, or modifications and accessories not required as indicated by a driver's evaluation, will not be purchased by DVR.

(4) The eligible individual or immediate family member/guardian of the eligible individual must own the vehicle, capable of passing state inspection, prior to any vehicle modification. Division of Vocational Rehabilitation will not purchase an automobile, truck, van, airplane, boat, other powered vehicle or trailer that requires title and/or licensing by the state.

(5) The eligible individual must have a valid driver's license. If the disability and resulting functional limitations have occurred since the driver's license was issued, the eligible individual should complete appropriate driver training. Division of Vocational Rehabilitation may assist in providing driver's education training.

(6) The eligible individual is responsible for the following:

(A) Providing the maintenance of the vehicle, adaptive equipment and all required city and state licenses; and

(B) Payment of the costs of the vehicle (including loan payments) and insurance premiums.

**AUTHORITY:** sections 161.092, RSMo Supp.

2003 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.460. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed June 30, 2004, effective Jan. 30, 2005. Moved to 5 CSR 20-500.270, effective Aug. 16, 2011.

\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

#### 5 CSR 20-500.280 Self-Employment

**PURPOSE:** This rule establishes the standards for self-employment services provided by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Self-employment is a business operated by the client in which that individual performs, supervises or subcontracts the major part of the product or service to be produced. Self-employment is a vocational option that may be considered in the wide array of employment outcomes. Self-employment services must be agreed to by the eligible individual and approved by the Division of Vocational Rehabilitation (DVR).

(2) Individualized Plans for Employment (IPE) that have an objective of self-employment require a DVR approved business plan.

(3) Self-employment businesses must comply with all applicable federal, state, local regulations and statutory requirements.

(4) DVR may only contribute in purchasing of required business equipment, supplies, rent (up to six (6) months) or other start-up costs identified in an approved business plan for self-employment.

(A) The client should contribute toward the cost of the planned services to the maximum of their abilities. The client must make application for all available comparable services, such as micro enterprise grants, Small Business Administration assistance and Rural Missouri Incorporated assistance.

(B) The percentage of DVR's contribution will depend upon comparable services or client contributions toward the self-employment plan as well as the overall cost of the planned services. DVR may contribute as follows:

1. Identified start-up costs from one dollar to five thousand dollars (\$1 to \$5,000)—up to one hundred percent (100%) DVR's



contribution;

2. Identified start-up costs from five thousand one dollars to ten thousand dollars (\$5,001 to \$10,000)—up to an additional fifty percent (50%) beyond DVR’s initial contribution of five thousand dollars (\$5,000);

3. Identified start-up costs from ten thousand one dollars to twenty thousand dollars (\$10,001 to \$20,000)—up to an additional twenty-five percent (25%) of twenty thousand dollars (\$20,000) beyond DVR’s contribution listed above; and/or

4. All self-employment plans which exceed DVR’s total contribution of ten thousand dollars (\$10,000) must be reviewed and approved by the Self-Employment Review Team.

(5) DVR funds may not be used for the purchase of the following:

(A) Real property, defined as land, including land improvements, structures and appurtenances thereto, excluding moveable machinery or equipment; and/or

(B) Automobile, truck, van, airplane, boat, other powered vehicle, or trailer that requires title and/or licensing by the state.

(6) DVR will follow all Missouri procurement policies as specified in the Revised Statutes of Missouri for the purchase, retention, repossession and discarding of items including but not limited to prosthetic appliances; home modifications; vehicle modifications; initial tools, stock and equipment and/or rehabilitation technology/devices.

*AUTHORITY: sections 161.092, RSMo Supp. 2003 and 178.600, 178.610 and 178.620, RSMo 2000.\* This rule previously filed as 5 CSR 90-5.470. Original rule filed June 30, 2004, effective Jan. 30, 2005. Moved to 5 CSR 20-500.280, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

**5 CSR 20-500.290 Centers for Independent Living**

*PURPOSE: This rule sets the standards and procedures for establishing and maintaining state-funded centers for independent living. H.B. 975 passed by the General Assembly April 20, 1988 states: “The division shall, in consultation with persons with disabilities, develop a plan to fund and maintain organizations meeting the guidelines set forth in sections 1 to 5 of the act for centers and establish and maintain new centers to assure services statewide.”*

(1) Definitions. As used in this rule, except as otherwise required for the context—

(A) Centers or centers for independent living mean community-based nonresidential programs designed to promote independent living for persons with disabilities;

(B) Division means the Division of Vocational Rehabilitation of the Department of Elementary and Secondary Education;

(C) Nonprofit corporation means a corporation in which no part of the net earnings inures to the benefit of any private shareholder or individual and the income of which is exempt from taxation under 26 USCA section 501(c)(3);

(D) Person with a disability means any person who—

1. Has a physical or mental impairment which substantially limits one (1) or more of the person’s major life activities; or

2. Is regarded as having or has a record of such an impairment;

(E) Independent living philosophy means control over one’s life based upon the choice of acceptable options that minimize or eliminate reliance on others in making decisions and in performing everyday activities. This includes managing one’s affairs, participating in day-to-day life in the community, fulfilling a range of social roles and making decisions that lead to self-determination and the minimization or elimination of physical and psychological dependence on others.

(2) Funding. Subject to appropriations, the division will provide financial assistance in the form of grants to centers. Amounts of the grants and purposes for which the grants can be used shall be determined by the division. Funding for these centers will not be awarded to more than one (1) center in any city.

(3) Requirements. A center for independent living must be a community-based, not-for-profit organization. At least fifty-one percent (51%) of the board membership must be persons with disabilities. Also, at least fifty-one percent (51%) of the staff of the center shall be persons with disabilities. Programming shall be nonresidential and promote independent living. A center shall serve at least four

(4) of the following types of disabilities:

- (A) Mobility;
- (B) Orthopedic;
- (C) Hearing-impaired or deaf;
- (D) Vision-impaired or blind;
- (E) Neurological;
- (F) Mental retardation;
- (G) Developmental;
- (H) Psychiatric or mental; or
- (I) Learning.

(4) Grant Funding. The grant cycle for any state funding shall be on an annual basis coincident with the state fiscal year. The grants will be submitted in a format prescribed by the division on an annual basis coordinated with the state fiscal year. The amounts of the grants will be determined by the division subject to the amount of monies appropriated by the state and the scope of approved services provided by the centers. Continuation grants must show evidence of effective results for previous grant periods, such as meeting or exceeding stated program objectives, having a positive impact on consumer achievements, having a positive impact on community living options, and having a sound management structure and effective management procedures. The grant application must reflect assurances that the grantee program will—

(A) Manifest independent living philosophy;

(B) Establish clear priorities through annual and three (3)-year program and financial planning;

(C) Establish measurable program objectives;

(D) Maintain an evaluation system and records adequate to measure performance standards. (Financial and program records will be maintained for a period of not less than three (3) years.);

(E) Practice sound fiscal management and submit to the division annual audit reports equivalent to those prescribed in OMB Circular A-110;

(F) Maintain records which identify the source and application of all center funds. (Governmental funds must be identified by source, purpose, etc.; private funds may be identified in the aggregate only.);

(G) Meet or exceed program standards for approval by the Commission on Accreditation of Rehabilitation Facilities (CARF) or a certification process accepted by the division;

(H) Use sound organizational and personnel management practices;

(I) Have qualified staff;

(J) Have a positive impact on consumer achievement of independent living goals; and

(K) Have a positive impact on community options.

(5) Equipment.

(A) For the purchase of all items of equipment of three hundred dollars (\$300) or more, the center must obtain three (3) bids, document the evaluation process and select the lowest and best bid. The documentation must be kept until either an audit is completed or an agency monitoring visit occurs, whichever is last.

(B) Equipment with a unit value of three



hundred dollars (\$300) or more must be accompanied by proof-of-insurance or evidence of the center's financial ability to replace or repair.

(C) An inventory list must be kept for one (1) year on equipment with a unit value under three hundred dollars (\$300).

(D) Equipment purchased must be inventoried on an appropriate document and submitted to the division when request for payment is made.

(E) Equipment with a unit purchase price of from three hundred dollars to one thousand dollars (\$300–\$1000) will be considered as non-expendable and will be monitored for a five (5)-year period. After five (5) years, the equipment will become the property of the center.

(F) Depreciation computation for replacement or reimbursement to the state agency on equipment with a purchase price of from three hundred dollars to one thousand dollars (\$300–\$1000) will be straight line, twenty percent (20%) per year for five (5) years.

(G) Equipment with a unit purchase price of three hundred dollars (\$300) or more that is lost, stolen or broken must be reported to the division. Proper documentation, such as police or accounting reports, is to be included.

(H) The state agency shall retain vested interest of all equipment with a unit purchase price of one thousand dollars (\$1000) or more. If a center ceases to use the equipment, it is required to contact the division for appropriate disposition.

(I) Equipment with a unit price of one thousand dollars (\$1000) or more will be monitored during reasonable life expectancy. After such items have been depreciated according to their reasonable life expectancy, the division will retain no further vestment of title. The depreciation schedule shall be at the discretion of the division.

(J) Any change from the budget for equipment must be requested in writing and approval received from the division before proceeding with the proposed change.

(K) Equipment funds will not be transferred to another category.

(L) An inventory list with a control number assigned to each item of equipment with a unit value of three hundred dollars (\$300) or more shall be communicated to the division.

(6) Center Services (mandatory). The center must make available to persons with disabilities the following independent living services:

(A) Advocacy;

(B) Independent living skills training, to include, but not be limited to, health care and

financial management;

(C) Peer counseling; and

(D) Information and referral.

(7) Center Services (optional). The center may provide or make available, but not be limited to, the following:

(A) Legal services;

(B) Other counseling services, which may include non-peer, group and family counseling;

(C) Housing services;

(D) Equipment services;

(E) Transportation services;

(F) Social and recreational services;

(G) Educational services;

(H) Vocational services, including supported employment;

(I) Reader, interpreter and other communication services;

(J) Attendant and homemaker services; or

(K) Electronic services.

(8) A center shall make maximum use of existing resources available to persons with disabilities and shall not duplicate any existing services or programs in the geographic areas to the extent that these services or programs are available through other state resources.

(9) Monitoring. Monitoring activities will be performed by the division periodically during each program year. The assistant commissioner of the division or any of his/her authorized representatives shall have the right of access to any books, documents, papers or other records of the grantee which are pertinent to the center's grant in order to monitor program, business and accounting functions of the center. Monitoring activities shall include, but not be limited to, the following:

(A) The numbers and types of individuals with disabilities assisted;

(B) The extent to which individuals with varying disabling conditions were served;

(C) The types of services provided;

(D) The sources of funding;

(E) The percentage of resources committed to each type of service provided;

(F) How services provided contributed to the maintenance of or the increased independence of the individual with a disability;

(G) The extent to which individuals with disabilities participate in management and decision-making in the center;

(H) The extent to which the center collaborates with other agencies and organizations;

(I) The extent of catalytic activities to promote community awareness, involvement and assistance;

(J) The extent of outreach efforts and the

impact of such efforts;

(K) A comparison, when appropriate, of prior year(s) activities with the most recent year activities;

(L) Outcomes of center activities in meeting stated program goals and objectives; and

(M) Compliance with business and accounting functions according to OMB Circular A-110.

(10) Repeated program deficiencies will be cause for termination of center funding.

(11) Continuation of funding beyond the first year will be based on performance in meeting program objectives, availability of funding and continued need of center services.

(12) A center shall operate in compliance with all applicable local laws and ordinances.

*AUTHORITY: sections 178.651–178.658, RSMo Supp. 1988.\* This rule previously filed as 5 CSR 90-8.010. Original rule filed Oct. 27, 1988, effective Feb. 24, 1989. Moved to 5 CSR 20-500.290, effective Aug. 16, 2011.*

*\*Original authority: 178.651-178.658, see Revised Statutes of Missouri, 2000.*

### 5 CSR 20-500.300 Pertinent Regulations Relating to the Disability Determinations Program

*PURPOSE: This rule prescribes standards for implementation of the Disability Determinations Program as contained in the Code of Federal Regulations, Title 20, Chapter III, part 404, subparts J, P and Q and part 416, subparts I, J and N.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the rule has been filed with the secretary of state and is summarized here by the agency adopting it. The entire text of the rule may be found at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) The disability program under the Social Security Act is administered in states under rules contained in Title 20, Chapter III of the Code of Federal Regulations. Two (2) parts of the Code concern the Disability Determinations Program.

(A) Part 404, subparts J, P and Q pertains to the disability insurance benefits under Title II of the Social Security Act. It includes the pertinent regulations regarding the administration of this program and the criteria for



determining eligibility for these benefits. It has an appendix which contains a detailed listing of impairments, which is used to determine medical eligibility for disability benefits.

(B) Part 416, subparts I, J and N pertains to the Supplemental Security Income disability benefits under Title XVI of the Social Security Act. It includes the pertinent regulations regarding the administration of this program and the criteria for determining eligibility for these benefits.

*AUTHORITY:* section 161.182, RSMo 1986.\* This rule previously filed as 5 CSR 90-50.010. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed April 24, 1979, effective Aug. 13, 1979. Amended: Filed Jan. 9, 1981, effective April 13, 1981. Amended: Filed April 28, 1994, effective Oct. 30, 1994. Moved to 5 CSR 20-500.300, effective Aug. 16, 2011.

\*Original authority: 161.182, RSMo 1963, amended 1973.

*Op. Atty. Gen. No. 96, Wheeler (6-15-55).* Section 178.430, RSMo (1969) authorizes State Board of Education to formulate and execute plan of agreement in carrying out provisions of federal Social Security Act in making determination of disability under Title II thereof. State Board has authority to designate Vocational Rehabilitation Section to administer the plan.

**5 CSR 20-500.310 Reporting Requirements**  
(Rescinded May 30, 2018)

*AUTHORITY:* section 135.348, RSMo Supp. 1998. This rule previously filed as 5 CSR 60-95.040. Original rule filed March 22, 1999, effective Sept. 30, 1999. Moved to 5 CSR 20-500.310, effective Aug. 16, 2011. Rescinded: Filed Oct. 25, 2017, effective May 30, 2018.

**5 CSR 20-500.320 Missouri State Plan for Adult Education**

*PURPOSE:* This rule incorporates the current state plan for adult education, which serves as an agreement between state and federal governments regarding the conduct and administration of the program in Missouri.

*PUBLISHER'S NOTE:* The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive.

*This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost. This note applies only to the reference material. The entire text of the rule is printed here.*

The Missouri State Board of Education is responsible for administering and supervising the adult education program at the state level to provide adult education and literacy services, including workplace literacy services, family literacy, and English literacy programs. Funds will be distributed to eligible providers such as local education agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and other institutions that have the ability to provide comprehensive literacy services to adults and families for the purpose of providing instruction in adult education, which is designed to teach persons out of school who are seventeen (17) years of age or older or meet the compulsory attendance requirements of section 167.031, RSMo, to obtain sufficient mastery of basic educational skills to enable them to function effectively in society. The program priorities and objectives are—to assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency, assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children, and assist adults in the completion of a secondary school education and/or obtain a high school equivalence certificate. These objectives are achieved by providing funds to eligible providers and by providing professional development for adult education staff members through local, state, regional, and national sponsored training programs. Project applications are reviewed to assure their compliance with federal and state guidelines. Eligible providers are responsible for meeting federal and state performance measures incorporated in the five (5)-year program plan, as revised, for adult education, which serves as an agreement between state and federal governments regarding the conduct and administration of the program in Missouri for Fiscal Years 2000–2004, as revised. The Missouri Adult Education and Literacy State Plan 2000–2004 (Revised 2009) is hereby incorporated by reference and made a part of this rule. A copy of the state plan may be obtained by contacting the Adult Education and Literacy Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any sub-

sequent amendments or additions.

*AUTHORITY:* sections 161.092 and 167.031, RSMo Supp. 2009 and section 178.430, RSMo 2000.\* This rule previously filed as 5 CSR 60-100.010. Original rule filed Oct. 15, 1975, effective Oct. 26, 1975. Amended: Filed Oct. 8, 1976, effective Nov. 15, 1976. Amended: Filed Aug. 16, 1977, effective Sept. 12, 1977. Amended: Filed July 7, 1978, effective Aug. 14, 1978. Amended: Filed July 28, 1980, effective Sept. 15, 1980. Amended: Filed Aug. 13, 1982, effective Sept. 13, 1982. Amended: Filed May 27, 1986, effective June 30, 1986. Amended: Filed Jan. 27, 1993, effective June 7, 1993. Amended: Filed Aug. 26, 1993, effective Dec. 9, 1993. Amended: Filed Oct. 29, 1999, effective Jan. 30, 2000. Amended: Filed: Sept. 24, 2002, effective Dec. 30, 2002. Amended: Filed Feb. 4, 2010, effective April 30, 2010. Moved to 5 CSR 20-500.320, effective Aug. 16, 2011.

\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003; 167.031, RSMo 1963, amended 1977, 1986, 1990, 1993, 2004, 2006, 2008, 2009; and 178.430, RSMo 1963.

**5 CSR 20-500.330 Administration of High School Equivalence Program**

*PURPOSE:* The Department of Elementary and Secondary Education (department) determines applicant eligibility, arranges for testing, establishes minimum standard score requirements, issues certificates, and approves reexamination in accordance with the policies and procedures of test vendors approved and designated by the department.

(1) To be eligible to earn a Missouri High School Equivalence Certificate, a person must be a resident of Missouri (with a Missouri mailing address) and meet one (1) of the following requirements:

- (A) Be seventeen (17) years of age or older;
- (B) Be currently enrolled in school and qualify as a participant in an approved Missouri Option Program for at-risk youth;
- (C) Be sixteen (16) years of age, withdrawn from school, have successfully completed sixteen (16) units of credit toward high school graduation, and have written permission from the superintendent or principal of the school last attended; or
- (D) If home schooled—be sixteen (16) years of age, have met the requirements of section 167.031, RSMo, for course instruction, and have written permission of the parent or legal guardian.



(2) Arrangements for taking the test(s).

(A) The test(s) to earn a Missouri High School Equivalence Certificate are administered under the direction of the department at centers approved and designated by the department.

(B) Application forms may be obtained by contacting the Missouri High School Equivalency Office (HSEO), PO Box 480, Jefferson City, MO 65102-0480. The completed form is to be returned for approval. Only approved applicants may take the examination. Positive identification in the form of a current Missouri driver's license, Missouri non-driver ID, or U.S. issued passport must be presented by the examinee before being allowed to take the test(s). The local testing center is responsible for positive identification of examinees.

(C) Examination fee(s) must be paid by the examinee to cover the cost of administering the program. Based on the test(s) identified by the department and method of test administration chosen by the examinee, fees may be paid to the department, testing center, or test vendor. These fees are nonrefundable and nontransferable. Duplicate certificates are available for an additional fee.

(3) Local testing centers will assign testing dates to applicants who have requested testing and who have been authorized by the department to take the test(s) or to retake all or part of a test.

(4) The Missouri Certificate of High School Equivalence is awarded on the basis of the successful completion of the designated test(s). Minimum standard scores are established in accordance with the policies and procedures of the designated test vendor(s).

(5) Certificates of High School Equivalence are issued only by the department. Public high schools are not permitted to issue these certificates nor are they permitted to issue a diploma on the basis of the designated test(s) unless the district is part of the Missouri Option Program.

(6) Reexamination.

(A) An applicant who fails to qualify for the certificate on the first testing may be approved for additional attempts per vendor's requirements.

(7) General Educational Development Test or GED® Tests given by the Defense Activity for Nontraditional Education Support (DANTES) or United States Armed Forces Institute (USAFI) are recognized by Missouri. A completed application form, fee, and an official

transcript of GED scores must be submitted to the HSEO, PO Box 480, Jefferson City, MO 65102-0480. A Missouri Certificate of High School Equivalence will be issued if the standard scores meet the minimum score requirements established by the board.

*AUTHORITY: sections 161.092 and 167.031, RSMo Supp. 2011, and sections 161.093 and 161.095, RSMo 2000.\* This rule previously filed as 5 CSR 60-100.020. Original rule filed Oct. 10, 1969, effective Oct. 20, 1969. Amended: Filed Oct. 14, 1976, effective Feb. 1, 1977. Amended: Filed Feb. 13, 1978, effective May 15, 1978. Amended: Filed June 28, 1985, effective Oct. 14, 1985. Amended: Filed Sept. 25, 1987, effective Jan. 29, 1988. Amended: Filed Jan. 28, 1992, effective Sept. 6, 1992. Amended: Filed Oct. 31, 1996, effective June 30, 1997. Amended: Filed March 24, 1998, effective Oct. 30, 1998. Amended: Filed March 21, 2001, effective Oct. 30, 2001. Amended: Filed Sept. 24, 2002, effective April 30, 2003. Amended: Filed Nov. 28, 2007, effective June 30, 2008. Amended: Filed Jan. 4, 2010, effective July 30, 2010. Moved to 5 CSR 20-500.330, effective Aug. 16, 2011. Amended: Filed April 20, 2012, effective Dec. 30, 2012.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002, 2003; 161.093, RSMo 1977; 161.095, RSMo 1977; and 167.031, RSMo 1963, amended 1977, 1986, 1990, 1993, 2004, 2006, 2008, 2009.*

**5 CSR 20-500.340 Standards for the Determination of Eligible Training Providers and Administration of Reimbursement for the Education of Persons Under the Workforce Investment Act of 1998 and Other Employment Training Funding Sources Contracting With the State Board of Education**

(Rescinded May 30, 2018)

*AUTHORITY: sections 161.092, RSMo Supp. 2002 and 178.430, 178.440, 178.450, 178.460 and 178.530, RSMo 2000. This rule previously filed as 5 CSR 60-480.100. Original rule filed July 7, 2000, effective Feb. 28, 2001. Rescinded and readopted: Filed Sept. 24, 2002, effective April 30, 2003. Moved to 5 CSR 20-500.340, effective Aug. 16, 2011. Rescinded: Filed Oct. 31, 2017, effective May 30, 2018.*

**5 CSR 20-500.350 Standards for the Approval and Continued Approval of On-the-Job Training for the Training of Veterans**

*PURPOSE: The State Board of Education has*

*the authority to establish a state approving agency and standards for approval and continued approval of on-the-job training for the training of veterans or eligible persons (Reference: 38, United States Code 1771 and 161.172, RSMo). These standards will serve as a guide for those business establishments desiring to provide training for veterans and for the state approving agency in the approval of the courses.*

(1) Approval will not be granted for training in occupations which require a relatively short period of experience for a trainee to obtain and hold employment at the market wage in the occupation. This includes occupations such as automobile service station attendant or manager, soda fountain attendant, food service worker, salesman, window washer, building custodian or other unskilled or common labor positions as well as clerical positions for which on-the-job training is not the normal method of procuring qualified personnel.

(2) An application will be approved when the training establishment and its courses are found, upon investigation, to have met these standards—

(A) The job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized training on the job and not on such factors as length of service and normal turnover. Approval will not be granted for supervisory or managerial positions where the normal method of obtaining the position is by selection based on such factors as experience, demonstrated ability, education and longevity;

(B) The training content of the course is adequate to qualify the veteran for appointment to the job for which he is to be trained;

(C) The job customarily requires a period of training of not less than six (6) months and not more than two (2) years of full-time training;

(D) The length of the training period is not longer than that customarily required by the training establishments in the community to provide the veteran with the required skills, arrange for the acquiring of job knowledge, technical information and other facts which the veteran will need to learn in order to become competent on the job for which he is being trained. Appropriate credit must be given to veterans who have had prior experience or training, with the training period shortened proportionately and the individual's wage schedule adjusted accordingly;

(E) Provision is made for related instruction for the individual veteran who may need



it;

(F) There is in the training establishment adequate space, equipment, instructional material and instructor personnel to provide satisfactory training on the job;

(G) Adequate records are kept to show the progress made by each veteran toward his/her job objective;

(H) The veteran is not already qualified by training and experience for the job;

(I) The wages to be paid the veteran upon entrance into training are not less than wages paid nonveterans in the same training position and are at least fifty percent (50%) of the wages paid for the job for which s/he is to be trained and will be increased in regular periodic increments until, not later than the last full month of the scheduled training period, they will be at least eighty-five percent (85%) of the wages paid for the job for which the veteran is being trained.

1. Wages based on piece work, job rates or commissions are not acceptable.

2. Beginning wages and increases shown in the approved wage schedule are considered minimum wages that must be paid to trainees making satisfactory progress; otherwise, the veteran's benefits must be interrupted or terminated.

3. Trainees may be paid at rates that are higher than the rates shown in the approved wage schedule except that a veteran's training benefits must be terminated when s/he is paid at or above the rate that is the approved "wage at completion of program;"

(J) There is a reasonable certainty that the job for which the veteran is to be trained will be available to him/her at the end of the training period; and

(K) A signed copy of the training agreement for each veteran, including the training program and wage schedule as approved by the state approving agency, is provided to the veteran and the VA and the state approving agency by the employer.

*AUTHORITY: section 161.172, RSMo 1986.\* This rule previously filed as 5 CSR 60-900.030. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Moved to 5 CSR 20-500.350, effective Aug. 16, 2011.*

*\*Original authority: 161.172, RSMo 1963.*

### **5 CSR 20-500.360 Standards for the Approval of Apprentice Courses for the Training of Veterans Under the Provisions of PL 90-77**

*PURPOSE: The State Board of Education has the authority to establish a state approving agency and standards for approval of*

*apprentice courses for the training of veterans under the provisions of PL 90-77 (Reference: 38, United States Code, 1771 and 161.172, RSMo). These standards will serve as a guide for those training establishments desiring to provide apprentice training for veterans and for the state approving agency in the approval of the courses.*

(1) Apprentice courses provide training for those occupations commonly known as skilled crafts or trades that require a wide and diverse range of skills and knowledge as well as maturity and independence of judgment. Occupations recognized by the Federal Committee on Apprenticeship are those that customarily have been learned in a practical way through two (2) or more years' training and work experience on the job and that are clearly identified and commonly recognized throughout industry. Occupations that traditionally have not used apprenticeship are—

- (A) Selling, retailing or similar occupations in the distributive field;
- (B) Managerial occupations;
- (C) Clerical occupations;
- (D) Professional and semiprofessional occupations; and
- (E) Agricultural occupations.

(2) An application will be approved when the training establishment and the apprentice course are found, upon investigation, to have met these standards.

(A) The standards of apprenticeship published by the Secretary of Labor under section 50(a) of Title 29, United States Code. An apprentice course should provide for the following:

- 1. The starting age of an apprentice to be not less than sixteen (16);
- 2. Full and fair opportunity to apply for apprenticeship;
- 3. Selection of apprentices on the basis of qualifications alone;
- 4. A schedule of work processes in which an apprentice is to receive training and experience on the job;
- 5. Organized instruction designed to provide the apprentice with knowledge in technical subjects related to his/her trade (a minimum of one hundred forty-four (144) hours per year is normally considered necessary);
- 6. A progressively increasing schedule of wages;
- 7. Proper supervision of on-the-job training with adequate facilities to train apprentices;
- 8. Periodic evaluation of the apprentice's progress, both in job performance and related instruction and the maintenance of appropri-

ate records;

- 9. Employee-employer cooperation;
- 10. Recognition for successful completions; and

11. Nondiscrimination in all phases of apprenticeship employment and training.

(B) A signed copy of the training agreement for each veteran, making reference to the training program and wage schedule as approved by the state approving agency, is provided to the veteran and the Veterans Administration and the state approving agency by the employer.

*AUTHORITY: section 161.172, RSMo 1986.\* This rule previously filed as 5 CSR 60-900.040. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Moved to 5 CSR 20-500.360, effective Aug. 16, 2011.*

*\*Original authority: 161.172, RSMo 1963.*

### **5 CSR 20-500.370 Standards for the Approval of Courses for the Education of Persons Under Veterans' Education and Vocational Rehabilitation**

*PURPOSE: The State Board of Education has the authority to establish standards for the approval of courses for the education of eligible persons as provided by Chapters 32-36, Title 38, United States Code and the Rehabilitation Act of 1973. This rule proposes common approval standards for these programs.*

(1) All references to the State Board of Education (the board) in this rule may be construed to include the Department of Elementary and Secondary Education (DESE) and the appropriate program sections. The provisions of this section apply to accredited courses and nonaccredited courses.

(A) A course shall not be approved unless the institution has operated that course successfully for a period of twenty-four (24) calendar months for veterans' education courses or six (6) calendar months or for one (1) graduating class for vocational rehabilitation courses. Successful operation shall mean an operation which is sound educationally and financially. The following are exceptions:

- 1. Any course to be pursued in a public or other tax-supported educational institution;
- 2. Any course which is offered for veterans' education or vocational rehabilitation by a non-college (NCD) institution and/or a non-accredited institution of higher learning (IHL) where at least one (1) course is already approved;





3. Any course which has been offered by an educational institution for a period of more than two (2) years or six (6) calendar months, whichever is appropriate, notwithstanding the institution has moved to another location within the same general locality or has made a complete move with substantially the same faculty, curricula and students, without change in ownership;

4. Any course which is offered by an educational institution of college level and which is recognized for credit toward a standard college degree; or

5. Any course for vocational rehabilitation when a needed course is not available at any other institution offering approved courses within a forty-five (45)-mile commuting distance as approved by DESE.

(B) The educational institution must operate in compliance with all applicable federal, state laws and/or regulations and/or local ordinances.

(C) The institution shall make available the instructional facilities and all appropriate records and accounts for inspection by the authorized representatives of DESE, United States Department of Education and the Department of Veterans Affairs.

(D) Institutions may make a request for an exception to any of the requirements or provisions of this rule. The institutions must make the request in writing and provide justification for the exception. An exception may be allowed only at the discretion of DESE.

(E) Any approval issued under the provisions of this rule may be withdrawn or suspended by DESE for cause. Before any approval is suspended or withdrawn, DESE shall serve a notice in writing to the affected institution with a statement of the reason for its action, unless exigent circumstances warrant immediate suspension of future enrollments. The notice shall be served not less than ten (10) days before the effective date of the action. Upon request during the ten (10)-day period, the institution shall be entitled to a hearing before DESE. The affected institution shall be notified within a reasonable time of DESE's action.

(F) Advertising must be completely truthful and factual and must avoid leaving any misleading, false or exaggerated impression, either by actual statement, omission or intimation.

1. Institutions which have courses approved for eligible persons shall limit their advertisement of this fact to a statement such as Approved for Veterans' Education by DESE, Approved for Veterans, or G.I. Approved. Statements such as Approved by the Department of Veterans Affairs (VA) or VA Approved are not acceptable as the

Department of Veterans Affairs is not the approving agency.

2. Advertising must clearly indicate that training or education and not employment, is being offered. Advertising under help wanted classifications is prohibited.

3. Advertising must include the correct name and location of the institution.

4. Institutions shall assume full responsibility for the actions, statements and conduct of their field representatives.

5. Institutions with courses approved by DESE must comply with the advertising criteria of state-approving agencies in the states in which advertising is used.

(G) For veterans' education, a course with a vocational objective will not be approved unless the eligible person or the institution offering that course, establishes that at least one-half (1/2) of the persons completing the course, over the preceding two (2)-year period, excluding the number of persons who completed those courses with assistance under Title 38, *United States Code* (U.S.C.), while serving on active duty and the number of persons who are unavailable for employment, have been employed in the occupational category for which the course was designed to provide training.

(H) A change of ownership, administration or location without consent of DESE shall be sufficient cause to withdraw the approval or suspend future enrollments.

(I) Institutions which have live projects as a part of the instruction program shall submit a statement of policies for approval by DESE. The purpose of the policy is to prevent schools from emphasizing a commercial enterprise rather than work related to hands-on and classroom training.

1. The statement of policies must provide information regarding charges for instructor and student labor and materials used in live projects instruction.

2. The institution shall keep records on file concerning live projects which will show that the institution is not violating its statement of policies.

3. The utilization of participants in custodial maintenance within the school for areas other than the immediate shop or work area is expressly forbidden.

4. Students cannot perform capital improvements on buildings and facilities owned by a private-for-profit agency. Capital improvements are any modification, addition or restoration which increases the usefulness, productivity or serviceable life of an existing building or structure, or major item of equipment which is classified for accounting purposes as a fixed asset and the recorded value is increased by the cost of the improvement

and subject to depreciation.

(J) The charges for tuition, fees and other charges for the course or program of education shall be reasonable, based on the services to be rendered, the books, supplies and equipment to be furnished and the operating costs of the institution and may be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation courses.

(2) The provisions of this section apply to accredited courses.

(A) A course may be approved as an accredited course if it meets one (1) of the following requirements:

1. The course has been accredited and approved by a nationally recognized accrediting agency or association. Candidate for accreditation status is not a basis for approval of a course as accredited;

2. Credit for the course is recognized by DESE for credit toward a high school diploma or for a certificate of license to teach; or

3. The course is conducted under 20 U.S.C. 11-28 concerning vocational education.

(B) Any curriculum offered by an educational institution which is a member of one (1) of the nationally recognized accrediting agencies or associations and which leads to a degree, diploma or certificate may be accepted as an accredited course by DESE. Any curriculum accredited by one (1) of the specialized nationally recognized accrediting agencies or associations and which leads to a degree, diploma or certificate may also be accepted as an accredited course by DESE. Approval of the individual subjects, required or elective, which are designated as a part of the curriculum will not be necessary. This approval may include noncredit subjects that are prescribed as a required part of the curriculum. The course objective may be educational leading to a high school diploma or a standard college degree or it may be vocational or professional leading to an occupation.

(C) A nationally recognized accrediting agency or association is one (1) that appears on the list published by the United States Department of Education. DESE may utilize the accreditation of accrediting agencies or associations for approval of the course specifically accredited and approved by that agency or association.

(D) Applications for initial approval or for approval of additional courses shall be made on the application provided by DESE. The application form and attachments should be submitted to the director of Veterans' Education, DESE, PO Box 480, Jefferson City, MO 65102. Courses approved under



Veterans' Education guidelines may be accepted for vocational rehabilitation. Courses for program specific purposes will be approved by the respective program. The application shall include the required copies of the school's catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog, bulletin or separate publication must specifically state the following:

1. Institution policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution, the minimum grade considered satisfactory, conditions for the interruption for unsatisfactory grades or progress, and a description of the probationary period, if any, allowed by the institution and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student;

2. Institution policy and regulations relating to student conduct, conditions for dismissal for unsatisfactory conduct, conditions of reentrance of students dismissed for unsatisfactory conduct; and

3. Institution policy and regulations relating to student attendance for resident courses not leading to a standard college degree, conditions for dismissal for unsatisfactory attendance and conditions of reentrance of students dismissed for unsatisfactory attendance.

(E) DESE may approve the application of the school when the school and the courses are found to have met the following criteria:

1. Adequate records are kept by the school to show the progress of each eligible person.

A. The records must be sufficient to show continued pursuit at the rate for which enrolled and the progress being made.

B. They must include a final grade in each subject for each term, quarter or semester; record of withdrawal from any subject to include the last day of attendance for a resident course; and record of reenrollment in subjects from which there was a withdrawal.

C. The school must provide a system for establishing and reporting promptly to DESE, Department of Veterans Affairs or other appropriate federal agency, the last date of attendance or the last date of pursuit of an eligible person who discontinues a subject(s) or fails to comply with the school's withdrawal procedures.

D. They may include records such as attendance for resident courses, periodic grades and examination results;

2. The school maintains a written record

of previous education and training of the eligible person which clearly indicates that appropriate credit has been given by the school for previous education and training, with the training period shortened proportionately and the person and the Department of Veterans Affairs and vocational rehabilitation so notified. The record must be cumulative in that the results of each enrollment period, whether term, quarter or semester, must be included so that it shows each subject undertaken and the final result—that is, passed, failed, incomplete or withdrawn;

3. The school enforces a policy relative to standards of conduct and progress required of the eligible persons.

A. The school policy relative to standards of progress must be specific enough to determine the point in time when educational benefits should be discontinued, when the eligible person ceases to make satisfactory progress.

B. No eligible person will be considered to have made satisfactory progress when s/he fails all subjects undertaken, except when there is a showing of mitigating circumstances, when enrolled in two (2) or more unit subjects.

C. The policy must include the grade or grade point average that will be maintained if the student is to graduate. For example, a college must require a 1.5 grade point average the first year, a 1.75 average at mid-year the second year and a cumulative average of 2.0 thereafter on the basis of 4.0 for an A. The policy may include a probationary period of two (2) quarters or semesters when the student falls below the required average. If a probationary period is allowed, it will not be necessary to report unsatisfactory progress to the Department of Veterans Affairs until the completion of the probationary period.

D. The enrollment of a veteran or other person eligible for veterans' benefits shall not be considered valid under applicable federal law and/or regulation, for a course for which the grade assigned is not used in computing the requirements for graduation; including a course from which a student withdraws after an official drop-add period, not to exceed thirty (30) days, unless there are mitigating circumstances;

4. The school maintains adequate attendance records for eligible persons enrolled in resident courses not leading to a standard college degree; and

5. The school must provide, upon request by DESE, an authenticated copy of the latest report of accreditation from the appropriate accreditation agency(ies).

(3) The provisions of this section apply to

courses which cannot be considered as accredited courses pursuant to this rule.

(A) Applications for initial approval or for approval of additional courses shall be made on the application provided by DESE. The required copies of the completed application and all attached materials should be submitted to DESE.

(B) The school shall notify the appropriate section of DESE of any change in personnel, charges, ownership or any other information contained in the initial application. The changes shall be submitted promptly on forms provided by DESE.

(C) The institution must be financially sound and capable of fulfilling its commitments for the approved educational program.

(D) The institution must require good discipline, orderliness and regular attendance at all times.

(E) The institution shall publish its standards of conduct, progress and attendance which are required of students and shall enforce these standards. These standards must define the following:

1. The school's grading system;

2. The minimum satisfactory grade level;

3. Conditions for interruption of training due to unsatisfactory grades or progress;

4. A description of any probationary period;

5. Conditions for a student's reentrance/readmission following dismissal and/or suspension for unsatisfactory progress, conduct or attendance; and

6. Conditions for dismissal due to unsatisfactory conduct and/or attendance.

(F) Good housekeeping must be maintained throughout the institution at all times.

(G) There shall be sufficient, qualified and capable personnel connected with the institution to ensure good administration, supervision and instruction.

1. All personnel connected with the institution shall be of good reputation and character.

2. The administrator shall have at least three (3) years of experience in a public or private school in administrative work or possess a college degree with at least a minor in the field of administration.

3. All instructors must be proficient in the trade or occupation to be taught, as evidenced by at least three (3) years of experience beyond the learning stage in the trade, occupation or subject or shall possess a college degree with at least a minor in the subject involved. These qualifications must be clearly shown on a personnel record form provided by DESE for each person on the school staff.



4. No instructor shall have a daily schedule (both in school and outside of school) of more than fifty-five (55) hours per week, nor shall any instructor be engaged in instructional work for more than forty-eight (48) hours per week. The instructional work-day of instructors will include break times allowed the students. Business school teachers shall not teach more than forty-eight (48) hours per week including evening school.

(H) The institution must provide adequate facilities.

1. All classroom, laboratory and shop areas must be well-lighted, heated and ventilated.

2. Adequate space must be provided in classrooms, laboratories and shops for the number to be trained.

3. Separate toilet facilities must be provided for both sexes, if both sexes are enrolled in the institution. At least one (1) stool must be provided for each twenty-five (25) students and at least one (1) urinal for each thirty-five (35) male students. Adequate lavatory facilities must be provided in those institutions involving work with laboratory or shop tools.

4. Adequate locker space must be provided each student in those institutions where needed for storage of student tools, supplies and/or clothing.

5. Classrooms must be equipped with comfortable chairs and tables or armchairs and with a blackboard of sufficient size for use by the instructors. Classrooms must be separate from shops and laboratories and must be partitioned so that there is a minimum of noise from shops and laboratories.

6. An adequate library must be provided which is easily accessible and which contains sufficient reference materials so that each student will be provided with essential related information.

7. Tools and/or laboratory equipment must be provided in sufficient quantities and in good quality.

8. Teaching materials must include modern teaching aids, charts, films, projectors, mock-ups, models, and the like, when those materials are necessary to the teaching of the trade, occupation or subject.

9. Institutions may not be operated in connection with a commercial enterprise unless approved by DESE.

10. Institutions shall not be located in conjunction with living quarters.

11. Accommodations for the disabled shall be provided by the institution in accordance with applicable federal and state laws and/or regulations.

(I) The course of study must be adequate to prepare the student for the stated course

objective.

1. The course of study applicable to veterans and other persons eligible for veterans' benefits shall provide for a minimum of twelve (12) weeks and a minimum of three hundred (300) hours of instruction. Shorter courses will not be approved unless an exception is granted by DESE pursuant to the rules promulgated by the board.

2. The course of study shall be consistent in quality, content and length with similar courses offered by public and private schools in the state which have recognized accepted standards.

3. The course of study shall provide for a schedule of the tests and examinations to be given.

4. The grading policy must provide for periodic evaluation of the student's proficiency and progress.

(J) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the eligible person upon enrollment. The established student complaint procedures must be posted in a conspicuous place within the school.

(K) Upon completion of training, the eligible person will be given a certificate by the school indicating the approved course and indicating that training was satisfactorily completed.

(L) The school must maintain adequate records which include the following:

1. A written record of the previous education and training of the eligible person that clearly indicates that appropriate credit has been given for previous education and training, with the training period shortened proportionately and the eligible persons, the Department of Veterans Affairs and vocational rehabilitation so notified;

2. Accurate and current records of attendance, tardiness, makeup work, proficiency and progress;

3. Individual instructor's class records and permanent office records for each student;

4. Placement or location records for graduates;

5. The institution shall maintain financial records in accordance with generally accepted accounting principles and which accurately reflect and support the receipts and charges applicable to veterans and vocational rehabilitation supported students. Further, that all these records and supporting documents shall be retained in accordance with current state and/or federal laws, and/or regulations; and

6. The institution shall submit any

records, documents, reports and/or data requested by DESE necessary for the administration of the veterans and vocational rehabilitation programs.

(M) The charges for tuition, fees and other charges for the course or program of education shall be reasonable, based on the services to be rendered, the books, supplies and equipment to be furnished and the operating costs of the institutions. These charges may be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation courses. The following referral policy applies only to eligible persons receiving veterans' benefits:

1. The institution shall establish and maintain a policy for the refund of the unused portion of tuition, fees and other charges in the event an eligible person fails to enter the course or withdraws or is discontinued at any time prior to completion and the policy shall provide that the amount charged to the eligible person for tuition, fees and other charges for a portion of the course does not exceed the approximate *pro rata* portion of the total charges for tuition, fees and other charges that the length of the completed portion of the course bears to its total length.

(N) The institution shall use a satisfactory method of selecting students. Entrance requirements shall be based upon ability of the individual to perform at a level commensurate with the physical or mental demands, or both, of the course. Instruments for measuring ability shall include previous school records, previous work records, psychological testing as and when necessary.

(O) An accurate and current organizational chart shall be available showing the following:

1. Daily hours of instruction including beginning and ending time of classes, lunch, break periods, and the like;

2. Instructor's schedule including instructor's name, subject taught, time and room assignment; and

3. A class schedule must be maintained for each student in institutions having a curriculum composed of single unit subjects.

(4) The provisions of this section apply to charges and reimbursements for accredited and nonaccredited courses. For the purpose of administering this rule, an individual referral is a student referred by a sponsoring agency for skill training or training-related service for which DESE has contracted to reimburse a public, not-for-profit or for-profit institution pursuant to the rules promulgated by the board for vocational rehabilitation. The cost of training for individual referrals with the Division of Vocational Rehabilitation



shall be reimbursed in the following way:

(A) DESE shall enter into written agreements with public, not-for-profit and for-profit institutions for the purpose of administering individual referrals and shall develop and provide procedures which assist in administering the program;

(B) Courses which meet the following conditions are eligible to be included in the individual referral program:

1. Courses which are approved under this rule; and

2. Courses which are offered outside of the boundaries of Missouri may be utilized when they are approved by a comparable agency as determined by DESE;

(C) Tuition payments shall be made on the basis of the school's instructional periods, (that is, quarters, terms or semesters) and will be reimbursed pursuant to the rules promulgated by the board for vocational rehabilitation. However, the following guidelines shall apply:

1. Any instructional period that is at least twenty (20) weeks but no more than thirty-nine (39) weeks, will be treated as having a minimum of two (2) equal instructional periods;

2. Any instruction period that is at least forty (40) weeks but no more than fifty-nine (59) weeks, will be treated as three (3) equal instructional periods. Programs of instruction in licensed practical nursing, surgical technology, respiratory therapy, dental technology, emergency medical technician-paramedic, radiology and massage therapy are excluded;

3. Courses with instructional periods that are at least sixty (60) weeks or more will be divided into additional segments of twenty (20) weeks; and/or

4. The total instructional program for licensed practical nursing, surgical technology, respiratory therapy, dental technology, emergency medical technician-paramedic, radiology and/or massage therapy will be treated as one (1) instructional period;

(D) Costs for equipment, fees and supplies are to be reimbursed separately as those costs are incurred. Registration fees are limited to a maximum of one hundred dollars (\$100) per student;

(E) In case of a student termination, the following refund policy shall apply to funds received from DESE:

1. Within the first week of each instructional period, the school may retain ten percent (10%) of the tuition;

2. Within the second and third week of each instructional period, the school may retain twenty percent (20%) of the tuition;

3. After the beginning of the fourth week in each instructional period but prior to

twenty-five percent (25%) of each instructional period, the school may retain twenty-five percent (25%) of the tuition;

4. After completing twenty-five percent (25%) but prior to completing fifty percent (50%) of the instructional period, the school may retain fifty percent (50%) of the tuition;

5. After completing fifty percent (50%) of the instructional period, the school may retain one hundred percent (100%) of the tuition;

6. For short courses where there is a conflict in the refund pursuant to this rule, the school will retain the greater amount; or

7. For courses offered by an accredited school that lead toward an associate or higher degree or programs of instruction in licensed practical nursing, surgical technology, respiratory therapy, dental technology, emergency medical technician-paramedic, radiology and/or massage therapy the refund policy of the institution will be applied;

(F) Services provided prior to or after dates approved by the authorizing document will not be reimbursed;

(G) Institutions shall submit reimbursement request for tuition payments of individual referrals for each instructional period pursuant to the rules promulgated by the board for vocational rehabilitation; and

(H) Due to the short-term, intense nature of proprietary, trade or technical school courses, and the close involvement by vocational rehabilitation counselors and others in the vocational training process, monthly progress reports to the vocational rehabilitation counselor are required.

*AUTHORITY: sections 161.092, RSMo Supp. 2003, and 161.172, 178.430, 178.530, 178.590 and 178.610, RSMo 2000.\* This rule previously filed as 5 CSR 60-900.050. Original rule filed July 7, 2000, effective Feb. 28, 2001. Amended: Filed Sept. 24, 2002, effective April 30, 2003. Amended: Filed May 2, 2003, effective Dec. 30, 2003. Moved to 5 CSR 20-500.370, effective Aug. 16, 2011.*

*\*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 161.172, RSMo 1963; 178.430, RSMo 1963; 178.530, RSMo 1963, amended 1977, 1991, 1995; 178.590, RSMo 1963; and 178.610, RSMo 1963.*