

April 27, 2020

Mr. Charles W. Shields

President

Missouri State Board of Education

Missouri Department of Elementary & Secondary Education

205 Jefferson St.

Jefferson City, MO 65101

Re: Needed guidance and clarity to inform public school district determinations on Missouri Course Access and Virtual School Program (MOCAP) enrollment

Dear President Shields and Members of the Missouri State Board of Education:

As representatives of Missouri parents and advocates for public school options in education, we want to bring to your attention an urgent problem that has the potential to severely impact students across Missouri, but is within the power of the State Board of Education (SBOE) to address. **We write today to ask for clear guidance from this body, directing all Missouri public school districts and DESE to treat the Missouri Course Access and Virtual School Program (MOCAP) course or program enrollment process (and any subsequent appeals) with the same care, timeliness, and fairness afforded enrollment requests for non-MOCAP coursework or full-time school enrollment - consistent with the existing MOCAP statute.**

The specific abuse and barrier to access in MOCAP that this Board should address immediately involves the failure of public school districts to respond to parents who seek enrollment in a specific MOCAP course or program for their online-eligible student.

To be clear, these concerns with the fair administration of MOCAP preceded the COVID-19 crisis. However, the flexibility and options that MOCAP was specifically created to provide Missouri families will be all the more critical as students and families come out of this global health crisis and Missouri families evaluate when and where to return to school. The need to address the disruptions to education and mitigate the health and safety concerns raised by the COVID-19 crisis cannot be ignored.

As you are aware, under MOCAP a public school district is charged with:

- Approving enrollment for a requested course or program enrollment by a student, or
- Denying the enrollment request and giving the parents the specific reasons for that denial, if determined the enrollment would not be in the best educational interest of that student, and
- Providing an enrollment process, “similar to the typical process by which a district student would enroll in courses offered by the school district.”

A denial is critical because it triggers an appeal process under the MOCAP law that ends with DESE making a final determination.

Real-World Examples

Long before COVID-19 closed Missouri’s school districts, parents had been left with no other choice than to engage legal representation to resolve MOCAP course and program enrollment denials for the

2019-2020 school year. To date, we have engaged with and advocated for at least fifteen Missouri families, over a dozen school districts, across the state, who were desperate to enroll in online options. We have attached, school district by school district assessment that has been shared with Missouri legislators in March to demonstrate the geographic diversity of these cases and the widespread concern of parents all over the Show-Me State.

We have become aware of resident students of the St. Louis Public School District (SLPS) and their families encountering exactly this situation. None of the parents in these particular cases have had success in persuading SLPS to follow “the typical process” afforded their students under the MOCAP law. In some cases, after an extended wait for a response, parents have gone to the expensive step of retaining legal counsel, who then made a formal demand for an enrollment decision from SLPS (*see attached letter from November 13, 2019*), and encountered further delay by the district. The matter described below remains unresolved well into the second part of this school year.

- Last fall 2019, the SLPS’s parent’s counsel entered into extended discussions with SLPS on good faith, but SLPS refused to make the required determination;
- Counsel then requested that DESE consider non-action a constructive denial – since the student could not enroll without approval – and take the matter on appeal. DESE refused;
- On February 12, 2020, the SLPS parents filed litigation. SLPS created a further delay to the Nov. 2019 enrollment request, by refusing to accept service of the parents’ complaint;
- Over 30 days after service of the petition and *only after* the parents filed litigation, SLPS finally rendered a MOCAP enrollment decision denying the request; and
- Subsequently, SLPS immediately went to court with a motion to moot the parent’s litigation on the basis that the district had issued a decision, but the district blatantly omitted the filing of litigation by the parent triggered a formal response by the district’s) decision in the first place.

As a consequence of recent public school districts’ (lack of) action, Missouri families have been left with anxious students and unresolved educational issues. For your awareness, parents may (and do) chose to abandon a request for a school choice option that their child desperately needs, when a district fails to communicate over several months about their approval or denial of the application. More importantly, these stall tactics by the district often interrupt a child’s learning. In Missouri, our organizations have encountered families that would rather pull their child out of school and face truancy calls from the district for brick and mortar absences - while they await a MOCAP enrollment determination or otherwise start homeschool - because the parent has determined the brick and mortar environment is no longer a safe and/or supportive environment for their child.

Conclusion

The law is clear that the enrollment process for a MOCAP course or program cannot be more cumbersome for a student than the process would be if that student were to enroll in a traditional school. However, Missouri families seeking MOCAP enrollment are forced to sit in limbo once an enrollment request is made, until their home district acts. Please consider: how does this unnecessary and unlawful delay impact the Missouri child’s education development?

The bottom line is: No enrollment may occur without an approval; no appeal may be taken without a denial.

The SBOE simply must not let this abusive practice stand nor continue, and indeed has the power to correct it, in at least two manners: **(1) require Missouri public school districts to act in accordance**

with the law, and (2) delineate a meaningful consequence for inaction. DESE must make clear that should a district fail to provide written approval or disapproval within a reasonable manner and consistent with the law, then the request for approval will be automatically deemed approved by DESE.

While this new scheme and delay tactic being prototyped by SLPS is but one example that districts have employed to undermine the MOCAP law, it is one that this Board has a responsibility and ability to immediately address.

We look forward to engaging the Board and will follow up with members directly.

Thank for your time & attention to this matter,

The National Coalition for Public School Options
The Children's Education Alliance of Missouri
The Missouri Education Reform Council



Enclosures