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Rebecca McDowell Cook  
**Secretary of State**

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## IN THIS ISSUE:

### PROPOSED RULES

<b>Department of Agriculture</b>	
State Milk Board . . . . .	357
<b>Department of Economic Development</b>	
Credit Union Commission . . . . .	360
Missouri Real Estate Commission . . . . .	360
<b>Department of Elementary and Secondary Education</b>	
Vocational Rehabilitation . . . . .	367
<b>Department of Natural Resources</b>	
Air Conservation Commission . . . . .	391
<b>Department of Revenue</b>	
Director of Revenue . . . . .	392
State Lottery . . . . .	392
<b>Boards of Police Commissioners</b>	
Kansas City Board of Police Commissioners . . . . .	393

<b>Department of Social Services</b>	
Division of Medical Services . . . . .	441

### IN ADDITIONS

<b>Department of Health</b>	
Division of Health Standards and Licensure . . . . .	447
Missouri Health Facilities Review Committee . . . . .	447

### BID OPENINGS

<b>Office of Administration</b>	
Division of Purchasing . . . . .	449

<b>RULE CHANGES SINCE UPDATE</b> . . . . .	450
<b>EMERGENCY RULES IN EFFECT</b> . . . . .	458
<b>REGISTER INDEX</b> . . . . .	461

### ORDERS OF RULEMAKING

<b>Department of Conservation</b>	
Conservation Commission . . . . .	429
<b>Department of Economic Development</b>	
Missouri State Board of Accountancy . . . . .	429
Division of Motor Carrier and Railroad Safety . . . . .	429
<b>Department of Elementary and Secondary Education</b>	
Division of School Services . . . . .	431
<b>Department of Transportation</b>	
Missouri Highways and Transportation Commission . . . . .	433
<b>Department of Natural Resources</b>	
Air Conservation Commission . . . . .	440
<b>Department of Revenue</b>	
Director of Revenue . . . . .	441

Register Filing Deadlines	Register Publication	Code Publication	Code Effective
Nov. 1, 1999	<b>Dec. 1, 1999</b>	Dec. 31, 1999	Jan. 30, 2000
Nov. 15, 1999	<b>Dec. 15, 1999</b>	Dec. 31, 1999	Jan. 30, 2000
Dec. 1, 1999	<b>Jan. 3, 2000</b>	Jan. 30, 2000	Feb. 29, 2000
Dec. 15, 1999	<b>Jan. 14, 2000</b>	Jan. 30, 2000	Feb. 29, 2000
Jan. 3, 2000	<b>Feb. 1, 2000</b>	Feb. 29, 2000	March 30, 2000
Jan. 14, 2000	<b>Feb. 15, 2000</b>	Feb. 29, 2000	March 30, 2000
Feb. 1, 2000	<b>March 1, 2000</b>	March 31, 2000	April 30, 2000
Feb. 15, 2000	<b>March 15, 2000</b>	March 31, 2000	April 30, 2000
March 1, 2000	<b>April 3, 2000</b>	April 30, 2000	May 30, 2000
March 15, 2000	<b>April 17, 2000</b>	April 30, 2000	May 30, 2000
March 31, 2000	<b>May 1, 2000</b>	May 31, 2000	June 30, 2000
April 14, 2000	<b>May 15, 2000</b>	May 31, 2000	June 30, 2000
May 1, 2000	<b>June 1, 2000</b>	June 30, 2000	July 30, 2000
May 15, 2000	<b>June 15, 2000</b>	June 30, 2000	July 30, 2000
June 1, 2000	<b>July 3, 2000</b>	July 31, 2000	August 30, 2000
June 15, 2000	<b>July 17, 2000</b>	July 31, 2000	August 30, 2000
June 30, 2000	<b>August 1, 2000</b>	August 31, 2000	Sept. 30, 2000
July 14, 2000	<b>August 15, 2000</b>	August 31, 2000	Sept. 30, 2000

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

# Missouri Depository Libraries

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 24, *Missouri Register*, page 27. The approved short form of citation is 24 MoReg 27.

The rules are divided in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

shall be five cents (5¢) per hundred weight on milk produced on farms inspected by the State Milk Board or its contracted local authority and four cents (4¢) per hundred weight on milk imported from areas beyond the points of routine inspection.

*AUTHORITY: section 196.939, RSMo [Supp. 1998] Supp. 1999. Original rule filed April 12, 1977, effective Sept. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: The State Milk Board estimates that the following private entities will be affected by this proposed amendment in the given numbers: five producer marketing agencies and seven additional Grade A dairy plants located in the state of Missouri (to be assessed five cents (5¢) per hundred weight on milk produced and/or handled) and seven producer marketing agencies and thirty-five individual Grade A dairy plants (to be assessed at four cents (4¢) per hundred weight on milk inspected from areas beyond the points of routine inspection). The State Milk Board further estimates the aggregate cost of the compliance with this proposed amendment by the enumerated entities to be \$1,468,483 for the period July 1, 2000 through June 30, 2001.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment is scheduled for April 6, 2000, at 11:00 a.m. CDT, in the conference room of the State Milk Board office, 911-D Leslie Blvd., Jefferson City, Missouri. Mailed comments should be received prior to the hearing. Comments regarding the proposed amendment may be sent to Terry S. Long, Executive Secretary, State Milk Board, 911-D Leslie Blvd., Jefferson City, MO 65101. Telephone (573) 751-3830.*

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 80—State Milk Board  
Chapter 5—Inspections**

**PROPOSED AMENDMENT**

**2 CSR 80-5.010 Inspection Fees.** The board is amending section (1) on inspection fees.

*PURPOSE: This rule is being amended fees by changing the time period for which the fees apply and publish the fees established by the State Milk Board for that period. This amendment updates the reference to the time period for which milk inspection fees apply.*

(1) The inspection fee for fiscal year [2000 (July 1, 1999–June 30, 2000)] **2001 (July 1, 2000–June 30, 2001)**

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Title 2 – DEPARTMENT OF AGRICULTURE  
 Division: Division 80 – State Milk Board  
 Chapter: Chapter 5 - Inspections  
 Type of Rulemaking: PROPOSED AMENDMENT  
 Rule Number and Name: 2 CSR 80-5.010 Inspection Fees

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
5	Producer Mktg. Agencies	5¢ c.w.t.*
7	Grade A Dairy Plants/Missouri	5¢ c.w.t.*
7	Producer Mktg. Agencies	4¢ c.w.t.*
35	Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*

TOTAL COST ESTIMATE: \$1,468,483

**III. WORKSHEET**

<u>PRIVATE ENTITY COSTS:</u>		<u>FY 2001</u>
5	Producer Marketing Agencies and	
7	Grade A Dairy Plants of Missouri	5¢ c.w.t.*
7	Producer Marketing Agencies and	
35	Grade A Dairy Plants Outside Missouri	4¢ c.w.t.*
TOTAL COST ESTIMATE:		\$1,468,483

\* c.w.t. = per hundred weight (cost per pound)

**IV. ASSUMPTIONS**

The estimates contained in this fiscal note are based upon the following assumptions:

All estimates shown are based upon milk inspection fees collected during FY '99. Varying conditions (drought, severe cold weather, market conditions, etc.) effect total pounds of milk marketed, thereby effecting cost to private entities.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 105—Credit Union Commission  
Chapter 3—Credit Union Membership and Chartering**

**PROPOSED RULE**

**4 CSR 105-3.040 Exemptions from Limitations on Groups**

*PURPOSE: This rule sets forth the criteria the Credit Union Commission may consider when determining whether or not to approve a request for an exemption from the limitations on groups, established pursuant to 370.081, RSMo.*

(1) A credit union desiring to make an application to expand its field of membership pursuant to 370.081, RSMo by adding a group with more than three thousand (3,000) members must request approval from the commission prior to submitting an application to the director. The request should be submitted on the form approved by the commission. The request should also include proof in the form of documentation or otherwise that is sufficient to show the group satisfies one of the three (3) exceptions listed in 370.081.2(1)(a)–(c), RSMo. This proof can include but is not limited to the following:

(A) Lack of volunteers or other resources.

1. Documentation in the form of letters from the group desiring credit union membership indicating the lack of volunteer support.

2. Letters, surveys or petitions indicating that no group has shown an interest in starting a credit union that would encompass the group desiring to join the credit union;

(B) The desire of the new group to start their own credit union.

1. Documentation showing the desire of the group to join the existing credit union.

2. Documentation showing the desire of the group to start their own credit union.

3. Documentation regarding the economic advisability of the group to start a credit union including market expectations, ability to build capital and reasonable accessibility.

4. The group must show it can meet the criteria established in 4 CSR 105-3.030; and

(C) Group would be unlikely to operate in a safe and a sound manner.

1. Documentation showing lack of management, lack of capital, lack of expertise to operate a credit union, lack of volunteers and lack of insurability or any action which would result in abnormal risk.

(2) None of these categories are exclusive allowing an applicant to use any combination of proof to meet its burden under the statute.

*AUTHORITY: section 370.063, RSMo Supp. 1999. Original rule filed Jan. 13, 2000.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Credit Union Commission, P.O. Box 1607, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.020 Broker Supervision and Improper Use of License and Office.** The commission is proposing to amend sections (3)–(5) and amend the authority section.

*PURPOSE: This amendment reflects changes made in the statutes due to the passage of HB866.*

(3) Appointments of designated agents **and designated transaction brokers** under section 339.820, RSMo shall be entered into by the designated broker or office manager/supervising broker on behalf of that broker and affiliated licensees.

(4) Appointments of designated agents **and designated transaction brokers** under section 339.820, RSMo shall be made in a written agreement for [a] brokerage [relationship] services or other written notice to the client **or party, unless such appointment is presumed pursuant to section 339.820.1, RSMo.**

(5) Individual brokers, designated brokers, and office managers/supervising brokers shall not be considered to be a dual agent **or a transaction broker** solely because such broker makes an appointment under section 339.820, RSMo. However, when such broker supervises the licensees for both sides of a transaction, that broker will be a dual agent **or a transaction broker** upon learning confidential information about either party to a transaction or upon being consulted by any licensee involved in the transaction. Also, when the broker supervises the licensee [for] **representing or assisting** one (1) side of the transaction and personally represents or assists the other side, that broker will be a dual agent **or a transaction broker.**

*AUTHORITY: sections 339.120, [RSMo Supp. 1997] 339.710, 339.780 and 339.820, RSMo Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed May 11, 1983, effective Aug. 11, 1983. Amended: Filed June 15, 1990, effective Dec. 31, 1990. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.070 Advertising.** The commission is proposing to delete section (5), renumber the remaining sections accordingly and amend the authority section.



*PURPOSE: The purpose of the amendment is to eliminate a redundant regulation.*

*[(5) Inducements.*

*(A) Free Inducements. No licensee shall solicit, sell or offer for sale or lease any interest in real property by offering free lots, by conducting lotteries or contests or by offering prizes for the purpose of influencing a person to purchase or to consider to purchase.*

*(B) Conditional Inducements. No licensee shall use prizes, money, gifts or other valuable consideration which is not related to the real or personal property being sold as an inducement to secure or influence customers to purchase, lease, sell or list property when the awarding of those items is conditioned upon the purchase, lease, sale or listing.*

*(C) This prohibition shall apply to the use of any such item as an inducement even if the item is being provided or paid for by another.]*

*[[6]] (5) No licensee shall advertise to buy, sell, rent, lease, manage or exchange property in any manner that indicates, directly or indirectly, any unlawful discrimination against any individual or group because of race, color, religion, national origin, ancestry, sex, handicap or familial status.*

*[[7]] (6) Guaranteed Sales.*

*(A) As used in this rule, the term guaranteed sales plan includes, but is not limited to: i) any plan in which a seller's real estate is guaranteed to be sold, or ii) any plan where a licensee or anyone affiliated with a licensee will purchase a seller's real estate if it is not purchased by a third party in the specified period of a listing or within some other specified period of time.*

*(B) Any written advertisement by a licensee of a guaranteed sales plan shall include a statement advising the seller that if the seller is eligible, costs and conditions may apply and advising the seller to inquire of the licensee as to the terms of the guaranteed sales agreement. This information shall be set forth in print at least one-fourth (1/4) as large as the largest print in the advertisement.*

*(C) Any radio or television advertisement by a licensee of a guaranteed sales plan shall include a conspicuous statement advising if any conditions and limitations apply.*

*(D) Every guaranteed sales agreement must be in writing and contain all of the conditions and other terms under which the property is guaranteed to be sold or purchased, including the charges or other costs for the service or plan, the price for which the property will be sold or purchased and the approximate net proceeds the seller may reasonably expect to receive.*

*AUTHORITY: sections 339.100, RSMo 1994 and 339.120, RSMo [Supp. 1993] Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.090 [Brokerage Relationship Agreements or Authorization] Brokerage Service Agreements.** The commission is proposing to amend the title of the rule, amend sections (2)–(4), add a new section (5) and (6), amend the renumbered section (7), and amend the authority section.

*PURPOSE: The purpose of this amendment is to define brokerage service agreements in order to comply with the provisions of HB1601 of the 89th General Assembly and HB866 of the 90th General Assembly.*

(2) A licensee shall not show residential property unless a broker holds a currently effective written *[listing agreement, other written agreement for brokerage services, or as a buyer's agent with] seller's/lessor's agency agreement, seller's/lessor's transaction brokerage agreement, or other written authorization to show.*

(3) **Seller's/Lessor's Agency (Sale/Lease Listing) Agreement.**

(A) Every written listing agreement or other written agreement for brokerage services shall contain all of the following:

1. The price;
2. The commission to be paid (including any and all bonuses);
3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;

*[6. Specification of whether an offer of subagency may be made;*

*7. A clear statement to the seller/landlord(s) explaining the effects of the presumption of buyer's agency. This statement shall contain—*

*A. Missouri law presumes that, absent some other relationship being established, a licensee working with a buyer represents that buyer; and*

*B. That, as a result, any licensee showing property may represent the buyer; and*

*C. A licensee working with a buyer may be required to disclose to the buyer any information given to them by the seller;]*

**6. A statement which permits or prohibits the designated broker from offering subagency;**

**7. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;**

**8. A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;**

**9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or transaction brokers;**

**10. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the seller's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;**

[8.] 11. The signatures of all owners and the listing broker or listing agent as authorized by the broker;

[9.] 12. The type of listing[, such as exclusive agency, exclusive right to sell or open];

[10.] 13. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property; and

[11.] 14. All other terms and conditions under which the property is to be sold, leased or exchanged.

(D) The licensee shall give a legible copy of every written listing agreement or other written agreement for brokerage services to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a *[listing] brokerage service* agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive *[agency or exclusive right to sell listing] brokerage service* agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into *[a listing] an agreement* which will take effect after the expiration of the current *[listing] agreement*.

(4) Buyer's/Tenant's Agency Agreement.

(A) Every written buyer or tenant authorization shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;

2. The commission or fee to be paid (including any and all bonuses);

3. A definite beginning date;

4. *[A definite] An* expiration date;

5. The licensee's duties and responsibilities;

6. *[Specification of whether an offer of subagency may be made;] A statement which permits or prohibits the designated broker from offering subagency;*

7. *A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;*

8. *A statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;*

9. *Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or transaction brokers;*

10. *A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the buyer's agency agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first;*

[7.] 11. The signatures of the buyers or tenants and the broker or agent as authorized by the broker;

[8.] 12. The type of agreement[, such as exclusive agency, exclusive right to represent or open]; and

[9.] 13. All other terms and conditions prescribed by the buyers or tenants.

(E) A licensee shall not negotiate or enter into *[an agency] a brokerage service* agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case

the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(5) Transaction Brokerage Agreement Between Broker and Seller/Lessor.

(A) Every written seller's or lessor's transaction brokerage agreement shall contain all of the following:

1. The price;

2. The commission to be paid (including any and all bonuses);

3. A definite beginning date;

4. An expiration date;

5. The licensee's duties and responsibilities;

6. The signatures of all owners and the broker or affiliated licensee as authorized by the broker;

7. The type of agreement;

8. The legal description or the complete street address of the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;

9. All other terms and conditions under which the property is to be sold, leased or exchanged;

10. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to buyer's agents and/or other transaction brokers; and

11. A statement which confirms that the seller/lessor received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring an owner to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement to the owner of the property at the time the signature of the owner(s) is obtained.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with an owner if the licensee knows, or has reason to know, that the owner has a written unexpired exclusive brokerage service agreement as to the property with another broker, unless the owner initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) No licensee shall make or enter into a net agreement for the sale or lease of real property or any interest in real property; this agreement is defined as one that stipulates a net price to be received by the owner with the excess over that price to be received by the broker as commission.

(G) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

(6) Transaction Brokerage Agreement Between Broker and Buyer/Tenant.

(A) Every written buyer's or tenant's transaction brokerage agreement shall contain all of the following:

1. A description of the type of property sought by the buyer or tenant;

2. The commission or fee to be paid (including any and all bonuses);

3. A definite beginning date;
4. An expiration date;
5. The licensee's duties and responsibilities;
6. The signatures of the buyers or tenants and the broker or affiliated licensee as authorized by the broker;
7. The type of agreement;
8. All other terms and conditions prescribed by the buyers or tenants;
9. Specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to seller's agents and/or other transaction brokers; and

10. A statement which confirms that the buyer received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the transaction brokerage agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

(B) The agreement shall contain no provision requiring a buyer or tenant to notify the broker of intent to cancel the agreement after the expiration date.

(C) Any change to the agreement must contain the initials of all parties.

(D) The licensee shall give a legible copy of every written agreement or other authorization to the buyer or tenant at the time the signatures are obtained and a copy of the agreement shall be retained in the broker's office.

(E) A licensee shall not negotiate or enter into a brokerage service agreement with a buyer or tenant if the licensee knows, or has reason to know, that the buyer or tenant has a written unexpired exclusive agreement with another broker, unless the buyer or tenant initiates the discussion and provided the licensee has not directly or indirectly solicited the discussion, in which case the licensee may negotiate and enter into an agreement which will take effect after the expiration of the current agreement.

(F) Transaction brokerage agreements may not be assigned, sold or otherwise transferred to another broker without the express written consent of all parties to the original transaction brokerage agreement.

[[5]] (7) Other Written Authorization. Written authorization to show residential property without [a brokerage agreement] an agency agreement or transaction brokerage agreement with the owner/landlord must contain all of the following:

- (A) A definite beginning date;
- (B) An expiration date;
- (C) The signatures of all owners or landlords and the broker or licensee as authorized by the broker;
- (D) The legal description or the complete street address of the property, which includes the city where the property, which includes the city where the property is located; or, in the absence of a legal description or address, a clear description which unmistakably identifies the property;
- (F) The commission or fee to be paid (including any and all bonuses); [and]
- (G) All other terms and conditions prescribed by the owners or landlords./.;
- (H) Any change to the written authorization must contain the initials of all parties; and

(I) A statement which confirms that the owner or landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the other written authorization, or b) upon the licensee obtaining any personal or financial information, whichever occurs first.

*AUTHORITY: sections 339.120, [RSMo Supp. 1997] 339.730, 339.740, 339.750, 339.755, 339.780 and 339.820, RSMo Supp.*

*1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED RESCISSION**

**4 CSR 250-8.095 Agency Disclosure.** This rule restated the existing requirements that licensees make their client relationships known both orally and in writing as to eliminate confusion on the part of the public.

*PURPOSE: The commission is proposing to rescind this rule and propose a new rule in order to comply with provisions in HB1601 of the 89th General Assembly and HB866 of the 90th General Assembly.*

*AUTHORITY: section 339.120, RSMo Supp. 1997. Original rule filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed Sept. 1, 1989, effective Dec. 28, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Rescinded and readopted: Filed Dec. 1, 1997, effective Sept. 1, 1998. Rescinded: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED RULE**

**4 CSR 250-8.095 Brokerage Relationship Disclosure**

*PURPOSE: The commission is proposing this rule in order to comply with provisions in HB1601 of the 89th General Assembly and HB866 of the 90th General Assembly.*

(1) Licensees acting with or without a written agreement for brokerage services pursuant to 339.710 to 339.860, RSMo, are

required to disclose such relationships in the following instances and manner:

(A) Seller's/Landlord's Agent or Subagent.

1. A licensee acting as an agent or subagent of the seller/landlord shall disclose this agency status no later than the first showing to a buyer/tenant who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, the disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the seller's/landlord's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the seller's/landlord's agent.

4. In a cooperative sale/lease between a seller's/landlord's agent and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's agent shall make disclosure of this agency status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, their agent or transaction broker, the seller's/landlord's agent shall disclose this agency status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's agent is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), make the disclosure described herein on behalf of the landlord's agent;

(B) Buyer's/Tenant's Agent or Subagent.

1. A licensee acting as an agent or subagent of the buyer/tenant shall disclose this agency status no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, the disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the buyer's/tenant's agent is cooperating with another licensee under a written agreement of subagency or through a unilateral offer of subagency, the disclosure made by the subagent shall serve as the disclosure of the buyer's/tenant's agent.

4. In a cooperative sale/lease between a buyer's/tenant's agent and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's agent shall make disclosure of this agency status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent or transaction broker, the buyer's/tenant's agent shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this agency status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure described herein on behalf of the landlord's agent or transaction broker;

(C) Dual Agent.

1. A licensee acting as a dual agent in a real estate transaction shall disclose this agency status immediately upon its occurrence to all parties of a real estate transaction.

2. In a non-designated agency transaction, the disclosure made by the licensee procuring the buyer/tenant (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a dual agent and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this agency status provided written consent was given by all parties to the real estate transaction pursuant to 339.750.1, RSMo;

(D) Transaction Broker Assisting Seller/Landlord.

1. A licensee assisting a seller/landlord as a transaction broker who has not been deemed a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to buyer/tenant who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.

2. If the buyer/tenant is represented by another licensee, this disclosure may be made to the buyer/tenant or their agent upon first contact with the buyer/tenant or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the seller/landlord, the licensee shall disclose the licensee's transaction broker status to the seller/landlord upon establishing such relationship with the seller/landlord.

4. In a cooperative sale between a seller's/landlord's transaction broker and a licensee working with a buyer/tenant as a transaction broker, the seller's/landlord's transaction broker shall make disclosure of this brokerage relationship status to the buyer/tenant and also to the licensee assisting the buyer/tenant upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the buyer/tenant, or their agent or transaction broker, the seller's/landlord's transaction broker shall disclose this brokerage relationship status to the buyer's/tenant's agent or transaction broker when first contact is established pursuant to paragraph (B)5. or (E)5. of this section.

6. If the landlord's transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, make the disclosure described herein on behalf of the landlord's transaction broker;

(E) Transaction Broker Assisting Buyer/Tenant.

1. A licensee assisting a buyer/tenant as a transaction broker who has not been deemed a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this brokerage relationship no later than the first showing to a seller/landlord who is not represented by or working with another licensee pursuant to 339.710 to 339.860, RSMo.

2. If the seller/landlord is represented by another licensee, this disclosure may be made to the seller/landlord or their agent upon first contact with the seller/landlord or their agent, whichever occurs first.

3. If the licensee has not entered into a written transaction brokerage agreement with the buyer/tenant, the licensee shall disclose the licensee's transaction broker status to the buyer/tenant upon establishing such relationship with the buyer/tenant.

4. In a cooperative sale/lease between a buyer's/tenant's transaction broker and a licensee working with a seller/landlord as a transaction broker, the buyer's/tenant's transaction broker shall make disclosure of this brokerage relationship status to the seller/landlord and also to the licensee assisting the seller/landlord upon first contact with each respective party.

5. In a contemplated real estate transaction where no contact occurs with the seller/landlord, their agent or transaction broker, the buyer's/tenant's transaction broker shall establish first contact with the seller's/landlord's agent or transaction broker and disclose this brokerage relationship status prior to the presentation of an offer to exchange, purchase, rent, or lease.

6. If the landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), RSMo, receive the disclosure

described herein on behalf of the landlord's agent or transaction broker;

(F) Transaction Broker Pursuant to 339.710(19)(c), RSMo.

1. A licensee who becomes a transaction broker pursuant to 339.710(19)(c), RSMo, shall disclose this transaction broker status immediately upon its occurrence to all parties to the real estate transaction to be confirmed in writing prior to the execution of the contract.

2. The disclosure of the licensee procuring the buyer (selling licensee) shall serve as disclosure for the listing licensee and designated broker.

3. A designated broker who becomes a transaction broker and does not personally represent any of the parties in a designated agency transaction shall not be required to make disclosure of this status provided written consent was given by all parties to the real estate transaction.

*AUTHORITY: sections 339.120, 339.720, and 339.770, RSMo Supp. 1999. Original rule filed Oct. 26, 1987, effective July 1, 1988. Amended: Filed Sept. 1, 1989, effective Dec. 28, 1989. Amended: Filed Nov. 15, 1991, effective June 25, 1992. Rescinded and readopted: Filed Dec. 1, 1997, effective Sept. 1, 1998. Rescinded and readopted: Filed Jan. 14, 2000.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED RULE**

**4 CSR 250-8.096 Brokerage Relationship Confirmation**

*PURPOSE: This rule outlines requirements for a brokerage relationship confirmation.*

(1) Licensees acting with or without a written agreement for brokerage services pursuant to 339.710 to 339.860, RSMo, are required to have such relationships confirmed in writing by each party to the real estate transaction on or before such party's first signature to the real estate contract. Nothing contained herein prohibits the written confirmation of brokerage relationships from being included or incorporated into the real estate contract.

(A) Written confirmation must—

1. Identify the licensee's brokerage relationship;
2. Identify the source or sources of compensation;
3. Confirm that the brokerage relationships, if required by rule or regulation, were disclosed to the seller/landlord and/or buyer/tenant or their respective agents and/or transaction brokers no later than the first showing, upon first contact, or immediately upon the occurrence of any change to that relationship;
4. Confirm the seller's/landlord's and buyer's/tenant's receipt of the Broker Disclosure Form prescribed by the commission;
5. Be signed and dated by the seller/landlord and buyer/tenant. If the landlord has entered into a written property management

agreement pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the landlord shall not be required to sign the written confirmation; and

6. Be signed and dated by the disclosing licensees on or before the contract date. If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200-4 CSR 250-8.210, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), sign the written confirmation on behalf of the landlord's agent or transaction broker.

(B) A signed copy shall be given to the seller/landlord and buyer/tenant and a signed copy shall be retained by the disclosing licensee's broker. If any party to the real estate transaction refuses to sign the confirmation, the licensee working with that party pursuant to 339.710 to 339.860, RSMo, shall set forth, sign and date a written explanation of the facts of refusal and the explanation shall be retained by the licensee's broker.

*AUTHORITY: sections 339.120, 339.720 and 339.780, RSMo 1999. Original rule filed Jan. 14, 2000.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.097 Broker Disclosure Form.** The commission is proposing to amend sections (1) and (2) and amend the authority section.

*PURPOSE: This amendment clarifies and simplifies the requirements of presenting the Broker Disclosure Form.*

(1) At the earliest practicable opportunity during or following the first substantial contact by the designated broker or the affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a *[written agreement for services]* **brokerage relationship** as described in section 339.710.5, RSMo, the licensee shall provide that person with a written copy of the current Broker Disclosure Form prescribed by the Missouri Real Estate Commission. In any event, a licensee shall provide the *[unrepresented party (customer)]* **party that has not entered into a brokerage relationship as described in section 339.710.5, RSMo, the Broker Disclosure Form upon obtaining any personal or financial information or before the signing of a brokerage service agreement, whichever occurs first. [If the prospective customer refuses to sign the disclosure, the licensee shall set forth, sign and date a written explanation of the facts of the refusal and the explanation shall be retained by the licensee's broker.] If a landlord's agent or transaction broker is conducting property management pursuant to 4 CSR 250-8.200, the unlicensed office personnel may, in their performance of the duties enumerated in 339.010.5(5)(a)-(e), provide a tenant with a written copy of the current Broker Disclosure**

Form prescribed by the commission on behalf of the landlord's agent or transaction broker.

(2) [The licensee providing the Broker Disclosure Form is required to see that the prescribed form is completed in its entirety.] The brokerage relationship marked as offered on the Broker Disclosure Form shall correspond to the written office policy adopted by the designated broker pursuant to 339.760.1, RSMo.

*AUTHORITY:* sections 339.120, [RSMo Supp. 1997] and 339.770, RSMo Supp. 1999. Original rule filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.160 Retention of Records.** The commission is proposing to amend section (1) and amend the authority section.

*PURPOSE:* This amendment will remove the requirement for broker disclosure forms to be retained by a broker.

(1) Every broker shall retain for a period of at least three (3) years true copies of all business books; accounts, including voided checks; records; contracts; [broker disclosure forms and] brokerage relationship agreements; closing statements and correspondence relating to each real estate transaction that the broker has handled. The records shall be made available for inspection by the commission and its authorized agents at all times during usual business hours at the broker's regular place of business. No broker shall charge a separate fee relating to retention of records.

*AUTHORITY:* sections 339.120, [RSMo Supp. 1997] and 339.770, RSMo Supp. 1999. Original rule filed Nov. 14, 1978, effective Feb. 11, 1979. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Dec. 1, 1997, effective Sept. 1, 1998. Amended: Filed Jan. 14, 2000.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within

thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 250—Missouri Real Estate Commission  
Chapter 8—Business Conduct and Practice**

**PROPOSED AMENDMENT**

**4 CSR 250-8.210 Management Agreements.** The commission is proposing to amend section (1) and amend the authority section.

*PURPOSE:* This amendment reflects the changes made in the statutes due to the passage of HB866.

(1) Every written property management agreement or other written authorization between a broker and the owners of the real estate shall—

(E) Provide the terms and conditions for termination of the property management agreement by the broker or the owner of the property; and

(F) Contain signatures of broker and owner or their authorized agent.]

(F) Include the licensee's duties and responsibilities;

(G) Contain a statement which permits or prohibits the designated broker from offering subagency (not applicable for transaction broker agreements);

(H) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a disclosed dual agent and if permitted, the duties and responsibilities of a dual agent;

(I) Contain a statement which permits or prohibits the designated broker and/or affiliated licensee from acting as a transaction broker and if permitted, the duties and responsibilities of a transaction broker;

(J) Include specification of whether or not the designated broker is authorized to cooperate with and compensate other designated brokers acting pursuant to any other brokerage relationship as defined by 339.710 to 339.860, RSMo, including but not limited to tenant's agents and/or transaction brokers;

(K) Contain a statement which confirms that the landlord received the Broker Disclosure Form prescribed by the commission: a) on or before the signing of the brokerage relationship agreement, or b) upon the licensee obtaining any personal or financial information, whichever occurs first; and

(L) Contain the signatures of all the owners and the broker or affiliated licensee as authorized by the broker.

*AUTHORITY:* sections 339.120, [RSMo Supp. 1993] 339.720, 339.780 and 339.820, RSMo Supp. 1999. Original rule filed June 14, 1988, effective Feb. 19, 1989. Amended: Filed Feb. 2, 1994, effective Aug. 28, 1994. Amended: Filed Jan. 14, 2000.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.100 Definitions**

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

- (1) Comparable services. Services provided 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., not covered by insurance, Medicare, Medicaid or other third party payees, which directly relates to an individual's disability.
- (4) Independent individual for financial needs purposes. Any individual who meets any one (1) of the following criteria: is twenty-three (23) years old; a veteran of the U.S. Armed Forces; a ward of the court; both parents are deceased; has legal dependents other than spouse; married and not claimed as an income tax exemption during the current tax year; unmarried and not claimed as an income tax exemption during the past two (2) years and has not lived for more than twelve (12) weeks in the home of the parent(s)/guardian during each of the past two (2) tax years.
- (5) Dependent. An individual not meeting any of the criteria as an independent. When the client is a dependent, Division of Vocational Rehabilitation's (DVR's) Financial Application must be completed by the parent(s)/guardian and their income will determine the individual's eligibility for services based on financial need.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.110 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 Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

- (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 rehabilitation 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 the Division of Vocational Rehabilitation (DVR) has a cooperative agreement with including but not limited to Departments of Economic Development, Elementary and Secondary Education, Higher Education, Labor and Industrial Relations, Mental Health, Social Services and Workforce Development; 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 or eligible individual's refusal to release information may affect eligibility or result in denial of services.
- (3) Information from an individual's file must be requested in writing. 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, individual's adult family member, qualified medical or mental health professional.
- (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 DVR amend the information. If the information is not amended, the request for the amendment must be documented in the record of services.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.120 Minimum Standards for Service Providers**

*PURPOSE: This rule establishes the minimum standards for service providers for the State Board of Education through the Division of Vocational Rehabilitation, 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 and the Code of Federal Regulations.*

(1) A service provider is an individual or organization which provides services to applicants or eligible individuals.

(A) A vocational service provider may provide one (1) or more of the following client interventions: personal and work adjustment training; job readiness training; supported employment; work stations in industry; and vocational evaluation.

1. The vocational service provider must demonstrate the ability to deliver appropriate case management services including counseling, psychological services, and vocational assessment services, and shall maintain service delivery personnel who possess substantial academic credentials appropriate to the proposed service.

2. Accreditation must be obtained from recognized professional accreditation organizations who have developed commonly accepted processes for accreditation of the specific service. This would include but is not limited to the Commission on Accreditation of Rehabilitation Facilities (CARF) and the Joint Commission of Accreditation of Hospitals (JCAH).

(B) An educational service provider must comply with the provisions found in 5 CSR 30-4.020.

(2) The service provider must be properly accredited, certified, or licensed in Missouri or another state as approved by the Division of Vocational Rehabilitation (DVR), in accordance with applicable state law and/or regulation. Qualified personnel must have a valid, unencumbered, unrestricted, and undisciplined license, certification, or accreditation.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.200 Eligibility**

*PURPOSE: This rule establishes the eligibility requirements for applicants for the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

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

(2) Eligibility shall be determined pursuant to the federal act and/or applicable regulations and 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 DVR. The treatment program must be certified by the Missouri Department of Mental Health, Division of Alcohol and Drug Abuse or the Joint Commission on Accreditation of Hospitals (JCAH);

(B) All referrals, applicants and eligible individuals with a visual disability will be referred to the Missouri Rehabilitation Services for the Blind (RSB) when the individual meets the visual disability requirements set forth in RSB rules; and

(C) Eligibility for individuals with hearing loss must be diagnosed by a Missouri certified audiologist or a Missouri physician skilled in diseases of the ear. Eligibility for individuals with a hearing loss is based upon standards developed by the American Speech and Hearing Association (ASHA).

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

A. Pure tone average, speech receptions, and speech discrimination factors in determining the existence of functional limitations;

B. Pure tone average is determined by computing the decibel loss at 500 Hz, 1000 Hz, and 2000 Hz;

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

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

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

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$549,249 in Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*



**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 5 - Department of Elementary and Secondary Education

Division: 90 – Vocational Rehabilitation

Chapter: 5 – Vocational Rehabilitation Services

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 90-4.200 Eligibility

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Dept. of Elementary and Secondary Education	\$549,249 per year for the life of the rule

**III. WORKSHEET**

Estimated cost is the state portion (21.3%) as averaged over the last two Federal fiscal years. The average of the last two fiscal years is \$2,578,632. The state portion is figured by multiplying 21.3% times \$2,578,632. Therefore, the estimated cost is \$549,249 (rounded).

**IV. ASSUMPTIONS**

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.300 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 Division of Vocational Rehabilitation, Department of Elementary and Secondary Education cannot provide services to all eligible individuals with disabilities in the State of Missouri.*

(1) In the event vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the state of Missouri, the Division of Vocational Rehabilitation (DVR) will implement an order of selection. 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 through the federal act and/or applicable regulations;

(B) Priority Category II—An individual with a significant disability as defined in the federal act and/or applicable regulations and whose disability was sustained in the line of duty while performing as a public safety officer and the immediate cause of the disability was the result of one (1) of the following:

1. A criminal act;
2. An apparent criminal act; or
3. A hazardous condition resulting from the performance of

duties in direct connection with the enforcement, execution and administration of law or fire prevention, fire-fighting or related public safety activities;

(C) Priority Category III—An individual with a significant disability as defined in the federal act and/or applicable regulations;

(D) Priority Category IV—An individual with a disability as defined in the federal act and/or applicable regulations and who is receiving services from state-wide government agencies with whom DVR has a working written agreement detailing the responsibilities of each agency. Classification in this category is not made on the basis of type of disabling condition. However, public safety officers will receive services first within this priority category; or

(E) Priority Category V—An individual with a disability as defined in the federal act and/or applicable regulations. Public safety officers will receive services first within this priority category.

(2) 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.

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

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

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

(6) 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.

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

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

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.400 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 Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) When an applicant or eligible individual signs an application, is determined ineligible for services, the Individualized Plan for Employment (IPE) is developed or executed, or upon reduction, suspension, or cessation of vocational rehabilitation services, the applicant or eligible client will be appraised of their rights to a due process hearing and/or mediation.

(2) When an applicant or eligible individual is dissatisfied with any determination made by the Division of Vocational Rehabilitation (DVR) regarding the provision of services, the applicant or eligible individual may request under the rules promulgated by the State Board of Education, informal review, a due process hearing or mediation.

(3) When an applicant or eligible individual is dissatisfied with any determination made by DVR regarding the provision of services, the applicant or eligible individual will be given information about the Client Assistant Program.

(4) Division of Vocational Rehabilitation will not suspend, reduce, or terminate services provided to an eligible client under an existing IPE pending a decision from informal review, due process hearing or written mediation agreement, unless the eligible individual or their representative requests in writing.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.410 Informal Review**

*PURPOSE: This rule establishes the procedures for informal review of a decision made by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

- (1) The applicant or eligible individual may request informal review in writing to the supervisor of the district office.
- (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 forty-five (45) days from the applicant's or eligible individual's written request for informal review unless a party requests a specified time extension.
- (5) The applicant or eligible individual will be informed of the results of the informal review in writing and the right to a due process hearing or mediation.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

**PROPOSED RULE**

**5 CSR 90-4.420 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 Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

- (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 a coordinator, Division of Vocational Rehabilitation (DVR).
- (3) The assistant commissioner of DVR will set a hearing and assign a hearing officer selected pursuant to the federal regulations and/or applicable regulations.
- (4) A hearing will be held within forty-five (45) days of the request unless a party 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 eligible individual, or if appropriate, the individual's parent, guardian or other representative, will be allowed an opportunity 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 hearing officer shall be placed in the applicant's or eligible individual's case file.
- (8) The hearing officer will make a decision 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 of the findings of fact and conclusions of law will be submitted to the applicant or eligible client or, if appropriate the individual's parent, 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 hearing officer's written decision, either party may request in writing, review of the written decision to the commissioner of the Department of Elementary and Secondary Education 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.
- (11) The commissioner or designee shall not overturn or modify the 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 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 DVR in a timely manner.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$538 in Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 5 - Department of Elementary and Secondary Education

Division: 90 – Vocational Rehabilitation

Chapter: 4 – General Administrative Policies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 90-4.420 Due Process Hearing

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Dept. of Elementary and Secondary Education	\$538 per year for the life of the rule.

**III. WORKSHEET**

Estimated cost is the state portion as averaged over the last two Federal fiscal years. (Hearing officer costs include mileage, meals, postage and fees of \$316 average at approximately eight hearings per year for a total of \$2,528). The state portion is figured by multiplying 21.3% times \$2,528. Therefore, the estimated cost is \$538 (rounded).

**IV. ASSUMPTIONS**

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 4—General Administrative Policies**

*within thirty days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PROPOSED RULE**

**5 CSR 90-4.430 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 Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.*

(1) The applicant or eligible individual may request mediation regarding disputes involving any determination by the Division of Vocational Rehabilitation (DVR) that affects the provision of services. This request may be made in writing or by personally contacting a coordinator of DVR.

(2) The assistant commissioner of DVR will assign a mediator selected pursuant to the federal act and/or applicable regulations and agreed to by both the DVR and the applicant or eligible individual.

(3) An agreement reached by the parties 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 parent, 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. Mediation is voluntary on the part of both parties.

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

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$485 in the Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 5 - Department of Elementary and Secondary Education

Division: 90 – Vocational Rehabilitation

Chapter: 4 – General Administrative Policies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 90-4.430 Mediation

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Dept. of Elementary and Secondary Education	\$485 per year for the life of the rule.

**III. WORKSHEET**

Mediation services are a new service as provided in the Rehabilitation Act of 1973. These services have not been rendered, however, the estimated cost was determined by averaging the fees of professional mediation services from the bids selected. This average cost of a mediation is \$759 (rounded). (Mediation costs include mileage, meals, postage and fees of \$759 average at approximately three mediations per year for a total of \$2,278). The state portion is figured by multiplying 21.3% times \$2,278. Therefore, the estimated cost is \$485 (rounded).

**IV. ASSUMPTIONS**

**Title 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 90—Vocational Rehabilitation  
Chapter 5—Vocational Rehabilitation Services**

**PROPOSED RULE**

**5 CSR 90-5.400 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. Rehabilitation technology service, including assistive technology devices and services to assist the individual to achieve an employment outcome;

G. Home modification or remodeling;

H. Vehicle modification;

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

J. Personal attendant services;

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

L. 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.

(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) Division of Vocational Rehabilitation 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, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Elementary and Secondary Education \$8,368,540 in Fiscal Year 2001, with the cost reoccurring annually thereafter over the life of the rule. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*



*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education, Attention Mr. Ronald W. Vessell, Assistant Commissioner, Division of Vocational Rehabilitation, 3024 W. Truman Blvd., Jefferson City, MO 65109. To be considered, comments must be received within thirty days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE  
PUBLIC ENTITY COST**

**I. RULE NUMBER**

Title: 5 - Department of Elementary and Secondary Education

Division: 90 – Vocational Rehabilitation

Chapter: 5 – Vocational Rehabilitation Services

Type of Rulemaking: Proposed Rule

Rule Number and Name: 5 CSR 90-5.400 Services

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Dept. of Elementary and Secondary Education	\$8,368,540 per year for the life of the rule

**III. WORKSHEET**

Estimated cost is the state portion as averaged over the last two Federal fiscal years. The average of the last two fiscal years is \$39,288,922. The state portion is figured by multiplying 21.3% times \$39,288,922. Therefore, the estimated cost is \$8,368,540 (rounded).

**IV. ASSUMPTIONS**