
Rules of Department of Elementary and Secondary Education Division 70—Special Education Chapter 742—Special Education

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

**Division 70—Special Education
Chapter 742—Special Education**

**5 CSR 70-742.010 Local Boards of
Education—Responsibilities for Services to
Handicapped and Severely Handicapped
Children and Youth**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.020 Special School District
Boards of Education—Responsibilities for
Services to Handicapped and Severely
Handicapped Children and Youth**

(Rescinded December 15, 1980)

AUTHORITY section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.030 State Board of Educa-
tion—Responsibilities for Services to
Handicapped and Severely Handicapped
Children and Youth**

(Rescinded December 15, 1980)

AUTHORITY: sections 162.685 and 162.730, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.040 Special Education Plan-
ning and Program Development**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.050 Special Education
Administration**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.060 Service Alternatives,
Definitions of Handicapping Conditions
and Class Sizes and Caseloads**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.070 Policies for Distribution
of Special Education Financial Aid on a
Part-Time Basis**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.080 Ancillary Professional
Personnel Reimbursement**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.090 Standards for Calculat-
ing State Transportation Aid for Handi-
capped and Severely Handicapped
Students**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed April 11, 1975, effective April 21, 1975. Rescinded: Filed Nov. 7, 1977, effective March 1, 1978. Readopted: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.100 Handicapped Children
Census**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.110 Early Childhood Special
Education**

(Rescinded December 15, 1980)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

**5 CSR 70-742.120 Programs for Gifted/
Talented**

(Rescinded July 14, 1979)

AUTHORITY: section 162.685, RSMo Supp. 1975. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Dec. 24, 1975, effective Jan. 3, 1976. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed March 7, 1979, effective June 14, 1979.

**5 CSR 70-742.130 Remedial Reading
Services**

(Rescinded August 15, 1983)

AUTHORITY: section 162.685, RSMo 1978. Original rule filed May 20, 1974, effective May 30, 1974. Amended: Filed Nov. 7, 1977, effective March 1, 1978. Rescinded: Filed April 12, 1983, effective Aug. 15, 1983.

**5 CSR 70-742.140 Individuals With
Disabilities Education Act, Public Law 94-
142 Part B**

PURPOSE: The Department of Elementary and Secondary Education is eligible to apply for and receive federal funds under the Education for All Handicapped Children Act of 1975 for the provision of special education programs for handicapped children. This rule incorporates by reference the annual program plan for the provision of the services to handicapped children.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this

rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) The content of this state plan, as submitted to the United States Department of Education, meets the federal statute and Missouri's compliance in the following areas:

(A) Submission statements and certification; and

(B) Substantive requirements.

1. Right to education policy statement.
2. Full educational opportunities goal and time lines.
3. Child identification.
4. Confidentiality of personally identifiable information.
5. Individualized education program.
6. Procedural safeguards.
7. Least restrictive environment.
8. Protection in evaluation procedures.
9. Responsibility of state education agency.

10. State comprehensive system of personnel development.
11. Private schools.
12. Recovery of funds for misclassified children.
13. Hearing on local educational agency (LEA) application.
14. Annual evaluation.
15. Description of use of Part B funds.
16. Additional information.
17. Interagency agreement.
18. Personnel standards.
19. Appendices.

A. Regulations, Standards and Guidelines for School Districts Administering the Requirements of State and Federal Special Education Law.

B. State Board Operated Programs.

C. Cooperative School Work Programs for Handicapped Secondary Students.

D. Application, Evaluation and Approval of Nonprofit, Private Educational Agencies.

E. Operational Policies and Guidelines—Public Law 94-142.

F. Compliance Requirements for Special School Districts and Their Component Districts.

G. Child Complaint Process.

AUTHORITY: sections 162.685 and 178.430, RSMo 1994.* Original rule filed April 11, 1975, effective April 21, 1975. Amended:

Filed March 1, 1977, effective April 15, 1977. Amended: Filed Feb. 7, 1978, effective March 13, 1978. Amended: Filed Dec. 11, 1978, effective Jan. 15, 1979. Amended: Filed Aug. 29, 1979, effective Oct. 15, 1979. Amended: Filed Sept. 24, 1980, effective Nov. 15, 1980. Amended: Filed Oct. 12, 1983, effective Nov. 15, 1983. Amended: Filed Feb. 25, 1987, effective March 26, 1987. Amended: Filed Jan. 30, 1989, effective Feb. 24, 1989. Amended: Filed July 3, 1989, effective Oct. 27, 1989. Amended: Filed Oct. 23, 1991, effective Jan. 13, 1992. Amended: Filed Nov. 25, 1992, effective Feb. 26, 1993. Amended: Filed Sept. 23, 1994, effective Dec. 30, 1994. Amended: Filed March 29, 1996, effective Oct. 30, 1996. Amended: Filed Oct. 23, 1996, effective Jan. 30, 1997.

*Original authority: 162.685, RSMo 1973 and 178.430, RSMo 1963.

5 CSR 70-742.141 Individuals with Disabilities Education Act, Public Law 105-17, Part C

PURPOSE: The Department of Elementary and Secondary Education is eligible to apply for and receive federal funds under the Individuals with Disabilities Education Act of 1986 for the provision of early intervention services to infants and toddlers with disabilities. This rule incorporates by reference changes to the annual program plan required by new federal statutes for the provision of the services to eligible children.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) The content of this state plan, as submitted to the United States Department of Education, meets the federal statute and Missouri's compliance in the following areas:

(A) Submission statements and certification; and

- (B) Substantive Requirements.
1. Definitions
 2. Lead agency
 3. State Interagency Coordinating Council
 4. Description of use of funds
 5. Public participation

6. Equitable distribution of resources
7. Transition to preschool programs
8. Adoption of state policy
9. Annual Performance Report requirement
10. Annual Data Collection Report requirement
11. General Education Provisions Act
12. State definition of developmental delay
13. Central directory
14. Timetables for serving all eligible children
15. Public Awareness Program
16. Comprehensive Child Find System
17. Evaluation, assessment, and nondiscriminatory procedures
18. Individualized Family Service Plans (IFSPs)
19. Comprehensive System of Personnel Development (CSPD)
20. Personnel standards
21. Procedural safeguards
22. Supervision and monitoring of programs
23. Lead agency procedures for resolving complaints
24. Policies and procedures related to financial matters
25. Interagency agreements, resolution for individual disputes
26. Policy for contracting or otherwise arranging for services
27. Data collection
28. Appendices
 - A. Interagency coordinating council meeting notices
 - B. Central directory information and public awareness
 - C. Interagency agreement
 - D. Monitoring document
 - E. Education Department General Administration Rules (EDGAR) definitions

AUTHORITY: section 178.430, RSMo 2000, Executive Order 94-22 of the Governor, Public Law 105-17, Individuals with Disabilities Education Act.* Original rule filed Dec. 29, 1997, effective March 30, 1998. Amended: Filed July 31, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 7, 2000, effective Feb. 28, 2001.

*Original authority: 178.430, RSMo 1963.

5 CSR 70-742.150 Standards for Approving Capital Improvement Requests
(Rescinded December 15, 1980)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed April 26, 1978, effective Sept. 11, 1978. Amended: Filed Feb. 13, 1979, effective May 14, 1979. Rescinded: Filed Sept. 12, 1980, effective Dec. 15, 1980.

5 CSR 70-742.160 Policy for Reimbursement of Individuals Serving as Members of Hearing Panels

PURPOSE: This rule sets forth the policy for reimbursement of individuals serving as panel members during due process proceedings conducted by school districts or the Department of Elementary and Secondary Education.

(1) Individuals shall be solicited from within Missouri.

(2) Individuals serving as panel members may be eligible for reimbursement for reasonable and necessary expenses actually incurred in the performance of duties including lodging, meals and travel costs. An honorarium may be authorized by a school district or the Department of Elementary and Secondary Education.

(3) In the event a board of education, because of unusual or unique circumstances, wishes to have an exception granted to this policy, prior approval shall be required from the Assistant Commissioner, Division of Special Education, Department of Elementary and Secondary Education.

AUTHORITY: section 162.685, RSMo 1986. Original rule filed Oct. 19, 1979, effective Feb. 14, 1980. Amended: Filed April 23, 1985, effective Sept. 3, 1985.*

**Original authority 1973.*

5 CSR 70-742.165 State Agency Payments to School Districts for Educational Services

PURPOSE: This rule establishes criteria for making payments to school districts which provide educational services to nondominant children who are in residential placement arranged by the Department of Mental Health, Department of Social Services or a court of competent jurisdiction.

(1) The Department of Elementary and Secondary Education shall expend general revenue appropriated to fund the excess cost of educational services provided to a child—
a) whose domicile is in one district but is placed in programs or facilities operated by the Department of Mental Health or resides in another district pursuant to assignment by that department; or b) whose domicile is in one district but is placed by the Division of Family Services into any type of publicly contracted residential site in Missouri; or c)

whose domicile is in one district but is placed by a court of competent jurisdiction into any type of publicly contracted residential site in Missouri. The Department of Elementary and Secondary Education shall pay the serving school districts the excess cost of services provided, e.g., an amount by which the per pupil costs of the educational services exceeds the funds received from the domiciliary school district and from other sources.

(2) Serving school district may submit requests of payment for educational services to the Department of Elementary and Secondary Education, Division of Special Education. Requests for payment will be accepted no later than October 1 following the school year during which billable services were delivered.

(3) Serving school district shall use forms prescribed by the Department of Elementary and Secondary Education when submitting requests for payment.

(4) The Department of Elementary and Secondary Education will determine excess cost payments based on expenditure data for the first year preceding the delivery of services.

(5) Payments to the serving district may be prorated based on funds appropriated for this purpose.

AUTHORITY: section 167.126(4) and (5), RSMo Supp. 1997. Original rule filed June 21, 1996, effective Jan. 30, 1997. Amended: Filed Sept. 16, 1997, effective March 30, 1998.*

**Original authority 1995, amended 1997.*

5 CSR 70-742.170 Extraordinary Cost Fund

PURPOSE: This rule provides administrative procedures to public school districts to seek reimbursement for extraordinary cost, if any, associated with serving students with disabilities, as defined by the 1997 Amendments to Individuals with Disabilities Education Act (IDEA). This rule sets forth a plan for distributing funds to public school districts which educate students whose service costs exceed five times the district's current expenditure per eligible pupil.

(1) The cost of special education and related services, as defined by the 1997 Amendments to the Individuals With Disabilities Education Act (IDEA), which are needed by some stu-

dents in public education can be considerable. The purpose of the Extraordinary Cost Fund is to provide a source of support to districts to mitigate the financial stress which may result from the cost of serving a student(s) with disabilities whose needs are extraordinary. There are a limited number of students whose service needs are so extensive as to result in exceptional costs. Regardless of their exceptionality, these students are generally served alongside or near their age-appropriate peers. The stated preference for the use of the funds available from this source is to support services which are provided in the public school environment, unless other placements are necessary to provide the student a free appropriate public education in the least restrictive environment. Funds from this source are available only to public school districts and exclude the state board operated schools. The "Extraordinary Cost Fund" (hereinafter referred to as "the fund") is made possible by an annual appropriation from state revenue. It is to be used to pay approvable special education and related service costs for students with disabilities when such costs exceed five (5) times the serving district's current expenditure per eligible pupil for the year in which services were provided. Districts may apply no later than October 31 following the close of a school year in which approvable costs were incurred. All applications shall be made on forms provided by the Department of Elementary and Secondary Education, Division of Special Education. Questions should be addressed to Director, Grants and Applications Section, Missouri Department of Elementary and Secondary Education, Division of Special Education, P.O. Box 480, Jefferson City, MO 65102.

(2) General Provisions.

(A) Eligible Applicant Districts and Students—A Missouri public school district which directly serves a student(s) with an educational disability (as defined by the State Plan for Part B of IDEA) and for whom there are extraordinary costs may apply to recover expenses from the fund. In order to be considered for reimbursement of extraordinary costs, the applying school district must show actual approvable expenditures for an individual student which exceed five (5) times the district's current expenditure per eligible pupil for the year in which services were provided. A separate application is required for each student for whom reimbursement is sought. (Retroactive adjustments may be made to payments to correspond with changes made to the district's post-audit data.)

(B) **Approvable Extraordinary Expenditures—Part C** includes approvable expenditures which may be reimbursed by the fund. They are the only expenditures which may be included in the calculation of total educational cost required to serve a student for whom an application for recovery of extraordinary costs is submitted. Any and all expenditures claimed on an application are subject to audit and further requests for clarification by the division. The division reserves the right to disapprove any and all expenditures submitted for reimbursement which are not documented as requested or do not qualify as approvable extraordinary costs.

(C) **Deadline for Annual Application—**An original properly completed form for claiming reimbursement from the fund must be postmarked no later than October 31 in order to be reimbursed for expenditures made during the preceding school year. (Reimbursement may be provided only after actual costs have been incurred for the delivery of a service, program or purchase/lease of a product.) Forms submitted for claiming reimbursement which are incomplete will be returned with corrective advice, but will not be considered submitted for the purpose of complying with the submission deadline. Costs for extended school year (ESY) services should be allocated to the fiscal year(s) in which they are accrued in the district's financial accounting system.

(D) **Forms for Application—**Claims for reimbursement of extraordinary costs must be submitted on the "Extraordinary Cost Fund Application" form approved by the Division of Special Education. At the discretion of the division, applications may be submitted by paper form, fax or World Wide Web.

(E) **Reconsideration of Denied Expenditures—**An applicant may seek reconsideration of expenditures denied for reimbursement by the director of grants and applications. Requests for reconsideration must be made in writing to the assistant commissioner of special education, Division of Special Education, within thirty (30) calendar days following the date of the notice of approval or denial. Decisions of the assistant commissioner of special education shall be made within thirty (30) calendar days of the date of the reconsideration request.

(F) **Payment and Possible Proration of Extraordinary Cost Fund Payments—**The division will sum all approved reimbursable expenditures prior to distribution of funds following the annual receipt of applications on October 31. If there are insufficient funds to pay all approvable expenditures, payments may be prorated based on the funds available. Beginning with applications for services pro-

vided during the 2000–2001 school term and from funds appropriated for this purpose, the division shall review applications submitted for payment and determine the approved cost after considering an amount per application equal to five (5) times each applicant district's average per pupil expenditure and any disallowed expenditures. Approved costs in excess of one hundred thousand dollars (\$100,000) per application shall be paid subject to the availability of funds. If funds are insufficient, such approved costs may be prorated. If funds remain, approved costs of one hundred thousand dollars (\$100,000) or less per application shall be paid in full or, if funds are not sufficient, such approved costs may be prorated.

(G) **Service(s)—**As used herein, this is a generic term which refers to any approvable expenditure and may include programs, evaluations, therapies, equipment/devices, instructional materials, etc.

(H) **Effect of Fund on School District Financial Responsibility—**Nothing contained in these regulations or the administration of the Extraordinary Cost Fund alleviates a public school district's obligation under state and federal law or regulation to provide special education and related services necessary for the provision of free and appropriate public education (FAPE). This obligation is in no way contingent upon the receipt of funds from the Extraordinary Cost Fund.

(3) **Approvable Extraordinary Expenditure Categories—**Approvable expenditures are organized by categories of service. General and category-specific rules which qualify the reimbursable services are stated. Services which are not represented in the following categories may be considered by the division for reimbursement on a case-by-case basis.

(A) **Rules Applicable to All Service Categories.**

1. Services must be provided in the least restrictive setting/manner appropriate for the student, as reflected in the Individualized Education Program (IEP).

2. Services must be necessary to provide a FAPE, as reflected in the IEP.

3. Services must be specifically included on a current IEP.

4. In the judgment of the Division of Special Education, the services and the method of delivery must be considered an efficient and effective means (e.g., method of delivery, frequency, duration, acceptable practice, etc.) of addressing the needs of the student, as indicated in his/her most recent diagnostic summary and/or IEP.

5. Expenditures are approved based on the following service categories, whether pro-

vided through district employees or via purchase of services, e.g., sections (2) through (8).

6. The cost for a direct education service (including professional consultative services) must be allocated in the proportion to which the student whose services are being charged is to the total number of students served.

7. Services and funding available from other public and private sources must be applied before those from the fund and are not to be included in the calculation of total educational cost. Copays or deductibles for accessing such benefits may be included in the calculation of total educational cost. The use of private health insurance benefits to pay portions of the cost of related services must be done with the informed consent of the parent or primary beneficiary of the insurance, and not negatively affect future benefits or costs to the insuree. Public health insurance benefits must be accessed whenever possible.

8. Schools must comply with all applicable laws and regulations in the procurement of services.

9. Written requests for prior approval of expenditures (prior to a district incurring an expense) may be made to the division. Doing so is encouraged for significant expenditures.

(B) **Basic Special Education.**

1. Allocated cost of special education teacher and aide, if any.

2. Allocated cost of materials and equipment required to provide the basic special education program.

A. The principal method to be used for making allocations of direct education service, material, and equipment expenditures is the proportion which the student(s) qualifying for the fund is of the total number served by a teacher, aide, etc. However, depending on unique situations, the division may, at its discretion, apply an alternate method, including the following:

(I) The proportion of total time served; or

(II) The proportion of time or quantity relative to the total; or

(III) Others which may be deemed appropriate by the division.

(C) **Related and Other Specialized Ancillary Services.**

1. This category includes related or other specialized services which are provided by staff or as contracted.

2. Related service unit costs must be regionally competitive.

3. Includes specialized or individualized transportation. (Equipment should be placed under the category of specialized equipment.)

4. Medical service is reimbursable only if evaluation-related.

(D) Professional Development.

1. Monies from the fund may be used for professional development activities essential for staff directly assigned to a student to provide IEP-related services to the student for whom extraordinary cost reimbursement is being requested. General professional development expenditures, e.g., those which are not specialized and based on the qualifying student's IEP needs, are not approvable.

(E) Specialized Equipment.

1. The division at its discretion may determine the most cost-effective basis for reimbursement. It may consider the leasehold cost, purchase price, and useful life, among other relevant criteria in its decision. It too may prorate reimbursement based on these criteria.

2. Depending on cost and useful life, the division may recover equipment purchased through the fund for transfer to another student in the state.

3. No reimbursement will be provided for the initial development of or major modifications to custom software. Reimbursement may be sought for minor modifications to existing software if such are required by the student's IEP.

4. Costs for equipment or for adaptations and modifications to such are reimbursable if documented in the IEP to be required for the student to benefit from special education and related services. Costs must be allocated if equipment is used by multiple students.

(F) Out-of-District Day or Residential Schooling.

1. Must show evidence of financial participation by other public agencies, if appropriate.

2. Must show evidence that the district could not provide an appropriate service locally or by regional partnering.

3. Use of out-of-school district educational placement must be documented to be required by the IEP, and if relevant, a due process decision issued by the State Board of Education or a court of competent jurisdiction. Out-of-district payments may be made only for placements in other Missouri public school districts or in private agencies approved by the Missouri Department of Elementary and Secondary Education, Division of Special Education. Funding for out-of-state educational placement will be considered only when there is no appropriate service available in Missouri. (Exceptions may be considered where districts are close to or border other states.)

(G) Capital Facility Renovation.

1. At its discretion, the division may give consideration to requests to make minor modification to existing facilities which a) exceed the requirements of the Americans with Disabilities Act Accessibility Guide (ADAAG) and b) are documented to be essential for the student to benefit from special education and related services. Reimbursement for such expenditures may be prorated on a case-by-case basis. All such requests must receive prior written approval from the division.

(H) Specific Expenditure Exclusions.

1. No capital construction or renovation beyond that specified herein, including leases for facilities.

2. No indirect or allocable costs for administration or support services. Only direct special education service costs shall be included in the calculation of total educational cost.

AUTHORITY: section 162.975(1), RSMo Supp. 1999. Original rule filed Aug. 8, 1997, effective March 30, 1998. Amended: Filed July 28, 2000, effective Feb. 28, 2001.*

**Original authority: 162.975, RSMo 1973, amended 1974, 1977, 1986, 1989, 1990, 1993, 1997.*