

The Schindler Law Firm, P.C.

Attorneys at Law

141 North Meramec Avenue, Suite 201
Saint Louis, Missouri 63105

Phone: (314) 862-1411
Facsimile: (314) 862-1701
Email: josh@schindlerlawfirm.com

February 4, 2021

BY ELECTRONIC MAIL

Dear Senate Education Committee Members,

Thank you for taking the time yesterday to examine the current problems with the operation of the Missouri Course Access and Virtual School Program, referred to as MOCAP. I was pleased to present critical information and perspective on behalf of the National Coalitions for Public School Options – Missouri Chapter (PSO-MO) and the numerous parents and students that I have been honored to represent across the state who were (and still are) experiencing barriers and problems with the current MOCAP.

While there were several assertions made at the hearing which are in need of clarification, and PSO-MO will be providing detailed follow up information, two assertions in particular demand a more immediate response.

First, on the issue of funding, witnesses from the Springfield School District and the Independence School District testified that under the proposed bill virtual students would be funded the same as brick and mortar students. More specifically, \$10,000 was specified as the new potential transfer amount. This is false.

Under current law, MOCAP states, “Payment for a full-time virtual school student shall not exceed the state adequacy target, unless the student receives additional federal or state aid.” See Section 161.670, par. 3.3. That hard cap on the total payment for any student is unchanged by any of the proposals being considered. In other words, the maximum payment for any full-time virtual school student for the 2019-20 school year would still be \$6,375 (plus any individualized aid that may be tied to a specific student, e.g. special education funds. It was an unacceptable abuse of the Committee to be told otherwise by district leaders.

More specifically, according to recent data the per pupil expenditure by the Springfield School District is approximately \$10,700. As described above, the payment cap of \$6,375 this year means that full-time MOCAP students are, in fact, educated with only 60% of the funds expended on Springfield’s brick and mortar students. Why the Committee was told the bill would result in the same amount being expended in virtual schools as in brick and mortar schools is something for those witnesses to explain. The same is true for Independence and Kansas City witnesses, and they each seem to owe the Committee an apology.

Second, a representative of the Kansas City School District testified about the lack of MOCAP denials. The problem with that statement is that Kansas City is currently running an enrollment process that is in direct and blatant violation of the MOCAP requirement that the enrollment process be “substantially similar” to the district’s regular process.

Kansas City’s unlawful process was uncovered using an open records request (which produced a district flow chart/presentation on its MOCAP strategy and enrollment procedures), and confirmed by a resident family. That chart clearly demonstrates that they created one process for their preferred virtual program, and a wholly different process (with multiple manufactured barriers) for all other MOCAP programs. The process appears to be designed to wear parents down and cause them to give up altogether, i.e. do what the

school district wants them to do. More shocking though, was the district's documentation suggesting that KCPS should view any statutory analysis as to the "best educational interest" of a student through the lens of their own financial incentives. This is a clear abuse of the MOCAP enrollment process. As the representative from the Missouri NEA stated in testimony, the approval process needs to be expeditious, and such games and barriers should not be permitted.

As such, in August I wrote to the KCPS Board and detailed how the MOCAP enrollment process being operated in that district was in violation of the statute. They responded that their own flow chart was not being used, and that they exert no pressure on students or families, despite my client specifically describing just that. This issue was presented to DESE, but no corrective action was taken.

Regardless, the vast majority of Kansas City students and parents likely have no idea that their rights under MOCAP are being violated. In fact, like the majority of Missouri students and parents, these families likely know nothing of the MOCAP program or the many providers offered therein. If a KCPS student or parent is interested in virtual education, they can learn of their MOCAP rights by simply going to the KCPS website, then clicking on "Schools" (not "Families"), then selecting "Optional Programs," then scrolling to the bottom of the page (past the link to "virtual education" as that label is reserved for the KCPS program), and finally clicking on the MOCAP link. Of course, nothing in the linked page refers to any enrollment process, before offering another link to mocap.mo.gov. In other words, unless a student already knows about MOCAP, they will not learn of it from KCPS. The only thing KCPS didn't do to better hide the program from its students was decrease the font size.

In short, a lack of denials is not proof of an efficient or even lawful process, if that process ensures that no requests are ever made, or completed, in the first place.

In conclusion, MOCAP is badly in need of the suggested corrections. Such need is clearly evidenced by the fact that districts felt compelled to give false financial information to the Committee in a misguided effort to defeat this legislation, and by districts like KCPS so openly flouting the basic requirements of the current law. The law was meant to be student-centered, but some districts have incorrectly implemented the law with the same system-centered approach that existed before MOCAP. Missouri families deserve an education system that works for them and which places the focus on serving students, not empowering administrators.

Thank you for your attention.

Very truly yours,

Joshua M. Schindler