



Clarifications to State Board Policy Chapter 9, Rule 9.3, *Designated School-Wide/District-Wide Virtual Learning Days* and Chapter 56, Rule 56.2, *Virtual Students*

The virtual learning policies are designed to:

- ensure districts provide daily synchronous instruction;
- ensure access to the assigned teacher(s);
- ensure asynchronous assignments (if applicable) and instruction that is equivalent to in-person learning;
- prevent districts from improperly reporting disciplinary infractions based on local board policy; and
- prevent districts from using virtual learning as a disciplinary measure or to circumvent disciplinary measures based on local board policy.

Based on the requirements mandated in Miss. Code Ann. §§ 37-13-63 and 67, the MDE has no authority to provide flexibilities regarding instructional time and the 180 minimum school day requirement.

1. What are the criteria for offering virtual learning options in accordance with Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* and/or Rule 56.2 *Virtual Students*?

Districts that opt to offer virtual learning shall adopt, publish, and make publicly available local board-approved policies that include, at a minimum:

- a requirement for parents and students (if age-appropriate) to sign a commitment that acknowledges receipt and acceptance of, and commitment to, the local board policy pertaining to virtual learning;
- criteria for students to participate and remain in virtual learning;
- reliable connectivity requirements;
- the use of student-issued devices and personal devices;
- attendance requirements;
- discipline/Code of Conduct;
- assurance of equal access/nondiscrimination;
- assurance of the delivery of Free Appropriate Public Education (FAPE) for students with disabilities:
 - process for conducting meetings pertaining to the evaluation and eligibility of students with disabilities;
 - process for monitoring and documenting student progress and services delivered to students with disabilities; and
 - process for ongoing communication with families, teachers, and related service providers;
- criteria for attendance on campus to meet course requirements and/or district interim assessments; and
- assurance of compliance with Family Educational Rights and Privacy Act (FERPA).

2. Are districts required to offer virtual learning options to students?

No. Rule 56.2 *Virtual Students* grants districts the authority to establish criteria for students to participate in the virtual learning program. Districts are not required to offer virtual learning options to students. Rule 56.2 *Virtual Students* establishes the minimum criteria (outlined above) for districts that choose to offer a virtual learning program. Districts that opt to offer virtual learning shall first adopt, publish, and make publicly available (within 10 days of adoption) local board-approved policies for virtual learning.

3. Are districts allowed to continue to offer hybrid options?

Rules 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* and 56.2 *Virtual Students* as approved by the SBE on July 15, 2021, for the 2021 – 2022 school year eliminated hybrid scheduling (a combination of virtual and traditional instructional mode) options. However, the State Board of Education voted on August 19, 2021, to allow districts the flexibility to offer hybrid scheduling options from August 19, 2021, through October 31, 2021, as an effort to minimize the spread of COVID-19. The use of hybrid scheduling shall be used only to help mitigate the spread of COVID-19. (Updated 8.19.2021)

Rule 56.1 *Distance Learning, Blended Learning, and Online Courses* provides guidance to districts regarding the use of distance learning, blended learning, and online courses through the Mississippi Virtual Public School (MVPS), the Digital Education Network (DEN), courses approved through the Mississippi Online Course Application (MOCA) process, and other distance learning/online course providers not already approved by the Mississippi Department of Education (MDE).

4. Does "actual teaching" mean "live" synchronous instruction 100% of the time?

No. Every instructional day must include synchronous instruction. Asynchronous instruction is allowable, if combined with synchronous instruction, and must be documented in the lesson plan(s). The instructional day/class period cannot be 100% asynchronous except for those students the district has identified in accordance with Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* who do not have reliable connectivity.

5. How is "actual" teaching defined? What is considered evidence of "actual" teaching?

In the event of an audit by the MDE, the district shall provide evidence of student and teacher engagement/interaction and lesson plans that reflect their observations. "Actual teaching" is the terminology used in Miss. Code Ann. § 37-13-67. The MDE recognizes "actual teaching" may vary in practice from subject to subject.

6. Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* states that districts shall provide notice "before the close of the prior school day" to convert to virtual learning for inclement weather day(s). If severe weather occurs overnight, should districts be prepared to make up that day?

The intent of the requirement to provide prior notice is to allow districts ample time to issue devices to the students.

- If a district's local board policy prohibits students from taking devices home, the district will be unable to utilize designated school-wide or district-wide virtual learning days as described in Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days*.

- If the district is prepared for virtual learning, but circumstances such as widespread power outages occur making virtual learning impractical, districts shall either make up the day(s) missed or utilize inclement weather days in accordance with Miss. Code Ann. § 37-13-64.
- If the district is not prepared to deliver virtual instruction, the district will either need to count the school day as an inclement weather day (refer to the statute and local board policies) or make up the school day.

Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* applies to school-wide and district-wide closures, not to individual students who must convert to virtual learning based on the criteria outlined in the local board policy. Rule 56.2 would apply to individual students and does not require the advance notice.

7. In the event of unforeseen/unplanned circumstances, a district opts to utilize designated school-wide or district-wide virtual learning days. Are teachers required to provide remote synchronous instruction for those students with reliable connectivity to count the day as a virtual learning day?

Yes. For the district to count the day as a virtual day, pursuant to Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days*, in the event of unplanned/unforeseen circumstances (i.e., inclement weather and quarantines) districts may opt to utilize designated school-wide or district-wide virtual learning days throughout the year; however, the districts shall ensure that teacher provide remote instruction for a minimum of 330 minutes per day as required by Miss. Code Ann. § 37-13-67 and comply with Rule 56.2 *Virtual Students*. Teachers shall provide instruction to students during each virtual learning day. Therefore, lesson plans shall include daily synchronous/interactive instruction and dialogue. Districts shall ensure that students who access instruction virtually from off-campus have instruction provided and access to the assigned teacher(s) including any special services teachers/providers during the scheduled time for each course.

8. If a school must close due to unplanned/unforeseen circumstances and teacher(s) do not have connectivity, is asynchronous instruction (packets) allowed?

No. Process Standard 13 of the current edition of the *Mississippi Public School Accountability Standards* mandates that both students and teachers are present for scheduled classroom instruction during the minimum of 180 days.

The intent of the virtual learning policies is to ensure districts provide daily synchronous instruction, access to the assigned teacher(s), asynchronous assignments (if applicable), and instruction that is equivalent to in-person learning. If a teacher is unable to provide synchronous instruction, the district/school may temporarily assign those students to another teacher for the synchronous instruction.

9. May traditional (in-person) students who need to quarantine, utilize virtual learning?

Pursuant to Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* and in accordance with Rule 56.1: *Distance Learning, Blended Learning, and Online Courses*, districts may allow individual students to utilize distance learning for specific courses, or on an as-needed basis (i.e., illnesses) in accordance with local board policy.

Quarantined students must meet all criteria outlined Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* since the student(s) are otherwise traditional (in-person) students. The district must identify those students who do not have reliable connectivity and the identified students are the only

students allowed to have asynchronous instruction/packets. The district shall ensure that the asynchronous instruction is equivalent to the synchronous instruction of his/her peers.

10. If a school must close specific grades due to an outbreak, how does the school meet the needs of students without reliable connectivity?

Pursuant to Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* the district must identify those students who do not have reliable connectivity. The identified students are the only students allowed to have asynchronous instruction/packets. Closures for specific grade-levels or classrooms must adhere to the guidelines of Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days*. Districts shall identify and have alternate plans in place only for individual students who do not have access to internet services and shall ensure that the asynchronous instruction is equivalent to the synchronous instruction of his/her peers.

11. How are schools allowed to take attendance on students without reliable connectivity who are virtual due to unforeseen/unplanned circumstances?

Rule 9.2 *Reporting Attendance for Virtual Learning* provides guidance to districts regarding virtual attendance. However, the district shall adhere to local board policies, which must comply with Rule 9.2 *Reporting Attendance for Virtual Learning*. Local board-approved attendance policies shall define what constitutes sufficient authentication and engagement to verify attendance in a virtual learning environment.

A link to Rule 9.2 *Reporting Attendance for Virtual Learning* is here:

https://www.mdek12.org/sites/default/files/documents/MBE/State%20Board%20Policy/Chapter%209/revised_sbp_9.2-reporting_attendance_for_virtual_learning_330_minutes.pdf

Rule 56.2 *Virtual Students* provides districts the option to offer a virtual learning program for students. The State Board of Education's attendance policy (Rule 9.2 *Reporting Attendance for Virtual Learning*) has not changed. Therefore, districts that opt to offer a virtual learning option to students shall ensure that students who access instruction virtually from off-campus have instruction provided and access to the assigned teacher(s) including any special services teachers/providers during a scheduled time for each course each of the 180 days. Pursuant to Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* the district must identify those students that do not have reliable connectivity. The identified students are the only students allowed to have asynchronous instruction/packets. Districts shall identify and have alternate plans in place only for individual students who do not have access to internet services and shall ensure that the asynchronous instruction is equivalent to the synchronous instruction of his/her peers.

12. How does a district determine if a student has reliable connectivity?

The local school district shall determine the method to identify students who do not have reliable connectivity. The district shall also maintain documentation of the method(s) used to identify the students who do not have reliable connectivity.

13. Is there a limit to the percentage of students in a district or school who can receive asynchronous instruction (packets) due to unreliable connectivity?

No. There is no limit to how many students may receive asynchronous instruction. However, the district must identify those students who do not have reliable connectivity and shall maintain documentation of

the method(s) used to identify the students who do not have reliable connectivity. The identified students are the only students allowed to have asynchronous instruction/packets. Additionally, the District shall ensure that the asynchronous instruction is equivalent to the synchronous instruction of his/her peers.

14. If students are enrolled in MOCA-approved courses, is the school/district exempt from the requirement to provide synchronous instruction?

Only those students enrolled in the MOCA-approved course(s) that provides 100% asynchronous instruction in accordance with Rule 56.1 *Distance Learning, Blended Learning, and Online Courses* are exempt from the synchronous instruction requirement.

15. If a school must close due to unplanned/unforeseen circumstances, may the district immediately utilize asynchronous MOCA-approved course(s)?

No. Only students who were already enrolled in the MOCA courses at the time the school/district closed may utilize the asynchronous MOCA-approved course(s) to provide instruction. The criteria outlined in Rule 56.1 *Distance Learning, Blended Learning, and Online Courses* has not changed. However, Rule 56.1 may not be utilized to circumvent the requirements of Rules 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* or 56.2 *Virtual Students*.

Other Reminders Regarding Rules 9.3 and 56.2

Rule 56.1 *Distance Learning, Blended Learning, and Online Courses*, has not been amended or repealed. District are encouraged to review the options outlined in Rule 56.1 *Distance Learning, Blended Learning, and Online Courses* as well as Rules 56.2 *Virtual Students* and 9.3 *Designated School-Wide/District-Wide Virtual Learning Days* when making decisions regarding virtual learning options. Pursuant to Rule 9.3 *Designated School-Wide/District-Wide Virtual Learning Days*, and in accordance with Rule 56.1 *Distance Learning, Blended Learning, and Online Courses*, districts may allow individual students to utilize distance learning for specific courses, or on an as-needed basis (i.e., illnesses) based on local board policy.

See also Mississippi High School Activities Association (MHSAA) handbook regarding participation of virtual students in MHSAA sanctioned activities.

The summary chart (in the following link) from the comments received during the Administrative Procedures Act (APA) Process chart may be helpful with additional clarifications:

[https://www.mdek12.org/sites/default/files/documents/MBE/MBE-2021\(7\)/tab-02-final_apa-establish_sbp_9.3_virtual_learning_days.pdf](https://www.mdek12.org/sites/default/files/documents/MBE/MBE-2021(7)/tab-02-final_apa-establish_sbp_9.3_virtual_learning_days.pdf).