

OPERATING STANDARDS FOR IDENTIFYING AND SERVING STUDENTS WHO ARE GIFTED

**Ohio Administrative
Code 3301-51-15
November 2016**

The November draft of the document is the base document as approved by the Achievement Committee. Language that is underlined represents the Amendments introduced, discussed and for which there was agreement including the modifications to the original amendment language.

3301-51-15 Operating standards for identifying and serving students who are gifted

(A) Definitions

- (1) "Gifted" means students who perform or show potential for performing at remarkably high levels of accomplishment when compared to others of their age, experience, or environment and who are identified under division (A), (B), (C), or (D) of section 3324.03 of the Revised Code.
- (2) "School district" means a city, local, or exempted village school district and does not include a joint vocational school district.
- (3) "Specific academic ability field" means one or more of the following areas of instruction:
 - (a) Mathematics;
 - (b) Science;
 - (c) Reading, writing, or a combination of these skills; and/or
 - (d) Social studies.
- (4) "Trained individual" means a person who by training or experience is qualified to perform the prescribed activity, e.g., educator, private teacher, higher education faculty member, working professional in the field of visual or performing arts or a person trained to administer assessments/checklists to identify gifted ability in creative, visual or performing arts.
- (5) "Visual or performing arts ability" means ability in areas such as drawing, painting, sculpting, music, dance and drama.

(B) General

- (1) All minimum standards for elementary and secondary schools shall be followed for children who are gifted.

(C) Identification

(1) Definition

The board of education of each district shall identify students who are gifted enrolled in that district in grades kindergarten through twelve as follows:

- (a) A student shall be identified as exhibiting "superior cognitive ability" if the student did either of the following within the preceding twenty-four months:
 - (i) Scored two standard deviations above the mean, minus the standard error of measurement, on an approved individual standardized intelligence test administered by a licensed or certified school psychologist or licensed psychologist; or
 - (ii) Accomplished any one of the following:
 - (a) Scored at least two standard deviations above the mean, minus the standard error of measurement, on an approved standardized group intelligence test;
 - (b) Performed at or above the ninety-fifth percentile on an approved individual or group standardized basic or composite battery of a nationally normed achievement test or;
 - (c) Attained an approved score on one or more above grade-level standardized, nationally normed approved tests.
- (b) A student shall be identified as exhibiting "specific academic ability" superior to that of students of similar age in a specific academic ability field, if, within the preceding twenty-four months the student performed at or above the ninety-fifth percentile at the national level on an approved individual or group standardized achievement test of specific academic ability in that field. A student may be identified as gifted in more than one specific academic ability field.
- (c) A student shall be identified as exhibiting "creative thinking ability" superior to students of a similar age, if within the previous twenty-four months, the student scored one standard deviation above the mean, minus the standard error of measurement, on an approved individual or group intelligence test and also did either of the following:
 - (i) Attained a sufficient score, as established by the department of education, on an approved individual or group test of creative ability; or
 - (ii) Exhibited sufficient performance, as established by the department of education, on an approved checklist by a trained individual of creative behaviors.
- (d) A student shall be identified as exhibiting "visual or performing arts ability" superior to that of students of similar age if the child has done both of the following:
 - (i) Demonstrated to a trained individual through a display of work, an audition, or other performance or exhibition, superior ability in a visual or performing arts

area; and

(ii) Exhibited to a trained individual sufficient performance, as established by the department of education, on an approved checklist of behaviors related to a specific arts area.

(e) After any initial gifted identification made in conformance with this rule, a student shall remain identified regardless of subsequent testing or classroom performance.

(2) Testing/assessment

(a) A list of the approved instruments and checklists will be established and published by the department of education.

(b) The district shall select instruments from the list established by the department for use in the identification of students who are gifted.

(c) The district shall ensure that assessment instruments:

(i) Are administered by a trained individual in conformance with the instructions provided by their publisher;

(ii) Have been validated for the specific purpose and populations for which they are used and measure the specific area(s) of gifted ability;

(iii) Allow for appropriate screening and identification of minority or disadvantaged students, students with disabilities, and English learners;

(iv) Are provided and administered in the student's native language or other mode of communication if English is a barrier to the student's performance or if requested by the parent;

(v) Are provided and administered using the accommodations in a student's Individualized Education Program or 504 Plan. If these accommodations are not consistent with a test's allowable accommodations, a comparable approved assessment instrument shall be used; and

(vi) Are selected and administered so as to best ensure that when a test is administered to a student with a disability or impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's disability or impaired sensory, manual or speaking skills.

(3) District identification plan

The board of education of each district shall adopt a plan as specified in section 3324.04 of the Revised Code for identifying students who are gifted.

- (a) The district identification plan, in accordance with department of education guidelines, shall be submitted to the department of education for approval immediately following district board of education approval.
- (b) The department of education shall approve the plan within sixty days if it contains all of the following:
 - (i) A description of the assessment instruments from the list approved by the department that the district will use to screen and identify students who are gifted;
 - (ii) The provision of at least two whole grade screening opportunities as follows:
 - (a) For (1) superior cognitive ability, (2) specific academic ability in the areas of (a) mathematics and (b) reading, writing or a combination of these skills, and (3) creative thinking ability for all students once prior to the end of grade two.
 - (b) For (1) superior cognitive ability, (2) specific academic ability in the areas of (a) mathematics and (b) reading, writing or a combination of these skills, and (3) creative thinking ability for all students once after the completion of grade two but prior to the end of grade six.
 - (iii) Acceptable scheduling procedures for screening and for administering assessment instruments for identifying students who are gifted. These procedures shall provide:
 - (a) In the case of students who have requested assessment or who have been recommended for assessment by teachers, parents, or other students, at least two opportunities a year for assessment regardless of the grade levels where gifted services are offered. A student's initial assessment shall be completed within ninety days of referral;
 - (b) Assurance of inclusion in screening and assessment procedures for minority and disadvantaged students, students with disabilities, and English learners; and
 - (c) Assurance that any student transferring into the district will be assessed within ninety days of the transfer at the request of a parent;

- (iv) Procedures for notification of parents within thirty days of the district's receipt of a student's results on any screening procedure or assessment instrument; and
- (v) The provision of an opportunity for parents to appeal any decision about the results of any screening procedure or assessment, the scheduling of students for assessment, or the placement of a student in any program or for receipt of services.
- (c) The district shall accept assessment results from other districts or from a trained individual outside the district, as equivalent to district testing as set forth in paragraph (C) of this rule (identification) and may not exclude a student from service options due to reassessment, test scores from other districts or test scores from trained personnel outside the district if the student meets the criteria specified in paragraph (C) of this rule (identification). Districts shall not alter eligibility through any consideration or computation other than as set forth in paragraph (C) of this rule (identification).
- (d) The district's plan may provide for the district to contract with any qualified public or private service provider to provide screening or assessment services under the plan.
- (e) The district shall work with the department of education to amend the plan and ensure the plan meets approval, and if the district changes the plan such changes shall be submitted to the department of education immediately following district board of education approval.

(4) District policy

The board of education of each district shall adopt a statement of its policy for the screening and identification of students who are gifted and shall distribute the policy statement to parents.

(a) The policy statement shall specify:

- (i) The criteria and methods the district uses to screen students and to select students for further assessment who perform or show potential for performing at remarkably high levels of accomplishment in each of the gifted areas specified in this rule;
- (ii) The sources of assessment data the district uses to select students for further testing and an explanation for parents of the multiple assessment instruments required to identify students who are gifted under section 3324.03 of the Revised Code;

- (iii) An explanation for parents of the method the district uses to ensure equal access to screening and further assessment by all district students, including minority or disadvantaged students, students with disabilities, and English learners;
- (iv) Provisions to ensure equal opportunity for all district students identified as gifted to receive services offered by the district;
- (v) Provisions for students to withdraw from gifted programs and services, for reassessment of students, and for assessment of students transferring into the district;
- (vi) A detailed list of the services likely to be provided to a student, based on the nature of a student's identification, and of all gifted services that are currently available within the school district including the criteria for receiving those services (3301.51.15(D)(4)); and
- (vii) Methods for resolving disagreements between parents and the district concerning identification and placement decisions.

(b) A copy of the district's policy adopted under this section shall accompany the district's plan submitted to the department of education under section 3324.04 of the Revised Code.

(D) Provision of services

- (1) Gifted services must include instruction that is differentiated from the standard curriculum for that course in depth, breadth, complexity, pace, and/or where content is above-grade level.
- (2) Services shall occur during the typical instructional day with flexibility allowed for the scheduling of district-approved internships or mentorships and higher education coursework, including credit flexibility.
- (3) Instructional time, class size, and caseload ratios for all service settings shall be equivalent to districtwide instructional time, class size and caseload ratios for the corresponding subject, grade level, and setting under 3301-35-05(3) of the Administrative Code with exceptions as noted by setting. ~~An exception is noted below only for co-teaching and resource room/pull-out settings.~~
- (4) A continuum of services provided by each district board of education, where content is delivered per (D)(1) above, may include but is not limited to such options as the following:

Commented [ZS1]: October Amendment: *Provide More Rigor to the Definition of Services and WEPs* submitted by Stephanie Dodd and Melanie Bolender.

- (a) A full-time self-contained classroom where the gifted intervention specialist is the teacher of record and all students are identified as gifted. A maximum of 20 students at one time is permitted in this setting. The department of education, office for exceptional children, shall establish policies and procedures for granting temporary waivers related to this setting;
- (b) A single subject self-contained course where the gifted intervention specialist is the teacher of record and all students are identified as gifted;
- (c) Services through co-teaching in a cluster grouping setting where a group of students who are gifted is deliberately placed together in a classroom where one teacher is a gifted intervention specialist with a maximum of twenty students who are gifted at any one time and a maximum caseload of eighty students who are gifted. The teachers shall be provided with regularly scheduled collaborative planning time. Each student served in this setting shall be provided instruction for no less than one core content class period a day or an average of fifteen percent of the school week. The department of education, office for exceptional children, shall establish policies and procedures for granting temporary waivers related to this setting;
- (d) A resource room/pull-out where the gifted intervention specialist ~~is not the teacher of record with~~ has a maximum of twenty students who are gifted at any one time and a maximum caseload of eighty students who are gifted. Each student served in this setting shall be provided instruction for no less than one core content class period a day or an average of fifteen percent of the school week. The department of education, office for exceptional children, shall establish policies and procedures for granting temporary waivers related to this setting;
- (e) Cluster grouping where a small group of students who are gifted is deliberately placed together in a classroom. Each student served in this setting shall be provided instruction for no less than one core content class period a day or an average of fifteen percent of the school week.
- (f) An Honors course;
- (g) An International Baccalaureate course;
- (h) An Advanced Placement course;
- (i) Services through a trained Arts instructor;
- (j) Grade acceleration, early entrance to kindergarten or first grade, subject acceleration, or early graduation from high school per district acceleration policy approved under Section 3324.10 of the Revised Code;
- (k) Dual enrollment opportunities including but not limited to College Credit Plus;

Commented [ZS2]: October Amendment: *Provide More Rigor to the Definition of Services and WEPs* submitted by Stephanie Dodd and Melanie Bolender.

Commented [ZS3]: October Amendment: *provide More Rigor to the Definition of Services and WEPs* submitted by Stephanie Dodd and Melanie Bolender.

Commented [ZS4]: October Amendment: *Provide More Rigor to the Definition of Services and WEPs* submitted by Stephanie Dodd and Melanie Bolender.

- (l) In internships and mentorships; and/or
 - (m) Educational options including credit flexibility, advanced online courses and programs and other options as defined in rules 3301-35-01 and 3301-51-06 of the Administrative Code.
- (5) Services for students shall be consistent with their area(s) of identification and shall be differentiated to meet their needs.
- (6) The district shall only indicate to parents or report to the department of education that a student is receiving gifted education services when services are provided in conformance with this rule.
- (7) Placement procedures for district services shall be in conformance with the district's written criteria for determining eligibility for placement in those services.
- (a) Written criteria for determining eligibility for placement in a gifted service shall be provided to any parent, district educator, or the department of education upon request.
 - (b) Written criteria provided by the district shall include an explanation of the methods used to ensure equal access to each gifted service for all eligible district students, including minority or disadvantaged students, students with disabilities and English learners. This written criteria shall not unduly restrict access to services.
 - (c) Subjective criteria such as grades and teacher recommendations shall not be used to exclude a student from service.
 - (d) All district students who meet the written criteria for a gifted service shall be provided an equal opportunity to receive that service.
- (8) Personnel shall meet the qualifications below and shall provide services that are consistent with this rule.
- (a) A gifted intervention specialist shall:
 - (i) Hold licensure or endorsement in gifted education; and
 - (ii) Participate in ongoing professional development related to gifted education as documented on the Individual Professional Development Plan (IPDP) or other methods as determined by the department.
 - (b) A general education teacher who is designated as the provider of gifted services shall:
 - (i) Receive specialized training in gifted education as documented and monitored by

the district on the teacher's Individual Professional Development Plan (IPDP) or other methods as determined by the department in order to meet the following competencies:

- (a) The ability to differentiate instruction based on a student's readiness, knowledge and skill level, including using accelerated content, complexity, depth challenge, creativity and abstractness;
 - (b) The ability to select, adapt, or create a variety of differentiated curricula that incorporate advanced, conceptually challenging, in-depth, distinctive and complex content;
 - (c) The ability to provide an extension or replacement of the general education curricula, to modify the learning process through strategies such as curriculum compacting, and to select alternative assignments and projects based on individual student needs;
 - (d) The ability to understand the social and emotional needs of students who are gifted and to address the impact of those needs on student learning;
 - (e) The ability to recognize and respond to characteristics and needs of students from traditionally underrepresented populations who are gifted and create safe and culturally responsive learning environments;
 - (f) The ability to use data from a variety of sources to measure and monitor the growth of students who are gifted;
 - (g) The ability to select, use and interpret technically sound formal and informal assessments for the purpose of academic decision making;
 - (h) The ability to participate in the development of the Written Education Plan.
- (ii) Participate in ongoing professional development related to gifted education as documented on the Individual Professional Development Plan (IPDP), or other methods as determined by the department, from an educator who holds licensure or endorsement in gifted education, a graduate degree in gifted education, or is a state or national presenter in gifted education. Professional development covering the competencies listed in (8) (b) (i) (a) – (h) must include at least 30 clock hours during the first year, at least 30 clock hours during the second year, and additional clock hours each year thereafter as determined by the district. Any documented clock hours earned in the 24 months prior to the adoption of this rule shall count toward this requirement; and
- (iii) Receive ongoing support in curriculum development and instruction from an educator who holds licensure or endorsement in gifted education.

Commented [ZS5]: October Amendment: *General Educator Training for Those Providing Gifted Services* submitted by Stephanie Dodd and Melanie Bolender

Commented [ZS6]: October Amendment: *General Educator Training for Those Providing Gifted Services* submitted by Stephanie Dodd and Melanie Bolender

Commented [ZS7]: October Amendment: *General Educator Training for Those Providing Gifted Services* submitted by Stephanie Dodd and Melanie Bolender

Commented [ZS8]: October Amendment: *General Educator Training for Those Providing Gifted Services* submitted by Stephanie Dodd and Melanie Bolender.

(c) A Coordinator of gifted education services shall:

- (i) Demonstrate evidence of at least three years successful teaching experience;
- (ii) Hold Ohio administrative specialist license, if the coordinator is to supervise teachers;
- (iii) Hold licensure or endorsement in gifted education; and
- (iv) Participate in ongoing professional development related to gifted education as documented on the Individual Professional Development Plan (IPDP) or other methods as determined by the department.

(9) Coordinators of gifted education shall provide the following services for school districts:

- (a) Assist in the identification of students who are gifted;
- (b) Assist in the placement of students who are gifted in appropriate educational services and settings;
- (c) Assist school personnel in the design of gifted education services;
- (d) Consult with school personnel regarding gifted education issues in district strategic planning processes and the development of school improvement plans;
- (e) Assist school personnel in the on-going evaluation of the effectiveness of gifted education services, including input from parents of students who are gifted;
- (f) Consult with school personnel about ways to develop and adapt curriculum, materials, and teaching strategies; and
- (g) Assist school personnel in ensuring that documents required in this rule regarding gifted identification procedures and written criteria for placement in gifted services are accurate and accessible to parents and other stakeholders.

(10) All personnel providing gifted services shall be provided with appropriate space and sufficient time for designing their work, evaluating student progress, conferencing, and planning.

(11) Gifted coordinators, gifted intervention specialists, and all general educators providing gifted services are accountable through the Ohio Educator Evaluation System.

(E) Written education plan (WEP)

Gifted services shall be guided by a WEP. The district shall provide parents with periodic reports regarding the student's progress toward meeting goals and the effectiveness of the services provided in accordance with the WEP.

(1) The WEP shall be developed in collaboration with an educator who holds licensure or endorsement in gifted education. The WEP shall:

(a) Provide a description of the services to be provided including:

(i) Goals for the student in each service specified including, but not limited to, measureable academic goals. Goals may also include curricular, guidance and instructional practices which support the student's social and emotional needs;

(ii) Methods and performance measurements for evaluating progress toward achieving the goals specified;

(iii) Methods and schedule for reporting progress to students and parents;

(iv) Staff members responsible for ensuring that specified services are delivered;

(v) Policies regarding the waiver of assignments and the scheduling of tests missed while participating in any gifted services provided outside the general education classroom; and

(vi) Include a date by which the WEP will be annually reviewed for possible revision.

(b) Parents, the collaborating educator, and all educators responsible for providing gifted education services to the student, including teachers providing differentiated instruction in general education settings, shall be provided a copy of the WEP.

(c) Districts shall make a reasonable attempt in writing, electronic or otherwise, at the commencement of services and each year thereafter in which a student receives gifted services, to obtain a parent or guardian signature on the WEP. Students shall not be denied services due to the lack of a parent or guardian signature.

(2) For each student identified as gifted who is not provided gifted services per this rule, districts shall develop and disseminate to parents or guardians a no services letter which clearly communicates that the student is not receiving gifted services. The letter may include a list of enrichment opportunities provided to the student by the district.

Commented [ZS9]: October Amendment to *Require a Differentiation Proposal or No Service Notice if a District Doesn't Provide a WEP to a Gifted Student* submitted by Rebecca Vazquez-Skillings

(F) Funding

(1) Districts shall report the amount of funds spent on gifted education using guidelines prescribed by the department of education.

- (2) The department, no later than October 30 each year, shall publish on its website district expenditures for gifted education.
- (3) In an allocation process determined by the department, where educational service centers receive gifted unit funding, units must be allocated with appropriately licensed and qualified gifted staff as follows:
 - (a) Gifted coordinators must have gifted licensure and, if assigned to supervise staff, must have administrative licensure;
 - (b) Gifted intervention specialists must have gifted licensure; and
 - (c) Units for gifted intervention specialists may be allocated where qualified gifted coordinator services are available.

(G) Accountability

- (1) Each year districts shall submit data to the department of education specifying:
 - (a) The number of students in each of grades kindergarten through twelve screened, the number assessed, and the number identified as gifted in each category specified in section 3324.03 of the Revised Code.
 - (b) The number of students receiving gifted services in conformance with this rule.
- (2) Each district shall participate in an audit based on risk assessment criteria as determined by the department. Districts may be selected for audit more frequently based on complaints or suspicion of non-compliance. Audits will be differentiated and may include onsite reviews, desk reviews and/or self-reviews of gifted education data, policies, practices and procedures. Results of the audit may require corrective action and/or the implementation of a district improvement plan.
 - (a) Districts shall be provided an opportunity to validate the data used for the audit and to respond to the audit findings.
 - (b) The department of education shall provide technical assistance to any district found in noncompliance with this rule.
- (3) The department of education may reduce funds received by the district under Chapter 3317 of the Revised Code by any amount if the district board of education continues to be noncompliant.

(H) Innovative gifted service proposals

The department shall establish a process and criteria for submission and review of proposals related to the innovative design and delivery of services for students who are gifted. Innovative gifted service proposals may be approved for not more than 5 years of implementation.

(I) Gifted Advisory Council

The superintendent of public instruction shall establish a gifted advisory council. The council shall:

- (1) Represent a variety of stakeholders from diverse regions of the state, including parents, general and gifted educators, administrators, and others as determined by the superintendent;
- (2) Assist in the development and updating of a department-approved plan for gifted education in Ohio;
- (3) Advise on policy recommendations;
- (4) Serve as advisors in establishing criteria for review of proposals to implement innovative gifted services; and
- (5) Establish criteria for identifying and recognizing schools, districts, and other educational providers that demonstrate an exemplary ability to serve students who are gifted.

Gifted Rule - 3301-51-15

Amendments Proposed by Melanie Bolender and Ann Jacobs

November 2016

1. Amendment to Strengthen General Educator Professional Development – Starting on page 2 of amendments
2. Amendment to Strengthen WEPs – Starting on page 4 of amendments
3. Amendment to Ensure that Parents and the Public Can View District Gifted Data – Starting on page 5 of amendments
4. Amendment to Support and Remediate Districts Whose Gifted Students Continue to Perform at Unsatisfactory Levels – Starting on page 6 of amendments