



## **OAGC Input on Proposed Gifted Standards**

**October 31, 2015**

### **Background Information on Gifted Operating Standards**

The nature of administrative code or rules is fairly straight-forward: Ohio Revised Code (ORC) provides an outline or skeleton of the specific policy in question, and Ohio Administrative Code (OAC) provides the details of how the policy is to be implemented. Administrative code establishes the “meat” on the bones of the law. The Ohio General Assembly is responsible for the outlined policy in law, and, in the case of education, the State Board of Education is responsible for promulgating the more detailed directives to districts through administrative code. Districts as well as members of ODE look to Ohio Administrative Code to direct districts toward best practice in certain areas and also to use it as a basis for compliance and data gathering.

The operating standards for gifted education have been revised three times. The original rule was passed in the late 1980s. A new rule was passed in 1999 based on a major overhaul of ORC with regard to gifted education. And, finally, in 2008, as part of a standard, albeit late, five year review process, the current operating standards were promulgated. The 2008 standards were scheduled to be revised in 2013, and, due to questions regarding the interpretation of certain aspects of funding in ORC as well as unrelated issues, the revision was tabled until recently.

The proposed new standards for gifted education in a draft dated 9.11.15 represents new thinking on the part of the ODE leadership and some members of the State Board that Administrative Code is no longer particularly necessary, that districts are best able to determine the law themselves, and that the State Board and ODE should step back from their responsibility to promulgate rule in favor of deregulation and local control.

Unfortunately, for gifted students, who have never enjoyed protections under federal law, deregulation has not been helpful. Gifted children are the least regulated student population in Ohio. There is no federal or state mandate to provide services to gifted children and little incentive to identify them, even though identification has been required for years and is supposed to be audited by ODE. For example, when state funding was removed from specific personnel requirements in 2009, the results for gifted students were catastrophic:

- Identification of gifted students decreased by 8.5%.
- Services plummeted to 23% of the gifted count. (For reference, in 2000, the service rate was 41%.)
- Licensed gifted staff levels decreased by almost 25%.
- Over half of all districts in 2014 reported they were using some or all of their gifted formula funding for purposes other than identifying and serving gifted students. Some of these funds have been used for such things as computers for superintendents, OAA test prep materials, filing cabinets, and other unrelated items.
- Only one-quarter of Ohio’s districts are meeting the new gifted performance indicator, the elements of which are currently set at a very low threshold.
- Ohio has one of the worst “excellence gaps” in the U.S. between the achievement of economically disadvantaged gifted students and those who are not economically disadvantaged.
- The value-added scores of gifted students in districts with high levels of poverty are lower than in wealthier districts. This is unlike the value-added scores of the general student population which are evenly distributed.

The 9.11.15 draft of the gifted operating standards does little to help gifted students and much to ensure that districts will do even less than they already do with far greater impunity. The new standards will effectively allow districts to decide that any teacher can be a gifted teacher and that any intervention, no matter how irrelevant, can be sufficient. Without discussion of the merits of an inputs vs. outputs based accountability system, neither will make a difference for gifted students without quality parameters defining what services are and what level of training is appropriate for teachers to provide those services in various settings. Some regulations exist for a reason. The removal of all staffing, service and accountability provisions in the 9.11.15 draft will make the current poor state of gifted education in Ohio even worse. Districts will soon be legally able to say they are serving gifted children when, in fact, those students will receive nothing more than a piece of paper with a “served” stamp on it.

With regard to outputs vs. inputs, due to ever-changing state assessments, infamously low cut scores, and hold-harmless provisions, we are years away from actually knowing the effectiveness of the gifted performance index and value-added scores as output measures. To combat the limitations of these outputs, one element of the gifted performance indicator was developed based on input measures. This was designed to encourage districts to identify and serve gifted children with integrity, but this measure is only as good as the quality of the defined service. If the definition of service is watered down to mean virtually anything a district claims, this element loses all effectiveness as a barometer of district effort. No one would ever dare to suggest that it would be appropriate for districts to define the outputs on any other measure in Ohio’s accountability system. So why does it make sense for districts to define the outputs for gifted children? The measure will have little meaning, which subverts legislative intent and good education policy. While this is certainly bad for children, it also makes it impossible to determine what service options are the least or most effective, which undermines any system designed to improve quality.

Some policymakers believe it is up to the parents to work with local districts to pursue the services they want and need for their gifted children. While parents are their child’s best advocates, the state has a responsibility to protect and provide for the educational needs of all of our children, including those who are gifted. Certainly, there are parents in this state with time and resources who will fight for the rights of their students, though the 9.11.15 draft will make it much more difficult for them. These parents predominantly are in more affluent districts. However, there is substantial evidence regarding underrepresentation and poor performance of minority and economically disadvantaged gifted students suggesting there are countless gifted children whose parents may not be as effective at advocating for their needs. This is sometimes due to lack of education on the topic, a more critical focus on meeting the economic needs of the family, or any other number of reasons. Those children should not be left without a voice. If their parents are not able to speak out and the state offers no protections in the operating standards, who will ensure that their needs are appropriately met? These children are just as at risk as those the state has provided additional mandates to protect.

In the State Board of Education’s vision statement, the phrase “all students” is used twice. One of the board’s objectives is, “Effectively delivering support for a high quality education.” This must include support for a high quality education for gifted children. It is with the goal of helping the board fulfill its purpose that the Ohio Association for Gifted Children (OAGC) presents this input.

### **Input on Operating Standards for identifying and Serving Gifted Students**

OAGC has reviewed the proposed new draft standards for identifying and serving gifted students in detail. Below, please find a summary of the major improvements and items needing revision.

As the September 11, 2015, draft of the standards, unlike all other draft operating standards, is not based on an appropriate mark-up of current standards, it is very difficult to make changes to the draft. Instead, OAGC has included our suggestions for improvements in a marked-up copy of the draft gifted operating standards voted out of the Achievement Committee on November 11, 2013. This draft, while altered significantly, began as the result of the input and collaboration from various stakeholders including gifted professionals, parents, higher education, teacher unions, management associations, and school psychologists. In addition, many changes were incorporated through the

Achievement Committee process. It, therefore, seems appropriate to begin with this draft as a starting point. In general order of priority, OAGC has identified the following major issues in the draft which need to be revised. A full description and rationale for each of these requested revisions is included in **Appendix A**.

1. Reinstate minimum service minutes for students from current operating standards along with caseload limits (without the sunset provisions) from the draft of the gifted operating standards approved by the State Board of Education Achievement Committee (11.11.13 draft).
2. Reinstate and improve service and instructional settings as provided in the current standards and adjusted to some extent in the 11.11.13 draft.
3. Remove the provision that untrained general education teachers provide service unless it is an accelerated classroom as outlined in the 11.11.13 draft.
4. Reinstate gifted coordinator and intervention specialist qualifications from current standards for both districts and ESCs and ensure that all gifted instructors are provided high quality professional development.
5. Incorporate funding parameters to ensure gifted earmarked funding as stated in Ohio Revised Code (ORC).
6. Reinstate instruction time requirement for teachers from current standards.
7. Reinstate provisions that require ODE audits and allow ODE to remove funds of non-compliance from current standards, as stipulated in ORC.
8. Incorporate data collection on specific inputs to determine the effect of services. In addition, the results of the gifted performance indicator should be incorporated into an annual report outlining the condition of gifted education in the state without limiting the gifted performance indicator to the current elements.
9. Increase the scope and depth of the written education plan and a reasonable attempt to require parent signature. Also, require that a gifted coordinator or gifted intervention specialist collaborate on the writing of WEPS.
10. Revise whole grade testing from K-3 to K-2 and limit the testing in this initial grade band to superior cognitive ability and specific academic areas of math and reading. In addition, incorporate the deleted elements from the identification section that is required in ORC and exists in the current operating standards.
11. With the reinstatement of service parameters as described above, incorporate waivers on the basis of performance on multiple measures including, but not limited to, the gifted performance indicator. In addition, include language from ORC that allows ODE to remediate and reconstitute gifted services in districts that are chronically failing gifted students.
12. Reinstate the district service plan as required by ORC.
13. Reinstate identification and service definitions as outlined in current operating standards 3301-51-15 and adjusted to some extent in the 11.11.13 draft.

**Appendix B** includes a recommended draft of operating standards that OAGC is proposing including all of our suggested revisions. This recommended draft is based on the draft of the operating standards passed by the Achievement Committee in November, 11, 2013, and many of the requested revisions are already included in that draft. Any changes are noted in the comments section of the draft.

If you have any questions, please contact Ann Sheldon, OAGC Executive Director, at [anngift@aol.com](mailto:anngift@aol.com) or 614-325-1185.

**APPENDIX A**  
**Recommended Revisions with Rationale**

1. **Reinstate minimum service minutes for gifted students from the current operating standards along with caseload limits from the 11.11.13 draft passed by the State Board of Education Achievement Committee (11.11.13 draft) without the sunset clause.**

Rationale: A consensus of research on the effectiveness of gifted education services is that service must provide an appropriate match between a student's needs and the content and level of the curriculum. Additionally, to have an educationally meaningful impact on a child's educational trajectory, services must be significant and sustained over time.

Preserving the minimum time requirement in the operating standards is important to keep the state from sliding back to when students seeing a GIS for 15 minutes a week or a half day a year was considered "service," as was the case in some districts prior to the incorporation of minimum contact time requirements in the 2008 operating standards. As ODE inexplicably stopped performing on-site gifted audits last year, we already are experiencing a decline in service quality.

The minimum time requirement is also crucial for supporting parents' ability to make informed choices about where to educate their children. Without minimum time requirements, districts that provide minimal "drive-by" services would appear, on paper, to be the same as districts that provide substantive and sustained programming.

Additionally, many of the report card indicators and other factors for this population will become insignificant if there is no common definition of what service entails. Accountability data will be rendered useless for driving improvement, because school leaders, policy makers, and researchers will not be able to connect output data to inputs to learn what forms of service are most effective and efficient for particular kinds of students in particular kinds of districts.

With regard to caseload requirements, it is critical to recognize that gifted services are necessary specifically because gifted students, like students with disabilities, have significantly different educational needs from other students that must be addressed in order for them to receive a high quality education. However, in recognition of the limited resources in districts, OAGC merely asks that gifted intervention specialists not be assigned to serve more students than the state allows general education teachers to serve. Maintaining the caseload limits recommended by the Gifted Advisory Committee ensures that gifted intervention specialist caseloads do not exceed those of general education teachers and prevent over-assignment of these educators so that they can reasonably be expected to know and understand their students and effectively support the differentiated education gifted students need.

OAGC recommends that the Gifted Advisory Committee recommendations with regard to minimum minutes and caseload ratios be reinstated. These provisions generally increase the caseload ratios from current operating standards, but maintain the minimum minutes of service. The 11.11.13 draft can be used as a base to incorporate this recommendation.

2. **Reinstate and improve service settings and instructional settings as provided in the general standards and adjusted in the 11.11.13 draft.**

Rationale: The 9.11.15 draft dismantles longstanding definitions of services and instructional settings that are necessary to guide districts toward best practice.

The draft allows districts to define services and service providers any way they wish with no quality control around the appropriateness of the service, the instructor, or the instruction itself. More specifically, the service section in the 9.11.15 draft eliminates most of the service settings outlined in ORC. ODE currently tracks service codes for multiple types of gifted services. There are 22 gifted EMIS codes based on the types of services provided, which are all required by ORC. The new draft would winnow the range of service options from 22 to 3.

The 9.11.15 draft appears to be an attempt to placate districts that have complained about being held accountable to the gifted performance indicator. It is important to recognize that Ohio law does not require districts to provide any gifted service to gifted students. However, OAGC strongly believes that if a district reports it is providing services, then those services must be substantive and well-defined.

While the clear intent of removing these definitions was to support local control, doing so may actually undermine local capacity for innovation. By removing any parameters that define a service, the proposed rule precludes any ability of local leaders, state policymakers, and researchers to track settings to determine which are effective. More importantly, removing definitions and standards for services also disempowers parents seeking to make informed school choices on behalf of their children.

Other special groups, such as students with disabilities and students in danger of retention according to the third grade reading guarantee, are required to have access to services that meet specific parameters. Districts have a menu of acceptable options for serving these students and are free to create variations within these basic parameters. Operating standards for gifted students should follow a similar model.

Additionally, the gifted performance indicator specifically measures the level of services provided by districts as one of the elements. By allowing districts to define what services are, the draft standards would allow districts to report settings that are not research based or substantive merely to gain service points on the gifted performance indicator.

OAGC recommends that service and instructional settings in the 11.11.13 draft be reinstated with some additions to ensure that gifted students are not merely given a “checklist Written Education Plan (WEP).” There are some general education settings that are required in ORC that should also be adequately referenced by the operating standards, such as Advanced Placement, early entrance, and College Credit Plus.

OAGC also recommends that “guidance,” as a stand-alone service, be deleted from the 11.11.13 draft. Supports for gifted students’ social and emotional development would be included as part of the WEP, so the guidance option is not needed as a separate category of service.

Finally, ORC language should be included that requires districts to pay for any gifted services that are reported to ODE.

3. **Remove the provision that untrained general education teachers provide gifted service unless it is an accelerated classroom.**

Rationale: The research strongly shows that, even with training, the vast majority of general educators teachers do not regularly differentiate instruction or curriculum for gifted students in general education classrooms. (Westberg, Archambault, & Brown, 1997; Reis & Westberg, 1994). A study commissioned by ODE conducted by Laurence Coleman at the University of Toledo reported similar findings based on surveys and field observations in Ohio schools. VanTassel-Baska and Stambaugh (2004) reported that, despite sustained good faith efforts in many schools, teachers who consistently differentiate for gifted students in general education settings are few and far between.

A large analysis of academic achievement of gifted students in a variety of settings by the National Research Center for the Gifted and Talented (1994) also reported that gifted students in educational settings that did not either utilize ability grouping with other gifted students or whole course acceleration fared poorly. Gifted students receiving services in non-grouped general education settings do not outperform gifted students receiving “no service.”

OAGC strongly supports continued efforts to help general education teachers differentiate for gifted students in their classrooms. However, the evidence in Ohio and nationally suggests that this setting is not conducive for adequately meeting the needs of gifted students by itself. Therefore, OAGC asks that it be removed as a recognized form of “service” to encourage greater use of effective (and cost-effective) options like readiness grouping and academic acceleration. This change was already incorporated into the 11.11.13 draft.

4. **Reinstate gifted coordinator and intervention specialist qualifications from current standards for both districts and ESCs and ensure that all gifted instructors are provided high quality professional development.**

Rationale: Gifted license and endorsement requirements adopted by Ohio were based on professional standards developed by the National Association for Gifted Children and the Council of Exceptional Children based on a comprehensive review of research regarding the knowledge and skills needed to develop effective curriculum and provide effective leadership for gifted education programs.

Ohio colleges and universities that provide gifted endorsement programs are required to teach and assess the specialized knowledge and skills embodied in the endorsement standards. These standards include understanding critical developmental and learning differences between gifted and other students, advanced knowledge of assessment for identification, including how cultural and economic factors can influence how giftedness is manifested and how talent can develop, specialized curriculum design models, and research on the effectiveness of major service models with various subpopulations of gifted students. These topics are rarely introduced and almost never explored in general educator training programs.

By allowing educators without gifted education endorsements to serve as gifted intervention specialists and gifted coordinators, the draft standards devalue this essential professional knowledge of trained gifted educators and remove a key incentive for districts to prioritize employing staff with the expertise needed to administer and deliver effective gifted services.

Further, adopting the draft language would send a message that the State Board of Education does not recognize gifted students as a population with special educational needs.

This use of unqualified professionals is not allowed for any other special population, including students with disabilities, English Language Learners, and students at risk of failing 3rd grade. Preliminary data from a new survey on the amount of training classroom teachers receive who are reported as providing services to gifted students show that two-thirds of these teachers receive less than five clock hours of gifted training. Almost 20% receive no training at all. This is no substitute for the advanced coursework received by trained gifted professionals.

We have also already witnessed the elimination of coordinator services from many districts across the state. Principals, counselors, and other administrators are inappropriately assuming that title with their many other duties. Some of these individuals have no understanding of gifted students and have no ability to appropriately review the work of a gifted intervention specialist. Many are caring educators who would like to understand their new role but do not have adequate time to be trained on even the basics of identification and state reporting, let alone the more critical elements of understanding the nature and needs of gifted learners and development of appropriate curriculum. Sadly, there are also those who do not realize what they do not know and make programmatic decisions based on long held misunderstandings drawn from anecdotes and myths rather than sound psychological and educational research.

Therefore, OAGC recommends that the gifted operating standards align with the state's gifted endorsement standards and remove the ability of districts to determine when educators are "qualified" to serve as gifted educators on their own.

5. **Incorporate funding parameters to ensure funds earmarked for gifted education are used as intended in Ohio Revised Code.**

Rationale: Districts, under the 11.11.13 and the 9.11.15 drafts can spend gifted funds as they wish, which is contrary to Ohio Revised Code. Funding accountability is referenced several times in O.R.C. including sections 3301.07, 3317.022, 3317.051, and 3317.40. Taxpayers and parents have a right to know that the funds allocated for this population are being spent to serve them. Gifted children become the educational paupers when funding intended to further their education is reallocated to other programs. Almost half of Ohio's districts report spending less on gifted students than the state funding they receive. The lack of funding accountability language sends a distinct message that serving these students is not a priority for Ohio.

OAGC recommends that the standards include two sections related to gifted funding. The first would be for districts under the district formula in ORC. The second would be for ESCs in the unit funding formula outlined in ORC. Currently, all districts receive gifted funds. The public has a right to expect that state gifted dollars are spent appropriately on gifted students as required in ORC.

The second area of change would address funding accountability. It is important to balance the intent of both the General Assembly and the governor with the ultimate goal of ensuring the needs of gifted children are met in each district.

To that end, OAGC recommends compromise funding accountability language that addresses both the concerns expressed by Representative Amstutz in his letter to the State Board in October 4, 2013, as well as Governor Kasich, who, in 2013, indicated through his veto of specific gifted staff levels that he wishes to provide more flexibility for gifted funding.

OAGC recommends language requiring that funds be spent from the district gifted formula for identification, coordination, and gifted intervention specialists, which Rep. Amstutz indicated was the intent of HB 59. However, we are not requesting language with a requirement that specific levels of personnel be hired or contracted, which was the expressed concern in the governor's veto language.

If funding is not addressed, JCARR may reject these operating standards given the letter of legislative intent from Rep. Amstutz.

**6. Reinstate instruction time requirement for gifted intervention specialist from current standards.**

Rationale: The current operating standards require that gifted intervention specialists spend at least 75% of their time with gifted students. This provision in the current standards was to ensure that the gifted intervention specialists were actually teaching gifted children, which was a problem before the 2008 gifted operating standards were adopted. The removal of this language effectually removes the guarantee that gifted students will actually be the recipient of trained gifted intervention specialist support if the district employs staff for that purpose. There is no educational reason for this removal.

Even in districts that provide great support and resources to gifted education, building administrators often turn to these teachers to pull extra non-instructional duties or lead academic intervention groups for struggling students. Teachers are pulled to coordinate spelling bees and other short term enrichment activities for select students rather than meaningful instruction designed for the population of gifted learners. Without this time requirement, gifted intervention specialists may become overpaid instructional assistants rather than fulfilling the necessary role of teacher for which they were hired.

OAGC believes that the 75% rule supports the integrity of services while providing reasonable flexibility for school districts. Therefore, OAGC recommends that this requirement be reinstated.

**7. Reinstate provisions that require ODE to perform audits and allow ODE to remove funds of non-compliance from current standards, as stipulated in ORC.**

Rationale: ORC section 3324.05 requires ODE to audit districts every three years for compliance with identification laws. In addition, it stipulates sanctions for districts that are in non-compliance. The removal of this provision defies the intent of Ohio Revised Code. It underscores the fact ODE has not fully complied with this statute for decades. Districts are not audited every three years on gifted identification and services, which is why too many districts do not even comply with basic identification laws. While ODE has performed limited audits over the years, it has never been in full compliance with the law, which could be an issue for the Auditor of the State to review. Audits and the threat of sanctions are major tools in the compliance/technical assistance toolbox that ODE has used on a very limited basis. ODE has, in

the past, threatened to withhold funding for districts chronically out of compliance with gifted laws. The threat of such resulted in positive changes for gifted students in multiple districts over the years. The removal of this provision is unfortunate. As gifted services are not mandated, there is very little else to ensure districts comply with other requirements in the law.

There is evidence that, rather than improving this situation, compliance has become even more lacking. Up until the 2013-2014 school year, ODE posted the results of on-site gifted audits in the gifted area of the ODE website. Unaccountably, it appears ODE stopped performing on-site gifted audits after the 2012-2013 school year. To date, there has been no official response as to why. This is despite the fact that almost 5% of Ohio's districts (over 600 ADM) do not report enough gifted students to receive a gifted value-added subgroup score or gifted performance index score. There are multiple districts that do not report any identified gifted students. This would be a strong indication that many districts are out of compliance with the gifted identification law and are misusing gifted identification funding. Almost one-quarter of Ohio's districts do not provide any gifted services. Removal of the language in the operating standards that compels ODE staff to continue to perform the gifted audits and to stipulate sanctions for districts out of compliance signals to districts that ODE and the State Board of Education do not plan to hold districts accountable for laws regarding gifted students. Districts, as well as ODE staff, look to operating standards, not ORC, to guide practices. The 9.11.15 draft devolves accountability to the extent that it appears the State Board of Education is disempowering itself and ODE to a point where neither body will be able to provide leadership on gifted education issues or meet their responsibilities related to stewardship of state fiscal resources.

OAGC recommends that all audit and compliance language with regard to gifted education be reinstated.

8. **Incorporate data collection on specific inputs to determine the effect of services. In addition, the results of the gifted performance indicator should be incorporated into an annual report outlining the condition of gifted education in the state without limiting the gifted performance indicator to the current elements.**

Rationale: One of the bright spots in the draft standards passed by the Achievement Committee on 11.11.13 was the inclusion of additional data collection on specific inputs to determine the effect of gifted services as well as an annual report on the condition of gifted education. This language is curiously removed in the current 9.11.15 draft. In addition, the 9.11.15 gifted operating standards draft limits the elements of the gifted performance indicator to those currently included. As the indicator is new and scheduled to be updated in the next year or so, it does not make sense at this time to limit the indicator to only value-added, state assessments, and service levels.

Limiting the elements in the operating standards also counters the intent of the Gifted Indicator Work Group who, in the course of the meetings while developing this indicator, discussed the need for ongoing review as data emerged and as new state assessments were introduced. Specifically, the March 25 and May 7, 2014, meetings included conversations with all stakeholders agreeing a review would be needed to determine the appropriateness of thresholds following the initial data from PARCC assessments and to consider the role other elements, such as fiscal accountability and use of acceleration practices, might play in future iterations of the indicator. The 9.11.15 draft ties the hands of the State Board of Education to re-

evaluate the indicator on a timely basis and revise it with necessary components without having to also revise the gifted operating standards.

For the benefit of gifted children, ODE and the public should be able to determine if districts are implementing the operating standards with integrity. As Ohio moves to a more outputs-driven system, more data to assess the effectiveness of gifted services is required, not less. Based on the 11.11.13 draft, OAGC recommends that this section be revised to incorporate more data elements to be collected and reported to the public so that districts are fully transparent about what services are being offered by whom and what the results are if they can be determined.

9. **Increase the scope and depth of the written education plan (WEP). Also, require that a gifted coordinator or gifted intervention specialist collaborate on the writing of WEPs.**

Rationale: Because of the unique academic, cognitive, social, and emotional needs of gifted children, individuals without gifted licensure are not equipped to develop appropriately rigorous goals or select relevant instructional strategies and progress measure. It is highly inappropriate to have untrained personnel develop written education plans for gifted students.

The Gifted Advisory Council recommended a number of changes to the WEP process to strengthen them. The draft standards approved by the committee on 11.11.13 incorporated some of these changes. OAGC recommends reinstating the language from the 11.11.13 operating standards draft with the additional provision that districts shall attempt to obtain a parent signature as well as a provision supporting the social emotional needs of gifted students that is included in the 9.11.15 draft.

10. **Revise the whole grade testing primary level band from K-3 to K-2 and limit the testing in this initial grade band to superior cognitive ability and specific academic areas of math and reading. In addition, incorporate the deleted elements from the identification section that are required in ORC and that exist in the current operating standards.**

Rationale: Appropriate screening and identification of students who are gifted is an essential component of ORC and is the foundation upon which gifted services are built. It is poor public policy to remove large sections of current operating standards that serve as best practice for districts to follow, and it will ultimately hurt children. Some of the provisions removed will ensure that many gifted students will not be identified, fall through the cracks, or be subjected to inappropriate assessments. General statements that procedures need to be “comprehensive” are not adequately specific. OAGC supports the goal of comprehensiveness but believes this should be operationally defined in the standards to support clarity and equity.

The Gifted Advisory Council recommended that several changes be made to the identification section in the current operating standards, including two whole grade levels of testing, including one during the early years, changes to 90 day referral language, and other language supporting parents and students. The 11.11.13 draft incorporated many of these provisions, which have now been removed from the 9.11.15 draft.

OAGC strongly supports the inclusion of two whole grade levels of testing. In fact, compelling new research (Card & Giuliano, 2015) indicates whole grade screening will ensure more minority and economically disadvantaged students will be identified as gifted, as general education teachers typically under refer students from minority and economically disadvantaged

subgroups yet these same students perform at gifted levels on whole grade screening instruments. OAGC recommends two changes based on data from the gifted performance indicator and best practice. Data show that gifted students are highly unlikely to be referred for screening in the early grade levels of K-2, which means they are unlikely to be identified and served. Early intervention for gifted learners has been shown to lead to long term success, and lack of early gifted services can lead to underachievement, disengagement from the educational process, and even higher dropout rates. This is especially bad news for at-risk students in urban districts. Conducting whole grade screening in an early grade maximizes opportunity for economically disadvantaged students to be identified in specific academic areas using achievement-focused assessments because state and national assessment data show that achievement gaps between disadvantaged and non-disadvantaged students are smallest in the early grades.

Therefore, OAGC recommends that the primary level whole grade testing be moved from K-3 to K-2 to support earlier identification. OAGC also recommends that this initial testing be limited to superior cognitive ability and the specific academic areas of math and reading. Science and social studies are often intertwined with math and reading instruction at the primary grades. Limiting the whole grade testing requirement to superior cognitive ability, math, and reading strikes the balance between limiting the amount of required testing for our younger students while still ensuring there is an opportunity to identify high ability students from all demographic subgroups.

11. **With the reinstatement of service parameters as described above, incorporate waivers on the basis of performance on multiple measures including but not limited to the gifted performance indicator. In addition, include language from ORC that allows ODE to remediate and reconstitute gifted services in districts that are chronically failing.**

Rationale: As all quality elements of service and staffing are eliminated in the 9.11.15 draft, no waivers are required. In essence, all laws and rules have been automatically waived for all districts, regardless of their track records with respect to effectively serving this population. OAGC recommends that some of the waiver provisions outlined in the 11.13.13 draft be revised based on the gifted performance indicator and reincorporated into a new draft. This would be contingent on the acceptance of the recommended standards for service and staffing advocated by OAGC.

Also, OAGC recommends that additional accountability provisions be included from ORC.3317.40 (D), which states that, if a district does not meet the gifted performance standards of satisfactory achievement adopted by the state board of education for two consecutive years, the department shall require the district or school to submit an improvement plan. This type of requirement is already in place for special education and programs for English Language Learners. This would be familiar for districts if implemented for gifted education. If the district fails to improve to a satisfactory level in an additional two years, the department shall direct the district to partner with another organization that has demonstrated the ability to improve the educational outcome for that subgroup of students to provide services to those students. The partner organization may be another school, district, or other education provider. This language would be fully in line with the ODE's position that districts that are chronically non-performing should be reconstituted.

12. **Reinstate the district service plan as required by ORC.**

Rationale: ORC 3324.07 requires districts to submit an annual service plan and allows the state superintendent to require districts to implement the plans. Effectively, it gives the state superintendent the authority to mandate gifted services. While the current superintendent may not wish to use this authority, future superintendents may. This language should stay in the operating standards to preserve the authority of the state superintendent and State Board of Education.

13. **Reinstate identification and service definitions as outlined in current operating standards 3301-51-15 and adjusted to some extent in the draft passed by the State Board of Education Achievement Committee on 11.11.13.**

Rationale: The 9.11.15 draft gifted operating standards removes basic definitions and general statements regarding gifted education that serve to clarify other areas of the document. ORC and OAC language typically provides a definition section and overarching general statements (in the case of OAC) to ensure that the document is interpreted correctly and that proper guidance is provided to districts. There is no reason to remove these sections from the operating standards, and the removal could cause confusion at the district level. For the sake of clarity, OAGC recommends that these sections be reinstated as outlined in the 11.11.13 draft.

**Appendix B**

**OPERATING STANDARDS FOR  
IDENTIFYING AND SERVING  
GIFTED STUDENTS**

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

**October 31, 2015 OAGC draft recommendation  
based on 11/11/13 draft approved by the State  
Board of Education Achievement Committee**

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

Services to gifted students may only be reported to parents and the department of education when compliant with the Operating Standards for Identifying and Serving Gifted Students.

(A) Definitions

(1) "Day" means calendar day unless otherwise indicated as school day.

(a) "School day" means any day, including a partial day that students are in attendance at school for instructional purposes.

~~(1)~~ (2) "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)~~ (3) "School district" does not include a joint vocational school district. means a city, local, exempted village school district and does not include a joint vocational school district.

~~(3)~~ (4) "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)~~ (5) "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)~~ (6) "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~~ students who are gifted.

- (2) The district may incorporate any or all identification and service plans for students who are gifted into the district's comprehensive or continuous improvement plan.

(C) Identification

(1) Definition

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

- (a) A ~~child student~~ shall be identified as exhibiting "superior cognitive ability" if the ~~child 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 ~~child student~~ shall be identified as exhibiting "specific academic ability" superior to that of ~~children students~~ of similar age in a specific academic ability field, if, within the preceding twenty-four months the ~~child student~~ performs 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 ~~child student~~ may be identified as gifted in more than one specific academic ability field.
- (c) A ~~child student~~ shall be identified as exhibiting "creative thinking ability" superior to ~~children students~~ of a similar age, if within the previous twenty-four months, the ~~child 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 ~~child student~~ shall be identified as exhibiting "visual or performing arts ability" superior to that of ~~children students~~ of similar age if the ~~child student~~ 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.

(2) District identification plan

The board of education of each district shall adopt a district identification plan as specified in section 3324.04 of the Revised Code for identifying ~~children 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 district identification 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 gifted ~~children students~~ students;
  - (ii) Acceptable scheduling procedures for screening and for administering assessment instruments for identifying gifted ~~children students~~ students. These procedures shall provide:
    - (a) In the case of ~~children students~~ who have requested assessment or who have been recommended for assessment by teachers, parents, or other ~~children students~~ students, at least two opportunities a year for assessment. 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, ~~children students~~ with disabilities, and ~~children students~~ for whom English is a second language; ~~and~~

(c) Assurance that any ~~child~~ student transferring into the district will be assessed within ninety days of the transfer at the request of a parent; and

(iii) The provision of at least two whole grade screening opportunities as follows:

(a) For superior cognitive ability and specific academic ability in the areas of (1) mathematics; and (2) reading, writing or a combination of these skills once prior to the end of grade two.

(b) For superior cognitive ability and specific academic ability in the areas of (1) mathematics; (2) science; (3) reading, writing or a combination of these skills; and (4) social studies is required once in grades three, four, five or six.

**Comment [A1]:** Changed first whole grade testing phase from grade three to grade two. Data from the gifted performance indicator shows that we are losing kids in the early grades. Research shows that this early identification is particularly important in identifying minority and economically disadvantaged students. Also limited the K-2 assessment to superior cognitive and math and reading.

~~(iii)~~ (iv) Procedures for notification of parents within thirty days of receipt of assessment results about:

(a) The results of any screening procedure or assessment instrument, ~~and~~

(b) A detailed list of the services likely to be provided to the student, based on the nature of the student's identification, and of all gifted services that are currently available or have been made available by the district during the previous three school years, and

(c) The provision of an opportunity for parents to appeal any decision about the results of any screening procedure or assessment, the scheduling of ~~children students~~ for assessment, or the placement of a ~~child~~ student in any program or for receipt of services; ~~and~~

~~(iv)~~ (v) A commitment that the district will accept scores on assessment instruments provided by other districts or trained personnel outside the district, provided the assessment instruments are on the list approved by the department of education under section 3324.02 of the Revised Code.

(a) The district's identification 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.

(b) The district shall accept assessment results from other districts or from trained personnel outside the district, as equivalent to district testing as set forth in paragraph (C)(1) of this rule (identification) and may not exclude

a ~~child~~ 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)(1) of this rule (identification). Districts shall not alter eligibility through any consideration or computation other than as set forth in paragraph (C)(1) of this rule (identification).

- (c) The district shall work with the department of education to amend the district identification plan and ensure the plan meets approval, and if the district changes the district identification plan such changes shall be submitted to the department of education immediately following district board of education approval.

### (3) Screening/identification

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

- (a) The criteria and methods the district uses to screen ~~children~~ students and to select ~~children~~ 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;
- (b) The sources of assessment data the district uses to select ~~children~~ students for further testing and an explanation for parents of the multiple assessment instruments required to identify gifted ~~children~~ students under section 3324.03 of the Revised Code;
- (c) An explanation for parents of the method the district uses to ensure equal access to screening and further assessment by all district ~~children~~ students, including minority or disadvantaged ~~children~~ students, ~~children~~ students with disabilities, and ~~children~~ students for whom English is a second language;
- (d) Provisions to ensure equal opportunity for all district ~~children~~ students identified as gifted to receive any services offered by the district;
- (e) Provisions for ~~children~~ students to withdraw from gifted programs and services, for reassessment of ~~children~~ students, and for assessment of ~~children~~ students transferring into the district;
- (f) Methods for resolving disagreements between parents and the district concerning identification and placement decisions; and
- (g) A copy of the district's policy adopted under this section shall accompany the district's identification plan submitted to the department of education under section

3324.04 of the Revised Code.

(4) Testing/assessment

- (a) Districts shall select screening and identification instruments from the department of education's approved lists for inclusion in their district's identification plan. Assessments must measure the specific area(s) of gifted ability. A list of the approved instruments and checklists will be established and published by the department of education that will include, as appropriate, the criteria for judging technical adequacy of assessments and instruments.
- (b) In addition to the assessments listed in the district's identification plan, districts shall recognize qualifying scores from any assessments on the list of assessments approved by the department of education. The district shall ensure that the use of evaluation instruments:
  - (i) Are provided and administered in the ~~child's~~ student's native language or other mode of communication, unless it is clearly not feasible to do so;
  - (ii) Have been validated for the specific purpose and populations for which they are used; and
  - (iii) Are administered by qualified personnel in conformance with the instructions provided by their producer.
- (c) The district shall select instruments, from the approved list, that will allow for appropriate screening and identification of minority or disadvantaged ~~children~~ students, ~~children~~ students with disabilities, and ~~children~~ students for whom English is a second language.
- (d) Tests are selected and administered so as to best ~~insure~~ ensure that when a test is administered to a ~~child~~ student with impaired sensory, manual or speaking skills, the test results accurately reflect the ~~child's~~ student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the ~~child's~~ student's impaired sensory, manual or speaking skills except where those skills are factors which the test purports to measure. If the accommodations in a student's IEP or 504 plan interfere with the test's allowable accommodations a comparable test will be selected.
- (e) A list of the approved instruments and checklists will be established and published by the department of education that will include, as appropriate, the criteria for judging technical adequacy of assessments and instruments.

(D) Services

Gifted and talented students need differentiated curriculum, ~~and~~ instruction and support services in order to fully develop their cognitive, academic, creative and artistic abilities or to excel in a specific content area, including opportunities to exceed grade level academic learning standards indicators and benchmarks.

- (1) The district shall not indicate to parents or report to the department of education that a student is receiving gifted education services unless services are provided in conformance with this rule.
- (2) 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 students for whom English is a second language.
  - (c) Services which students receive shall be consistent with their area(s) of identification and shall be differentiated to meet their needs.
  - (d) Subjective criteria such as grades or teacher recommendations shall not be used to exclude a student from service ~~in the superior cognitive and specific academic areas~~ who would otherwise be eligible.
  - (e) All district students who meet the written criteria for a gifted service shall be provided an equal opportunity to receive that service.
- ~~(3) A continuum of services provided by each district board of education may include such options as the following components:~~

(3) Written education plan (WEP)

Gifted services shall be based on the student's area(s) of identification and individual needs and be guided by a WEP. The district shall provide parents with periodic reports regarding the student progress pursuant to meeting the achievement and other goals of the WEP and the effectiveness of the services provided in accordance with the gifted student's WEP.

- (a) The Written Education Plan (WEP), developed in collaboration with an educator with gifted licensure or a coordinator of gifted services, shall provide a description of the services to be provided including:

- (i) Goals for the student in each service specified including, but not limited to, measurable academic goals;
- (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) Specify staff members responsible for ensuring that specified services are delivered;
- (v) Specify curricular, instructional, and guidance practices which support the student's social and emotional needs;
- (vi) Specify 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
- (vii) Specify a date by which the WEP will be reviewed for possible revision.

**Comment [A2]:** Added from the 9.11.15 draft. Social and emotional needs are an important consideration.

(b) Parents 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 at least one attempt each year to obtain a parent or guardian signature on the WEP. Students shall not be denied services due to the lack of parent or guardian signature.

**Comment [A3]:** This section was added to added to strengthen parent notification.

(4) Instructional settings

(a) Instruction for gifted services shall be provided during the regular school day, and may be face-to-face, in a virtual learning environment (VLE), or a combination of the two. Settings may include magnet schools.

(b) Gifted services guided by a Written Education Plan (WEP) and taught by a gifted intervention specialist to students identified as gifted. The gifted intervention specialist shall provide students and parents periodic reports on student progress pursuant to meeting the goals of the WEP. Such instruction may be provided in large groups, small groups, and/or individually and may include the following:

- (i) Full-time self-contained classroom where the gifted intervention specialist is the teacher of record;

(ii) Single-subject self-contained classroom where the gifted intervention specialist is the teacher of record;

(iii) A resource room;

(iv) Co-teaching where the general education teacher is the teacher of record and lesson plans and teaching are coordinated with gifted intervention specialist. Services are provided through co-teaching with the gifted intervention specialist. The gifted intervention specialist and general education teacher shall be provided with regularly scheduled collaborative planning time;

(v) Educational options, credit flexibility, internships or mentorships specified on gifted students' WEPs where the district is paying for these options;

(vi) Gifted magnet schools; and

(c) Additional general education settings with instruction guided by a Written Education Plan (WEP) taught by a general educator who shall possess the competencies, experiences and professional development to meet the individual gifted student's needs. The general education teacher shall receive on-going high quality professional development and support for the provision of gifted services to students and. The general education teacher shall collaborate on the development of the WEP, shall be designated on the WEP as the gifted service provider and shall be provided a copy of the WEP. The general education teacher shall provide students and parents periodic reports on student progress pursuant to meeting the goals of the WEP. Additional general education settings with instruction guided by a WEP, where the district is paying for the cost, may include the following:

(i) Early entrance to kindergarten, whole grade acceleration, subject acceleration or early graduation from high school per district acceleration policy as required by Section 3324.10 of the Revised Code.

(ii) Dual enrollment program opportunities including but not limited to College Credit Plus program under Chapter 3365 of the Revised Code;

(iii) College Credit Plus course(s) in which students may enroll in college level courses and receive credit toward graduation at the same time;

(iv) Credit Flexibility in which students earn credits through: (1) the completion of courses; (2) testing out or otherwise demonstrating mastery of the course content; or (3) pursuit of one or more "educational options" (e.g., distance learning, educational travel, independent study, an internship, after school/tutorial program, community service or engagement project and extracurricular activities);

(v) Educational Options including advanced online courses and programs; and Educational Option(s) as defined in rules 3301-35-01 and 3301-51-06 of the Administrative Code.

**Comment [A4]:** Required language from new ORC.

**Comment [A5]:** Change made to reflect ORC name change from PSEO to College Credit Plus

Educational Options provide experiences for individual students who need services not available in the regular school setting. They may include independent study, mentoring, and distance learning;

(vi) Internship and mentorship programs with businesses, nonprofit organizations, and arts organizations;

(vii) Above Grade Level Honors Class(es). Specific subject area classes which are differentiated from a regular subject area class in terms of breadth, depth, and complexity;

(viii) Advanced Placement courses provided under the authorization of the College Board;

(ix) A trained arts instructor may provide services to students who are identified as gifted in the visual/performing arts and who have such services specified on their WEPs.

**Comment [A6]:** Cleans up language from 11.11.13 draft, which had some drafting errors.

#### (5) Instruction

The depth, breadth, and pace of instruction, based on the adopted course of study in appropriate content areas, shall be differentiated based on the student's area(s) of identification and individual needs. Differentiated instruction must be guided by a Written Education Plan (WEP).

(a) Differentiated instruction for gifted students shall be based on a student's readiness, knowledge and skills and including, the differentiated features of acceleration, complexity, depth, challenge, creativity and abstractness. Educators shall select, adapt or create a variety of differentiated curricula that incorporate advanced, conceptually challenging, in-depth, distinctive and complex content that:

(i) Provides access to appropriately advanced curriculum content, including replacement or extension of the regular curriculum;

(ii) Modifies the learning process to provide an appropriate level of challenge, including the use of strategies for curriculum compacting; and

(iii) Modifies or replaces assignments and projects with alternatives based on the student's needs and abilities.

(b) The differentiated instruction may be provided using instructional strategies including but not limited to:

(i) Questioning methods;

(ii) Problem-based learning;

(iii) Selection of challenging, exemplar materials using evidence-based gifted research;

(iv) Methods to stimulate high level thought, including critical thinking, divergent thinking, abstract thinking, logical reasoning and problem solving;

(v) Oral, written and artistic expression;

(vi) Independent study and research methods;

(vii) In depth study of a topic through:

(a) Open-ended tasks and

(b) Products that reflect complex abstract, creative and/or higher level thinking skills;

(viii) Readiness grouping;

(ix) Exploration of career options;

(x) Providing above-grade level content, including compacting curriculum;

(xi) Mentorships;

(xii) Early entrance to kindergarten, whole grade acceleration, subject acceleration or early graduation from high school per district acceleration policy as required by Section 3324.10 of the Revised Code; and

(xiii) Social/emotional supports.

~~(a) Instructional settings and services-~~

~~Instruction for gifted services shall be provided during the regular school day. Such instruction may be provided in large groups, small groups, and/or individually in a variety of settings, including:~~

~~(i) General education settings including:~~

~~(a) Grade acceleration;~~

~~(b) Early entrance;~~

~~(c) Cluster grouping in settings where curriculum provided is above grade-level or is delivered by a gifted intervention specialist;~~

- ~~(d) Early graduation; and~~
  - ~~(e) Subject acceleration.~~
  - ~~(ii) Resource rooms;~~
  - ~~(iii) Self-contained classrooms;~~
  - ~~(iv) Magnet schools;~~
  - ~~(v) “Advanced Placement” courses provided under the authorization of the College Board;~~
  - ~~(vi) Dual enrollment opportunities including but not limited to post secondary enrollment options program under Chapter 3365. of the Revised Code;~~
  - ~~(vii) Honors courses, international baccalaureate courses, or other advanced courses;~~
  - ~~(viii) Educational options;~~
  - ~~(ix) Advanced online courses and programs; and~~
  - ~~(x) Internships with businesses, nonprofit organizations, and arts organizations.~~
- (b) Instruction

The depth, breadth, and pace of instruction, based on the adopted course of study in appropriate content areas, shall be differentiated based on the student's area(s) of identification and individual needs.

Gifted services may include the following:

- ~~(i) Differentiated instruction in general education settings in which accelerated (above grade level) curriculum is provided or the teacher holds a license or endorsement in gifted education or receives professional development regarding teaching gifted students and ongoing assistance with curriculum development and instruction from an educator with a gifted intervention specialist license per paragraph (E)(2)(d). Curriculum is differentiated in one or more of the following ways:~~
  - ~~(a) Providing access to appropriately advanced curriculum content, including replacement or extension of the regular curriculum;~~

- ~~(b) Modifying the learning process to provide an appropriate level of challenge, including the use of strategies for curriculum compacting; and,~~
- ~~(c) Modifying or replacing assignments and projects with alternatives based on the student's needs and abilities.~~
- ~~(ii) Methods to stimulate high level thought, including critical thinking, divergent thinking, abstract thinking, logical reasoning, and problem solving;~~
- ~~(iii) Oral, written, and artistic expression;~~
- ~~(iv) Independent study and research methods;~~
- ~~(v) In depth study of a topic through:
 
  - ~~(a) Open ended tasks, and~~
  - ~~(b) Products that reflect complex abstract, and/or higher level thinking skills;~~~~
- ~~(vi) Exploration of career options;~~
- ~~(vii) Early admission to kindergarten or first grade, whole grade acceleration, subject acceleration, or other forms of acceleration provided in conformance with the district's acceleration policy approved by the district board of education and the department of education in accordance with section 3324.10 of the Revised Code;~~
- ~~(viii) Mentorships; and~~

~~(e) Guidance~~

~~Guidance services received from a guidance counselor and/or a guidance program specifically designed to meet the social and emotional needs of gifted students children, including making academic and career choices.~~

**Comment [A7]:** Removes guidance as a stand-alone service option. Not needed as guidance is now included in the WEP.

~~(4) Written education plan (WEP)~~

~~Gifted services shall be based on the student's area(s) of identification and individual needs and be guided by a WEP. The district shall provide parents with periodic reports regarding the effectiveness of the services provided in accordance with the gifted student's WEP.~~

~~(a) The WEP shall:-~~

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

- ~~(a) Goals for the student in each service specified including, but not limited to, academic goals;~~
- ~~(b) Methods for evaluating progress toward achieving the goals specified; and~~
- ~~(c) Methods and schedule for reporting progress to students.~~
- ~~(ii) Specify staff members responsible for ensuring that specified services are delivered;~~
- ~~(iii) Specify 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~~
- ~~(iv) Specify a date by which the WEP will be reviewed for possible revision;~~
- ~~(b) Parents 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.~~

(56) The board of education of each district shall develop, in accordance with department of education guidelines, a plan for the service of gifted students enrolled in the district who are identified under section 3324.03 of the Revised Code.

(67) Each district board of education shall file the service plan developed under section 3324.07 of the Revised Code with the department of education by December 15, 2000.

(78) The district shall work with the department of education to ensure the service plan is adequate and provide funding estimates. If the district changes the plan, the revised plan shall be submitted to the department of education.

(89) Unless otherwise required by law, rule, or as a condition for receipt of funds, district boards of education may implement the plans developed under paragraph (D)(5) of this rule, but shall not be required to do so until further action by the general assembly or the state superintendent of public instruction.

**Comment [A8]:** Restores language from ORC regarding district service plans. This imposes no additional burden on districts or ODE. This language exists in the current standards.

(E) Personnel

(1) Personnel shall provide instruction and services that are consistent with gifted student's WEPs.

(2) Gifted Intervention Specialists. An intervention specialist for gifted education shall provide instruction directly to gifted students for no less than seventy-five per cent of the time.

**Comment [A9]:** Restores this language from current operating standards. There is no reason to eliminate this.

(a) For Gifted Intervention Specialists assigned to more than one service setting, the maximum caseload for each setting must be reduced in proportion to the time assigned to each setting. Intervention specialists shall be provided sufficient time for designing their work, evaluating student progress, conferencing, and team planning consistent with paragraph (A)(9) of rule 3301-35-05 of the Administrative Code. ~~The department of education, office for exceptional children, shall establish policies and procedures for granting temporary waivers to districts related to paragraphs (E)(2)(a) through (E)(2)(e) of this rule.~~ An gifted intervention specialist shall provide instruction to gifted students in one or more of the service settings specified in (E)(2)(~~ai~~) through (E)(2)(~~evi~~):

**Comment [A10]:** Technical correction

(~~ai~~) In a resource room with a maximum of ~~fifteen~~ twenty gifted students at any one time and a maximum caseload of ~~sixty~~ seventy-five gifted students. Each student served in this setting shall be provided instruction no less than two hundred twenty-five minutes per week throughout the school year at the elementary level (kindergarten through grade five) and no less than two hundred forty minutes per week throughout the school year at the secondary level (grades six through twelve);

**Comment [A11]:** Increases class size and caseload requirements from current standards and removes sunset provisions from 11/11/13 draft. There is no need for the sunset provision with waivers provide in subsequent sections. General Operating Standards as well as Operating Standards for Students with Disabilities affirm the need for class size ratios and caseloads.

(~~bi~~) In a full-time self-contained classroom where the gifted intervention specialist is the teacher of record with a maximum of ~~twenty-five~~ twenty-five gifted students ~~at the elementary level (kindergarten through grade five) or a maximum of twenty-five gifted students at the secondary level (grades six through twelve);~~

**Comment [A12]:** Increases class size ratio from current standards.

(~~eii~~) In a single subject course where the gifted intervention specialist is the teacher of record with a maximum ~~twenty-five~~ twenty-five gifted students at any one time and a maximum caseload of ~~eighty one hundred~~ eighty one hundred gifted students at the elementary level (kindergarten through grade five) or a maximum of ~~twenty-five~~ twenty-five gifted students at any one time and a maximum caseload of ~~eighty one hundred twenty-five~~ eighty one hundred twenty-five gifted students at the secondary level (grades six through twelve). Each student served in this setting shall be provided instruction no less than an average of two hundred twenty-five minutes per week throughout the course at the elementary level (kindergarten through grade five) and no less than an average of two hundred forty minutes per week throughout the course at the secondary level (grades six through twelve);

**Comment [A13]:** Increases class size and caseload requirements and removes sunset provision. See previous comment on this issue.

(~~div~~) In a course where the general education teacher is the teacher of record with a maximum of ~~twenty-five~~ twenty-five gifted students at any one time and a maximum caseload of ~~one hundred eighty~~ one hundred eighty gifted students at the elementary level (kindergarten through grade five) or a maximum of ~~twenty-five~~ twenty-five gifted students at any one time and a maximum caseload of ~~one hundred twenty-five~~ one hundred twenty-five gifted students at the secondary level (grades six through twelve). Each student served in this setting shall be provided instruction by the intervention specialist no less than an average of two hundred twenty-five minutes per week throughout the

**Comment [A14]:** Increases class size and caseload requirements and removes sunset provision. See previous comment on this issue.

course at the elementary level (kindergarten through grade five) and no less than an average of two hundred forty minutes per week throughout the course at the secondary level (grades six through twelve). Services are provided through collaboration or team teaching with the general education teacher. The general education teacher ~~has received~~ on-going, high quality professional development in differentiating instruction for gifted students and is designated as a provider of differentiated instruction on students' WEPs. The gifted intervention specialist and general education teacher shall be provided with regularly scheduled collaborative planning time.

- (~~ev~~) In virtual learning environments where the total student caseload does not exceed one hundred twenty-five gifted students; and
- (~~evi~~) In designing and/or supervising educational options, internships and mentorships specified on gifted students' WEPs where the total student caseload does not exceed one hundred twenty-five students.
- (~~3c~~) The gifted intervention specialist shall hold ~~an~~ gifted intervention specialist license, valid for teaching gifted students ages five through twenty-one.
  - (i) Gifted intervention specialists shall be provided sufficient time for designing their work, evaluating student progress, conferencing, and team planning consistent with paragraph (A)(9) of rule 3301-35-05 of the Administrative Code.
  - (ii) Gifted intervention specialists shall participate each school year in high quality professional development related to teaching gifted students.

**(43) Coordinators of Gifted Education.**

- (~~a~~) Coordinators of gifted education shall provide the following services for school districts:
  - (~~ai~~) Assist in the identification of gifted students;
  - (~~aii~~) Assist in the placement of gifted students in appropriate educational services and settings;
  - (~~aiii~~) Assist school personnel in the design of gifted education services;
  - (~~aiv~~) Consult with school personnel regarding gifted education issues in district strategic planning processes and the development of school improvement plans;
  - (~~av~~) Assist school personnel in the on-going evaluation of the effectiveness of gifted education services, including input from parents of students who are gifted;

**Comment [A15]:** Removes language from the 11/11/13 draft stating "For districts choosing to utilize coordinators of gifted education." That language was unnecessary and problematic as it assumes districts do not need any staff to perform the coordinator duties.

- (~~f~~vi) 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;
  - (~~g~~vii) Assist school personnel in the development, appropriate dissemination, evaluation and revision of written education plans for gifted students as required in paragraph (D) of this rule and
  - (~~h~~viii) Assist school personnel in ensuring district compliance with accountability requirements described in paragraph (D) of this rule.
- (5b) Coordinators of gifted education may provide the following services for school districts:
- (~~a~~i) Communicate with parents and others about the characteristics and educational needs of gifted students;
  - (~~b~~ii) Consult with school personnel about ways to develop and adapt curriculum, materials, and teaching strategies;
  - (~~e~~iii) Coordinate services such as: mentorship, advanced coursework, special seminars, independent studies, interdisciplinary curricular experiences, internships, career explorations, visual and/or performing arts experiences, distance learning, and supervising and evaluating educational options for gifted students provided in accordance with paragraph (G) of rule 3301-35-06 of the Administrative Code;
  - (~~d~~iv) Develop curriculum and staff development activities and provide teaching demonstrations to model appropriate teaching practices or classroom management strategies. However, coordinators shall not be assigned to regular scheduled teaching duties; and
  - (~~e~~v) Serve as a liaison among students who are gifted, school personnel, parents, community members, colleges and universities, industry, business and cultural institutions and other interested publics.
- (vi) Evaluate gifted intervention specialists and general educators who serve gifted students for the portion of instruction that gifted students are served when the coordinator has appropriate licensure.
- (6c) Coordinators shall meet the following qualifications:
- (~~a~~i) Evidence of at least three years successful teaching experience;
  - (~~b~~) Master's degree;

(~~ej~~) Ohio administrative specialist license, if the coordinator is to supervise teachers; and

(~~ejj~~) Ohio intervention specialist license for gifted education.

(~~7d~~) Coordinators of gifted education services shall be provided with appropriate space when conducting conferences with educators, parents, and students.

(~~e~~) Coordinators of gifted education shall participate each school year in high quality professional development related to identifying and serving gifted students.

(~~84~~) A trained arts instructor may provide services to a maximum of one hundred twenty-five students who are identified as gifted in the visual/performing arts and who have such services specified on their WEPs.

(F) Funding

(~~1~~) For school districts or educational service centers funded through the foundation formula in section 3317 of Revised Code, any gifted funding in the foundation formula for gifted identification, gifted intervention specialists and gifted coordinators shall be expended on the screening, assessment, and identification of gifted students, gifted intervention specialist services, and gifted coordinator services.

(~~42~~) For school districts or educational service centers funded through unit funding methodology in place prior under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to fiscal year 2010, the department of education may approve and reimburse districts for the services of intervention specialist and coordinators for gifted education as follows:

(a) Unit funding for intervention specialists

(i) Units may be approved in a district or consortium of districts where coordinator services specified in paragraph (E) (~~43~~) of this rule are provided;

(ii) Units or fractional units may be approved to districts or a consortium of districts on the basis of one thousand average daily membership in kindergarten through grade twelve; and

(iii) One full intervention specialist unit may be approved in a district or a consortium of districts with fewer than one thousand average daily membership.

**Comment [A16]:** Inserts funding accountability language for districts funded through the foundation formula as directed in ORC. Allows district flexibility to expend gifted funds on identification, gifted specialist or coordinator services. It does not violate the governor's veto provision as it does not specify specific levels of staffing.

**Comment [A17]:** Maintains current unit language for ESC funding that has been in place for almost 40 years.

(b) Unit funding for coordinators

(i) Units or fractional units may be allocated to districts or a consortium of districts on the basis of two thousand five hundred average daily membership in kindergarten through grade twelve; and

(ii) One full coordinator unit may be allocated in a district or consortium of districts with fewer than two thousand five hundred average daily membership.

(c) Gifted personnel funded with state dollars shall be full-time in that role; and if partially state funded, services must be equal to the level of funding.

(d) Units may be approved to fund gifted education services provided in virtual learning environments.

(e) ~~A reduction in the 2007-2008 allocation of units to a particular district will occur only as a result of noncompliance, voluntary surrender, decline in district average daily membership or reduction in the total number of units available.~~

(3) Per division (C) of section 3317.40 of Revised Code, all state funds allocated for gifted students shall be used to provide services to this subgroup.

(4) Per section 3307.01 (B) (2) of Revised Code, each district shall report revenue and expenditures for both classroom and non-classroom purposes for the gifted subgroup. The department shall make the information available to the public in an easily readable format. The department, no later than October 30 each year, shall publish on its website district expenditures for gifted education.

**Comment [A18]:** Includes language from ORC.

(G) Local Accountability

**Comment [A19]:** Lettering change due to inclusion of funding section.

(1) Each district shall submit an annual report to the department of education specifying the number of children 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.

(2) Each district shall participate in an audit of the district's gifted education data (including numbers screened, assessed, identified and served by grade, gender, race, disability, economic disadvantage and English language proficiency and appropriate assignment of gifted and general education staff) and/or operating standards procedures at least once every three years or more frequently if randomly selected, or based on complaints, or suspicion of non-compliance by the department of education.

(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.
- (c) Districts found to be noncompliant shall develop and implement a corrective action plan approved by the department of education.
- (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.
- (4) The district shall prepare an annual written report on the effectiveness of the identification of and services to students who are gifted. The report shall be submitted to the department of education by July fifteenth of each year. The report shall also include but not be limited to the following elements:
  - (a) The number of licensed gifted intervention specialists and coordinators providing gifted services in the district;
  - (b) The number of general educators providing gifted services in the district;
  - (c) State and local funding spent on identification, licensed gifted personnel, gifted professional development, gifted materials and supplies, gifted curricular materials, and transportation.
  - (d) The professional development or coursework related to teaching gifted students received by general educators providing gifted services, gifted coordinators and gifted intervention specialist.
  - (e) The services offered to students identified as gifted by the following grade bands: K-3, 4-8, 9-12.

**Comment [A20]:** Adds district services to allow parents to understand what various districts offer gifted students.

(H) State Accountability and Waivers

**Comment [A21]:** Lettering change to do inclusion of funding section.

- (1) The department of education shall issue an annual report on the condition of gifted education. The report shall include a review of performance indicators used for gifted students, performance measures used in the gifted education dashboard, and make recommendations for further improvements in systems for evaluating district and student performance that should be considered for adoption by the state board of education.
- (2) The department of education shall make the information available to the public in an easily readable format on the department's website.
- (3) Waivers.

(a) The department may waive standards under sections (E)(2)(a)(i) through (vi) of this rule for a district that receives and meets the gifted performance indicator and maintains an “A” on its gifted value-added indicator for two consecutive years. Districts wishing to operate under a waiver shall submit for approval by the department specific performance goals and measures beyond those included on the district report card for identified gifted students.

(b) The department shall withdraw any waiver of standards under this section for a district that receives a “B” or “C” on its gifted value-added measure for two consecutive years after the waiver’s issuance.

(c) The department shall withdraw any waiver of standards under this section for a district that receives a “not met” on its gifted indicator or a “D” or “F” on its gifted value-added measure for the year following the waiver’s issuance.

**Comment [A22]:** Adjusts some of the waiver language to reflect the actual nature of the gifted performance indicator which is not based on grades but rather met/not met. Also adds an additional value-added measure.

#### (4) Remediation of Districts Whose Gifted Students are Performing at an Unsatisfactory Level

(a) Based on Section 3317.40 (D) of the Revised Code, if a district does not meet the gifted performance standards of satisfactory achievement adopted under this section for two consecutive years, the department shall require the district or school to submit an approval plan. If the district fails to improve to a satisfactory level in an additional two years, the department shall direct the district to partner with another organization that has demonstrated the ability to improve the educational outcomes for gifted students to provide services to those students. The partner organization may be another school, district, or other education provider.

(b) The department shall publish a list of schools, school districts, and other educational providers that have demonstrated an ability to serve gifted students.

**Comment [A23]:** Increases accountability based on ORC.

(H) Provisions of this rule for the identification of gifted students shall not be exempted for “effective,” “excellent,” or “excellent with distinction” districts pursuant to rule 3301-15-02 of the Administrative Code.

**Comment [A24]:** Lettering change due to inclusion of funding section.