

Review of 22 Pa. Code Chapter 16 (Special Education for Gifted Students)

Recommendations of the Special and Gifted Education Committee

The Public School Code of 1949 (School Code) defines “children with exceptionalities” as “children of school age who have a disability or who are gifted and who, by reason thereof, need specially designed instruction” (24 P.S. § 13-1371(1)). The Public School Code directs the State Board of Education (Board) to adopt and prescribe standards and regulations for the proper education and training of all exceptional children (24 P.S. § 13-1372(1)). The relevant statute further states that such standards and regulations “shall recognize such factors as number of exceptional children, types of handicaps, facility of transportation, adequacy of existing provisions for exceptional children, and availability of school plant facilities.”

Regulations governing services and programs for students who are suspected and identified as gifted are established in the Board’s regulation at 22 Pa. Code Chapter 16 (Special Education for Gifted Students). Section 16.6(c) establishes a commitment of the Board to conduct a periodic review of its regulations governing gifted education as part of the ongoing supervision of how Chapter 16 is interpreted and applied. In the fall of 2022, the Board’s Committee on Special and Gifted Education (Committee) opened Chapter 16 for review to fulfill its commitment to reviewing the Chapter at least every four years. The Committee began its review by inviting the Department of Education (Department) to make a presentation on its most recent actions to improve opportunities for gifted students. The Committee then invited interested stakeholders to share their thoughts on Chapter 16 at three regional public roundtables held in Harrisburg (October 20, 2022), Pittsburgh (October 25, 2022) and Malvern (October 27, 2022). The Committee also welcomed additional stakeholder input in the form of written comments.

Comments were received from gifted education teachers and supervisors, higher education faculty, parents, and Intermediate Unit gifted liaisons. Stakeholders addressed numerous concerns pertaining to gifted education, including screening and identification procedures, services for twice exceptional students, and the lack of funding for gifted programming. The Committee recommends the following actions to improve the delivery of gifted education services, to ensure compliance with existing requirements set forth in regulation, and to provide clarity surrounding certain practices.

As approved by the Special and Gifted Education Committee on July 12, 2023

- The Committee recommends that the Board's Committee on Academic Standards/Chapter 4 consider proposing an amendment to 22 Pa. Code Chapter 4 (Academic Standards and Assessment) to require that a school district's gifted education plan be posted on the district's website after the plan is approved by the district's board of directors. At present, 22 Pa. Code § 4.13(e) requires gifted education plans to be developed and implemented on a 6-year cycle and further requires that gifted education plans be made available for a public inspection and comment period prior to their approval by a local school board. However, no similar requirement exists for school districts to make their gifted education plans available once they are approved. Gifted education plans should be posted on school districts' websites after their approval as a matter of transparency.

- The Committee endorses requiring instruction and training in gifted education for individuals preparing to enter the education profession, for current teachers, and for administrators with supervisory responsibility for gifted education. To support this, the Committee endorses the following:
 - Gifted education liaisons should be sustained in each Intermediate Unit (I.U.) to provide training in gifted education to current teachers and to disseminate best practices in gifted education to educators within their I.U. regions. The Department, the gifted education liaisons, and local school district leaders should promote participation in these professional development offerings to current teachers. To ensure equity and consistency in professional development offerings across the Commonwealth, the I.U. gifted liaisons should attend quarterly meetings on gifted education that are presented through the Department's Statewide System of Support and the I.U. gifted liaisons should provide trainings to educators within their I.U. regions consistent with the best practices shared by the Department at these convenings. Further, the Department should collect data annually on the gifted education trainings offered by each I.U. as part of the Department's compliance monitoring, including information on what trainings were offered and who participated in the trainings, to determine the consistency of professional development offerings statewide.

- A new course in gifted education for school administrators was developed by the Pennsylvania Association of Gifted Education (PAGE). The Department added the course to the Pennsylvania Inspired Leadership Program (PIL) in June of 2022 as an approved non-PDE course offering and the course was launched in the fall of 2022. The Department should sustain and promote participation in this new gifted education course for school administrators. Further, as school administrators complete the new course, the Department, in partnership with PAGE, should assess the course to determine whether the content is sufficient in addressing training for administrators in gifted education, whether other content should be added to the course, or whether existing course content should be refined.
- The Board's Teacher and School Leader Effectiveness Committee should consider proposing amendments to 22 Pa. Code Chapter 49 (Certification of Professional Personnel) when the Chapter is next opened for a major review to require that instruction in gifted education is incorporated as part of approved educator preparation programs, including both undergraduate programs at institutions of higher education and programs operated by alternative program providers.
- Educator preparation programs, on their own accord, should review their coursework to determine where they may best integrate instruction in gifted education as part of undergraduate and alternative preparation programs if their programs currently do not include such instruction.
- The Department should create and strengthen guidance to the field related to the implementation of Chapter 16 and the delivery of gifted education services as follows:
 - The Department should issue guidance that identifies considerations a school district should take into account in developing a local acceleration policy for gifted education as a supportive resource for districts across the Commonwealth.
 - The Department should issue guidance to the field on best practices for the education of twice exceptional students. In developing a resource that addresses holistically supporting the needs of twice exceptional students, the Department should consider issuing this guidance as a compendium that includes questions and

answers in response to stakeholder concerns and questions regarding gifted services for twice exceptional students.

- The Department should develop guidance to the field that addresses the appropriate tools for universal screening of students for giftedness and guidance on how universal screening should be administered as a means of supporting districts in their execution of screening required under Chapter 16 and as a means of supporting universal screening as a best practice. This guidance also should address the use of nonverbal screeners as a best practice. Nonverbal cognitive assessments remove verbal language barriers in the screening process and may be used to screen students who are English language learners, students with autism, students who are deaf or hearing impaired, students with speech and language disabilities, and students with other learning disabilities. Further, the Department should update its compliance monitoring process to ask school districts to identify their process for conducting universal screening and to describe whether it aligns to the Department's guidance in this area.
- Under Chapter 16, a student with an IQ score lower than 130 may be admitted to gifted programs based on whether other criteria assessed through a multidisciplinary evaluation strongly indicate gifted ability. The Department should issue guidance that articulates how the multidisciplinary evaluation criteria in section 16.21(e) and in section 16.22 should be applied in practice as is permitted under the existing regulation.
- Commentators requested that parent requests for a gifted multidisciplinary evaluation permitted in section 16.22(c) be amended to limit such evaluations to once per school year, not once per school term. The Department should issue guidance to clarify that limiting gifted multidisciplinary evaluations to once per school year is a permissible practice under the existing provisions of Chapter 16.
- Commentators requested that Chapter 16 be amended to establish an expectation for cyclical reevaluations to determine if there is a continued need for gifted specially designed instruction. However, cyclical reevaluations are not prohibited under

Chapter 16. The Department should issue guidance to provide clarity surrounding the permissible use of this practice.

- Commentators requested that Chapter 16 be amended to provide for the inclusion of virtual Gifted Individualized Education Plan (GIEP) meetings and digital signatures. However, the use of virtual meetings and electronic signatures is not explicitly excluded under the existing provisions of Chapter 16. The Department should issue guidance to reflect the use of virtual meetings and electronic signatures as a permissible practice. Further, educators should refer to policies adopted by their local school districts and follow any locally-adopted policies on electronic signatures.
- Commentators identified a need to clarify language used on the current Notice of Recommended Assignment (NORA) form. Specifically, commentators suggested that third and fifth options on the form's list of recommendations pertaining to a student's change in educational placement and/or assignment are confusing to parents and should be better distinguished. In practice, the options to which commentators were referring are applicable in different circumstances as one option is used as part of an initial evaluation of giftedness and the other option is used as part of a gifted education reevaluation. The Department should update the relevant language on the NORA to make this distinction clear in the Department's normal course of work to update its forms.
- The Department should form an external advisory committee of school psychologists, and consider also including a psychologist in private practice, to provide input on the criteria currently used to determine whether a student is mentally gifted. Input from this external advisory committee should be reflected in guidance from the Department pertaining to best practices in evaluation for giftedness and should be used by the Committee to inform decision-making about whether amendments are necessary to the provisions governing gifted evaluation in Chapter 16.

The external advisory committee should consider suggestions raised by stakeholders for revising current gifted identification measures relative to research surrounding the appropriate uses of such measures, including:

- Whether section 16.21(d) should be amended to lower the established IQ score for determining whether a student is mentally gifted from the current established score of 130 to 125.
- Allowing the identification of students for gifted education services based on evaluations in non-academic strength areas.
- Allowing results from group-administered achievement tests to be used as a measure for gifted evaluation.
- Allowing the use of a standardized confidence interval as part of a multidisciplinary evaluation in order to recognize the stability of intellect tested over time while also accounting for testing variance on any given day.
- Whether there are other criteria that appropriately should be added to the existing multidisciplinary evaluation process or whether the existing criteria for multidisciplinary evaluation should be refined.
- The Department should use its supervisory authority of gifted education services and programs to regularly monitor whether school districts are in compliance with gifted education caseload requirements as established in Chapter 16. Such monitoring could occur outside of the Department's annual compliance monitoring of select districts by proactively cross-referencing relevant data on staffing and gifted enrollments that is reported by districts in the Pennsylvania Information Management System (PIMS).
- In the *Master Plan for Basic Education* adopted by the State Board of Education in 2018, the Board encouraged the Department "to review its staffing levels to ensure it has the capacity to support the needs of the educational community throughout the Commonwealth." In the *Master Plan*, the Board further recommended that the General Assembly act to provide appropriate funding to ensure the Department has the necessary capacity to serve the needs of the educational community throughout the Commonwealth. Consistent with this recommendation in the *Master Plan for Basic Education*, the Committee recommends that the Department seek budgetary support from the General Assembly to add two additional staff to its existing complement in order to increase the frequency of compliance monitoring

for gifted education. The Department's present capacity provides for annual monitoring of 10 of the Commonwealth's 500 school districts for compliance with the requirements of Chapter 16. The Department should consider a construct that provides for three staff with responsibility for gifted education compliance monitoring to conduct monitoring activities regionally in Western Pennsylvania, Central Pennsylvania, and Eastern Pennsylvania. This construct should not supplant the technical assistance in gifted education that otherwise is provided regionally through Intermediate Units.

- Stakeholders identified the lack of state funding to support gifted education as a hindrance to meeting the requirements set forth in Chapter 16. As noted in the State Board of Education's *Master Plan for Basic Education*, state policy cannot disregard the importance of capacity to ensure successful implementation of its goals. The Committee recognizes that many of the concerns presented by stakeholders during our roundtables, and the ability to address them effectively, are impacted by the resources available to each school district. Thus, the Committee encourages a discussion of "adequacy" as it relates to education funding, followed by the provision of adequate resources for efficient management at state and local levels.