

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 3126 (14 Del.C. §3126)
14 DE Admin. Code 902

PROPOSED

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

902 Gifted or Talented Education Plan

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §3126, the Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 902 Gifted or Talented Education Plan. This regulation was proposed in October 2023 to clarify language in order to continue to allow gifted and talented services to be provided based on a school district's or charter school's capacity, and to outline school district and charter school responsibilities. In November 2023 it was determined that additional clarification was needed to explain that both school districts and charter schools must have a gifted and talented education plan, but school districts and charter schools could determine the extent of the plan and the areas of giftedness covered.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before January 2, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help improve student achievement as measured against state achievement standards by ensuring each district and charter school has the flexibility to offer identification and support for students based on the district's or charter school's individual capacity. This will provide districts and charter schools the autonomy needed to provide the most equitable supports and services possible for students.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendment regulation does not significantly impact students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place any unnecessary reporting or administrative requirements or mandates on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies regarding the promotion of students.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome

method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no anticipated material costs to implementing this amended regulation.

902 Gifted or Talented Education Plan

1.0 Purpose

The purpose of this regulation is to establish that a gifted or talented student, as identified by a professionally qualified person or persons, may require differentiated educational programs or services beyond those normally provided by the regular school program in order to address the ~~individual's~~ individual student's capabilities. The school districts' or charter schools' capacity to provide differentiated educational programs or services should also be considered as this varies between school districts and charter schools. Capacity means the way in which a school district or charter school chooses to identify its areas of giftedness and the types of services they choose to provide. A school district or charter school is not required to provide programming for all giftedness areas.

23 DE Reg. 568 (01/01/20)

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning:

~~"Gifted or Talented Education Plan~~ talented education plan" or "Plan plan" means a Delaware Department of Education ~~approved document~~ approved document created by a school district or charter school for the development, implementation, and evaluation of an identification process and appropriate services for gifted or talented students.

~~"Gifted or Talented Student~~ talented student" means a child enrolled in a Delaware public school who has been identified by a professionally qualified person or persons as meeting the following definition of gifted or talented:

A child capable of high performance with demonstrated achievement ~~and/or~~ or potential ability in any of the following giftedness areas, singularly or in combination:

- General intellectual ability;
- Specific academic aptitude;
- Creative or productive thinking;
- Leadership ability;
- Visual and performing arts ability; or
- Psychomotor ability.

~~"Relative Caregiver~~ caregiver" means, pursuant to 14 Del.C. §202(f)(2), an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin, or first cousin once removed but who does not have legal custody or legal guardianship of the student.

23 DE Reg. 568 (01/01/20)

3.0 ~~Development and Components of the Plan~~ Development, Components and Plan Review

3.1 Each school district or charter school shall have a ~~Plan plan~~ Plan plan which, at a minimum, shall:

3.1.1 Outline the anticipated services to be provided and giftedness areas to be covered based upon each individual district or charter school's capacity.

~~3.1.4~~ 3.1.2 Outline goals and specific outcomes;

~~3.1.2~~ 3.1.3 Be developed with input from various stakeholder groups including parents;

~~3.1.3~~ 3.1.4 Provide the process for identification of gifted or talented students by professionally qualified persons;

~~3.1.4~~ 3.1.5 Outline an identification process that includes how each district or charter identifies gifted learners and in which defined giftedness areas that ensures all students have an equal opportunity to be identified and participate in the program;

~~3.1.5~~ 3.1.6 Provide for a communication process, which shall include procedures to inform ~~parent(s), guardian(s), or Relative Caregiver(s)~~ parents, guardians, or relative caregivers of a student's participation in the gifted or talented education program;

~~3.1.6~~ 3.1.7 Establish procedures for requiring that, at a minimum, each teacher assigned to teach a student identified as gifted or talented be certified in accordance with the applicable Professional Standards Board regulations.

~~3.1.7~~ 3.1.8 Establish procedures for ~~the identification and placement of a student who was identified as gifted or talented in the school district from which the student transferred~~ students who transfer into the school district or charter school who have been identified as gifted or talented in their prior school; and

~~3.1.8~~ 3.1.9 Provide for an evaluation of the ~~Plan provided for its gifted or talented students plan.~~

3.2 Implementation of the gifted or talented programs and services shall be aligned to the ~~Plan~~ plan.

3.3 The Department of Education shall review each plan periodically, but not less than every 5 years for compliance with this regulation and equitable practices. If a school district or charter school makes any substantive changes to the gifted or talented education plan, the plan shall be provided to the Department of Education within 1 year of the change for review for compliance with this regulation.

23 DE Reg. 568 (01/01/20)

4.0 ~~Department of Education Responsibilities~~ Resources

~~4.1~~ The Department of Education shall maintain a resource guide of best ~~practices,~~ practices on its ~~website,~~ website that a school district or charter school may use in the development and implementation of its ~~Plan~~ plan.

~~4.2~~ Each ~~Plan shall be reviewed periodically, but not less than every five years, by the Department of Education for compliance with this regulation, and any substantive changes to the Plan shall be provided for review for compliance with this regulation.~~

19 DE Reg. 48 (07/01/15)

23 DE Reg. 568 (01/01/20)

27 DE Reg. 383 (12/01/23) (Prop.)