

**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))

**FINAL**

**REGULATORY IMPLEMENTING ORDER**

**902 Gifted or Talented Education Plan**

**I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

The Secretary of Education seeks the consent of the State Board of Education to establish 14 **DE Admin. Code** 902 Gifted or Talented Education Plan. This regulation is being established pursuant to 14 **Del.C.** §3126, which states that the extent of programs and facilities provided for children determined to be gifted or talented shall be in accordance with the rules and regulations of the Department of Education. This regulation develops the rules and regulations relative to standards for identifying gifted or talented students, and the development, implementation and monitoring of programs for gifted or talented children.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on April 27, 2015, in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens, State Council for Persons with Disabilities, and the Delaware Talented and Gifted State Affiliate of the National Association for Gifted Children (NAGC).

One comment was regarding the rationale for not including charter schools in the regulation. This comment noted that Delaware statutory law does not exclude charter schools from offering gifted or talented education, and that all students need to receive an equitable education, including students who may transfer from a school district to a charter school. The Department's rationale for not including charter schools in this regulation was that, pursuant to 14 **Del.C.**, Ch. 5, charter schools are provided the opportunity to use different or innovative school environments and teaching/learning methods. Additionally, the charter school application process includes a review of the proposed programs.

Another comment requested that the wording in 3.1 be clarified to state "Each school district shall have a Plan, which, at a minimum, shall." The Department is in agreement and made the change.

An additional comment noted there was little value to language in 3.1.6 regarding the certification for teachers who will instruct identified gifted or talented students. The proposed regulation states that "each teacher....be certified in accordance with the applicable Professional Standards Board regulations." The Department does not believe a change in this language is warranted, as the reference to the certification by the Professional Standards Board is specific and reflects what is required for teaching students identified as gifted or talented.

Another comment noted that the term "periodic review" in 4.2 may need to be changed to include a specific timetable. The Department agrees with this and the regulation is clarified to provide for each Plan to be reviewed periodically, but not less than every five years.

Lastly, the Department of Education also added the word "beginning" and deleted "and each year thereafter" in 3.2 to clarify that the Plan should be provided to the Department by July 1, 2016 for implementation beginning no later than August 1, 2017.

**II. FINDINGS OF FACTS**

The Secretary finds that it is appropriate to establish 14 **DE Admin. Code** 902 Gifted or Talented Education Plan pursuant to 14 **Del.C.** §3126, which states that the extent of programs and facilities provided for children determined to be gifted or talented shall be in accordance with the rules and regulations of the Department of Education. This regulation provides the rules and regulations relative to standards for identifying gifted or talented students, and the development, implementation and monitoring of programs for gifted or talented children.

**III. DECISION TO ESTABLISH THE REGULATION**

For the foregoing reasons, the Secretary concludes that it is appropriate to establish 14 **DE Admin. Code** 902 Gifted or Talented Education Plan. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 902 Gifted or Talented Education Plan attached hereto as *Exhibit "B"* is hereby established. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 902 Gifted or Talented Education Plan hereby established shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

**IV. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 902 Gifted or Talented Education Plan established hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 902 Gifted or Talented Education Plan in the *Administrative Code of Regulations* for the Department of Education.

## V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on June 18, 2015. The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware *Register of Regulations*.

**IT IS SO ORDERED** the 18th day of June 2015.

### **Department of Education**

Mark T. Murphy, Secretary of Education

Approved this 18th day of June 2015

### **State Board of Education**

Teri Quinn Gray, Ph.D., President

Jorge L. Melendez, Vice President

G. Patrick Heffernan

Barbara B. Rutt

Gregory B. Coverdale, Jr.

Terry M. Whittaker, Ed.D.

Randall L. Hughes II

## **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 professionally qualified person(s), may require differentiated educational program(s) or service(s) beyond those normally provided by the regular school program in order to address the individual's capabilities.

### **2.0 Definitions**

"**Gifted or Talented Education Plan (Plan)**" means a document developed by a school district for the development, implementation, and evaluation of an identification process and appropriate services for gifted or talented students.

"**Gifted or Talented Student**" means a student in the chronological age group four (4) through the end of the school year in which the child attains the age of 21 or until receipt of a regular high school diploma, whichever occurs first, who has been identified by a professionally qualified person(s) as meeting the following definition of gifted or talented:

A child capable of high performance with demonstrated achievement and/or potential ability in any of the following 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**" means, pursuant to 14 **Del.C.** §202 (f)(1), 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.

### **3.0 Development and Components of the Plan**

3.1 Each school district shall have a Plan ~~[for educational services for identified gifted or talented students.~~  
**The Plan** which], at a minimum, shall:

3.1.1 Outline goals and specific outcomes;

- 3.1.2 Be developed with input from various stakeholder groups including parents;
- 3.1.3 Provide the process for identification of gifted or talented students by professionally qualified persons;
- 3.1.4 Outline an identification process that ensures all students have an equal opportunity to be identified and participate in the program;
- 3.1.5 Provide for a communication process, which shall include procedures to inform parent(s), guardian(s), or Relative Caregiver(s) of a student's participation in the gifted or talented education program;
- 3.1.6 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 Establish procedures for consideration of the identification and placement of a student who was identified as gifted or talented in the school district from which the student transferred; and
- 3.1.8 Provide for an evaluation of the Plan provided for its gifted or talented students.
- 3.2 The Plan should be provided to the Department of Education by July 1, 2016 for implementation **[beginning]** no later than August 1, 2017 ~~[and each year thereafter]~~.

#### **4.0 Department of Education Responsibilities**

- 4.1 The Department of Education shall maintain a resource guide of best practices, on its website, that a school district may use in the development and implementation of its 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) (Final)**