

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2041

By: Begley

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Section 18-109.5, which relates to definitions for school funding purposes; modifying definition of gifted; amending 70 O.S. 1991, Sections 1210.301, 1210.303 and 1210.307, as amended by Section 51, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1993, Section 1210.307), which relate to gifted and talented children and duties of certain entities for gifted and talented programs; modifying definition of gifted and talented children; adding certain staff responsibility; requiring submission of certain plans; stating specifications for such plans; requiring submission of a report; stating specifications for such report; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 18-109.5, is amended to read as follows:

Section 18-109.5 A. ~~Prior to July 1, 1990, as used in Sections 18-109.3 and 18-109.4 of this title, and on and after July 1, 1990, as~~ As used in Section 108 18-201 of this act title:

1. "Vision impaired" means a visual impairment which, even with correction, adversely affects a child's educational performance;

2. "Children with learning disabilities" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, written or spoken, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

3. "Hearing impaired" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance;

4. "Economically disadvantaged" means all children who qualify for free or reduced lunches. ~~Provided, for the school year 1981-82, economically disadvantaged shall mean children who qualify and participate in a program for free or reduced lunches;~~

5. "Educable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

6. "Emotionally disturbed" means emotional problems preventing adjustment in regular class including:

- a. an inability to learn which cannot be explained by intellectual, sensory or health factors,
- b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers,
- c. inappropriate types of behavior or feelings under normal circumstances,
- d. a general pervasive mood of unhappiness or depression, or
- e. a tendency to develop physical symptoms or fears associated with personal or school problems;

The term includes children who are schizophrenic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed;

7. "Gifted" means ~~identified students as outlined in Section 1210.301 of Title 70 of the Oklahoma Statutes~~ those students identified pursuant to the provisions of paragraph 1 of Section 1210.301 of this title; provided, for the purpose of computing State Aid pursuant to the provisions of subparagraph g of paragraph 2 of subsection B of Section 18-201 of this title, the combined total number of students identified as gifted and talented in any school district as defined in subparagraphs a through d of paragraph 1 of Section 1210.301 of this title shall

not exceed five percent (5%) of the total average daily membership of the school district for the preceding school year;

8. "Multiple handicapped" means concomitant impairments, such as mentally retarded/blind, mentally retarded/orthopedically impaired, and other combinations, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf/blind children;

9. "Physically handicapped" means a severe orthopedic impairment or an autistic condition which is manifested by severe communication and other developmental and educational problems; or having limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly, and impairments from other causes;

10. "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, language impairment, or voice impairment, which adversely affects a child's educational performance;

11. "Trainable mentally handicapped" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the development period, which adversely affects a child's educational performance;

12. "Deaf/Blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children;

13. "Bilingual" means those students who have limited English speaking abilities or who come from homes where English is not the dominant language as reported on the prior year application for accrediting;

14. "Special Education Summer Program" means those summer school programs which school districts may provide for children who are severely or profoundly multiple-handicapped if their individualized education program states the need for a continuing educational experience to prevent loss of educational achievement or basic life skills. Any school district receiving funds for such special education summer programs shall provide services as provided in Section 13-101 of this title. ~~Provided, during the 1982-83 school year the State Department of Education shall obtain data related to the number of children who would qualify for summer school special education programs and the number of children who are being served in summer school special education programs;~~ and

15. "Optional Extended School Year Program" means the program defined in Section ~~18~~ 1-109.1 of this ~~act~~ title.

B. The State Board of Education is hereby authorized to modify and redefine by regulation the definitions set out in this section whenever such modification is required to receive federal assistance therefor.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 1210.301, is amended to read as follows:

Section 1210.301 As used in this act:

1. "Gifted and talented children" means those children identified at the preschool, elementary and secondary level as having demonstrated potential abilities of high performance capability and needing differentiated or accelerated education or services. For the purpose of this definition, "demonstrated abilities of high performance capability" means:

~~a. for the 1985-86 school year, those identified students who score in the top three percent (3%) on any national standardized test or may include students who excel in one or more of the following areas:~~

~~(1) Intellectual ability,~~

~~(2) Creative thinking ability,~~

~~(3) Leadership ability,~~

~~(4) Visual and performing arts ability, and~~

~~(5) Specific academic ability;~~

~~b. beginning with the 1986-87 school year, those identified students who score in the top three percent (3%) whose composite score falls on or above the ninety-seventh (97th) percentile level on any national standardized test of intellectual ability. Said definition may also include students who excel in one or more of the following areas:~~

~~(1) a. creative thinking ability,~~

~~(2) b. leadership ability,~~

~~(3) c. visual and performing arts ability, and~~

~~(4) d. specific academic ability.~~

A school district shall identify children in capability areas by means of a multicriteria evaluation. Provided, with first and second grade level children, a local school district may utilize other evaluation mechanisms such as, but not limited to, teacher referrals in lieu of standardized testing measures;

2. "Gifted child educational programs" means those special instructional programs, supportive services, unique educational materials, learning settings and other educational services which differentiate, supplement and support the regular educational program in meeting the needs of the gifted and talented child;

3. "Department" means the State Department of Education;

4. "Board" means the Oklahoma State Board of Education; and

5. "Act" means Sections 1210.301 through 1210.307 of this title.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 1210.303, is amended to read as follows:

Section 1210.303 In administering this act the Department of Education shall provide:

1. The necessary State Department of Education staff with a primary responsibility for:

a. developing educational programs for gifted and talented children,

- b. assuring appropriate assessment and evaluation procedures for use by school districts of this state, and
- c. enforcing compliance with the provisions of Sections 1210.301 through ~~1210.308~~ 1210.307 of this title by school districts;

2. The procedures for educational screening, needs analysis and prescriptive programming for gifted and talented children by Regional Education Service Center personnel and others approved by the Department;

3. In-service training for selected teachers, administrators, college personnel, parents and interested lay persons;

4. Assistance in the development of new programs and the projection of program alternatives for the eventual provision of high quality programs for all identified gifted and talented children;

5. Recommendations to the State Board of Education concerning qualifications of teachers for gifted and talented children;

6. Recommendations for degree programs and short course seminars for the preparation of teaching personnel for gifted and talented children;

7. Selected procedural safeguards for all potentially identifiable and identified gifted and talented children; ~~and~~

8. Program monitoring and auditing for districts with extraordinary numbers of identified students, identified students who as a group are not representative of racial and socioeconomic demographics of district student population, unusual budget reports, or inappropriate implementation policies or questionable gifted child programming; and

9. Any other programs, services, supplies or facilities necessary to implement the provisions of this act.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 1210.307, as amended by Section 51, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1993, Section 1210.307), is amended to read as follows:

Section 1210.307 A. It shall be the duty of each school district to provide gifted child educational programs for all

identified gifted children, as defined in Section 1210.301 of this title, who reside in that school district. This duty may be satisfied by:

1. The district directly providing gifted child educational programs for such children;

2. The district joining in a cooperative program with another district or districts to provide gifted child educational programs for such children;

3. The district joining in a cooperative program with a private or public institution within such district; or

4. The district transferring identified gifted and talented children to other school districts which provide the appropriate gifted child educational programs, provided, no transfer shall be made without the consent of the board of education of the receiving school district. The district in which the child resides shall provide transportation for the transferred student and pay an amount of tuition equal to the proportion of the operating costs of the program to the receiving district. Transfers authorized by this section shall be made under such rules and regulations as the State Board of Education may prescribe.

B. Each district shall, regardless of the method used for accomplishing the duty set forth in subsection A of this section, notify in writing the parents of each child identified as gifted of the fact that the child has been so identified. The district shall also provide each such parent a summary of the program to be offered such child.

C. ~~Each~~ Beginning with the 1994-95 school year, and each year thereafter, each board of education shall ~~adopt a~~ submit a plan for gifted child educational programs as defined in Section 1210.301 of this title to the State Department of Education which shall include:

1. A written policy statement which specifies criteria for placement of children in gifted and talented programs that is consistent for grades one through twelve;

2. A description of curriculum for the gifted child educational program or learner outcomes for gifted children. Such description shall demonstrate that the curriculum is differentiated from the normal curriculum in pace and/or depth and that it has scope and sequence;

3. Criteria for evaluation of the gifted child educational program;

4. Required competencies and duties of gifted child educational program staff;

5. Number and percentage of students identified by the district as gifted children pursuant to subparagraph g of paragraph 2 of subsection B of Section 18-201 of this title; and

6. A budget for the district gifted child educational programs.

D. At the conclusion of the 1994-95 school year and each school year thereafter, the board of education of each school district shall prepare a report which outlines the expenditure made by the district during that year for gifted child educational programs. The report shall identify expenditures by major object codes and program classification pursuant to the Oklahoma Cost Accounting System, as adopted by the State Board of Education pursuant to Section 5-135 of this title. Copies of the report shall be sent to the State Department of Education by August 1 of each year.

E. The State Department of Education shall, after each school year, report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning the number of children identified for the programs, number of children served by the programs, type of programs provided, type of screening procedures utilized, cost analysis of the programs and the estimated number of gifted and talented children unserved by the programs.

SECTION 5. This act shall become effective July 1, 1994.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take
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effect and be in full force from and after its passage and approval.

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