

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2041

By: Begley, Widener, Kirby,
Campbell and Ferguson of
the House

and

Williams (Penny) of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Sections 18-109.5, 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 definitions for school funding purposes; modifying duties of State Department of Education related to gifted and talented educational programs; requiring State Department of Education to perform certain audits; providing penalty for failure to provide certain programs; authorizing withholding of State Aid under certain conditions; requiring establishment of certain process for identifying certain students; requiring submission of certain plans; specifying certain information in certain plans; requiring certain budget to be submitted; requiring district board of education to file certain report; requiring district board of education to create local advisory committee on gifted and talented education; creating the Advisory Committee on Education for Gifted and Talented Children; providing for membership, appointment process, terms of office and meetings; making meetings subject to the Oklahoma Open Meeting Act; specifying duties; deleting obsolete language; changing certain statutory references; providing for codification; 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 of this act~~ 18-201 of this 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;

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%) 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 A. 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 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. Auditing of gifted and talented education programs in twenty-five (25) districts selected at random each year to determine compliance with the provisions of Sections 1210.301 through 1210.308 of this title as well as 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, 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.

B. Districts shall be subject to loss of that portion of State Aid generated by the gifted and talented weight for each student the district has identified as gifted and talented for purposes of Section 18-201 of this title and for whom, upon audit by the State Department of Education, the district has not demonstrated that the depth, breadth, and pace of the curriculum have been and continue to be modified. The penalty prescribed in this section shall be enforced by reducing State Aid to the district during the next school year in the amount of the penalty. A district shall be subject to loss of State Aid pursuant to this subsection only upon verification of the district's failure to provide appropriate programs and services for identified gifted and talented students through an audit by the State Department of Education.

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~~ 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~~ a process for selection and assessment of children 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. Evidence of participation by the local advisory committee on education for gifted and talented children in planning, child identification process and program evaluation;

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

6. 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

7. 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 expenditures made by the district during that year for gifted child educational programs. The report shall identify expenditures by major object codes and program classifications 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.308 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Each district board of education shall create a local advisory committee on education for gifted and talented children. The local committee shall consist of at least three (3) but no more than eleven (11) members. The district board shall appoint all members, at least one-third (1/3) of whom shall be selected from a list of nominations submitted by associations whose purpose is advocacy for gifted and talented children. The committee shall be broadly representative of the community. The committee shall be appointed no later than September 15 of each school year for two-year terms and shall consist of parents of children identified

as gifted and talented and community members who may be but are not required to be parents of students within the district.

B. The first meeting of the local advisory committee shall be called by the district superintendent no later than October 1 of each year. At the first meeting the committee shall elect a chair and a vice-chair. The committee shall meet at least four times per year in meeting space furnished by the district. The district shall furnish staff for the advisory committee. All meetings of the committee shall be subject to the provisions of the Oklahoma Open Meeting Act.

C. The duties of the advisory committee shall be to assist in the formulation of district goals for gifted education, to assist in development of the district plan for gifted child educational programs, to assist in preparation of the district report on gifted child educational programs, and to perform other advisory duties as may be requested by the board of education.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.309 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2000, in accordance with the Oklahoma Sunset Law, an advisory committee to the State Board of Education to be designated the "Advisory Committee on Education for Gifted and Talented Children", to consist of fifteen (15) members who shall be appointed no later than October 1, 1994, as follows:

1. Five business leaders, three of whom shall be appointed by the Speaker of the House of Representatives and two of whom shall be appointed by the President Pro Tempore of the Senate; and

2. Three school administrators, three teachers and four parents of gifted and talented children appointed by the State Superintendent of Public Instruction. All of the initial teacher appointments and two of the initial parent appointments made by the State Superintendent shall be made from a list of nominations provided by statewide organizations for gifted and talented education and from a list of self nominations. In making the nominations, two names shall be submitted for each position to be

filled. At least one administrator, one teacher and one parent shall be from school districts with fewer than two thousand (2,000) students in average daily membership. None of the parents appointed may be an employee of a public school district.

B. No member of the Advisory Committee may be employed by a public agency of the State of Oklahoma. Both appointees of the President Pro Tempore of the Senate and one of the appointees of the Speaker of the House of Representatives shall serve a two-year term of office. Two of the appointees of the Speaker of the House of Representatives shall serve a one-year term. Four of the State Superintendent of Public Instruction's initial appointees shall serve a two-year term of office. Six of the State Superintendent of Public Instruction's initial appointees shall serve a one-year term of office. Thereafter, all terms of office shall be for two (2) years. Advisory Committee members shall not be eligible to serve more than two terms. A vacancy on the Advisory Committee shall be filled for the unexpired term by the appointing authority for the position for which the vacancy occurs. All Advisory Committee members shall serve without compensation. The State Superintendent of Public Instruction and the State Director of Gifted and Talented Education shall serve as ex officio members of the Advisory Committee.

C. The first meeting of the Advisory Committee shall be called by the State Superintendent of Public Instruction no later than December 31, 1994. At the first meeting and thereafter on an annual basis the Advisory Committee shall elect a chair and vice-chair to preside. The Advisory Committee shall meet at least four (4) times per year in a meeting space furnished by the State Department of Education. The State Department of Education shall also furnish staff services to the Advisory Committee. All meetings on the Advisory Committee shall be subject to the provisions of the Oklahoma Open Meeting Act.

D. The duties of the Advisory Committee shall be to assist in the formulation of state goals for gifted education, to assist in the development of guidelines for submission of school district plans for gifted education, to review the district plans for

gifted child educational programs, to recommend audits by the State Department of Education of districts exhibiting criteria set forth in paragraph 8 of Section 1210.303 of Title 70 of the Oklahoma Statutes, to comment on rules adopted by the State Board of Education related to gifted education, to provide advice when requested by the State Superintendent of Public Instruction or by the State Director of Gifted and Talented Education on problems or aspects of gifted education and to perform other advisory duties as may be requested by the State Superintendent of Public Instruction.

SECTION 7. This act shall become effective July 1, 1994.

SECTION 8. 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 effect and be in full force from and after its passage and approval.

44-2-2337

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