

April 11, 2007
Mrs. Mollie Phillips,
Chair, Chapter 14/16 Committee
State Board of Education

The Pennsylvania Association for Gifted Education (PAGE) board and general membership of over 1000 parents, teachers and administrators thanks the committee for the opportunity to testify concerning Chapter 16, Special Education for Gifted Students and Chapter 14, Special Education Services and Programs. PAGE welcomes the procedural alignment between Chapter 14 and 16 to make the administration of both regulations parallel. This alignment will lessen confusion and make procedures clearer.

PAGE has compiled the due process appeals panel decisions and is working on analysis of the data. We have found in preliminary work that clarification in several areas is needed to avoid due process cases in the future. PAGE feels that the issues we address in our changes to the draft will clarify some of the points now causing the waste of resources of parents and school entities.

With my apologies to Simon and Garfunkel, Chapter 16 needs to be the “Bridge Over Troubled Waters” for the more than 71,000 gifted students in Pennsylvania. Indeed there are troubled waters in many school districts that are not complying with the law in identification, programming or systemic procedures. Not meeting the needs of a gifted child will cause underachievement. The old and erroneous idea that gifted students will succeed on their own without our help is hurting their development and wasting the resources which this country and world so desperately need to solve the complicated problems we face. When we need a complex thinker to meet the challenge of the future, will we hear only the “Sounds of Silence”?

If these ten minutes go “Slip Slidin’ Away”, PAGE is submitting these and additional written comments to avoid “A Dangling Conversation”. So, “Until It’s Time for Me to Go”... PAGE would like to begin with **16.4 Strategic plans**.

PAGE’s proposed changes are in red and underlined on your copy.

(b) Each school entity will address the following in their gifted education plan:

add

2. The gifted special education programs and programming offered.

Rationale: Programs are not individualized under the Statute. However, the GIEP requires individualized programming necessary to serve the unique needs of the individual. The programming options available to meet the varied needs of gifted students within a school entity should be delineated in their gifted plan.

add

3. The school entity’s staff development plan must include training for LEA’s, regular education staff and gifted programming staff each year in best practices and specially designed instruction for gifted students and it should ensure that all personnel necessary to carry out the programming are appropriately and adequately prepared.

Rationale: Strategic plans should describe the staff development plan for educating those responsible for development of the programming plan and implementation of the specially designed instruction for gifted students.

add

16.6 General supervision.

(d) Monitoring – The Department will conduct on-site cyclical and complaint driven monitoring of school entities to ensure school entity implementation of this chapter. The Secretary shall outline the process and schedule for monitoring in a Basic Education Circular (BEC).

(e) Complaint Procedure: The department shall establish a complaint procedure and disseminate notice of that procedure which shall include:

(1) The process for parents to file

(2) An opportunity for the school district to respond to such complaints

(3) A plan for the Department to resolve complaints.

(4) A system of annual reporting to the State Board and public that sets forth the numbers of and the substantive and procedural issues of complaints filed by parents.

Rationale:

In 2000, when the PA State Board of Education revised and then implemented Chapter 16, Special Education for Gifted Students, it also promised oversight of gifted education by the Department of Education. These oversight procedures, were to be similar to those found in Chapter 14 and 342. No specific language was added to Chapter 16, because the then State Board agreement said "the responsibility of the secretary of the Department is to oversee gifted education as found in the School Code. Section 137(1)". The Board noted that the Secretary will continue to include students who are gifted in Department tracking systems, monitor the actions of school districts for compliance with the requirements of this regulation (Chapter 16) and hear investigative complaints.

This compliance monitoring on the part of PDE did not occur for several years, following the first adoption of Chapter 16. In many districts across the state, students were not provided either the specially designed instruction or procedural safeguards as required in Chapter 16. But within the recent year the department has begun a process of limited compliance under the commendable leadership of the past and present Directors of the Bureau of Special Education. PDE clearly understands compliance monitoring is crucial to ensuring Chapter 16 works properly so all eligible students benefit from it's provisions, and PAGE and it's general membership wholeheartedly agree. Therefore, to help ensure PDE's future success in administering Chapter 16, it is appropriate that clear, strong, monitoring language be added to Chapter 16 Additional numbers of districts, more than 10, need to be monitored each year.

16.7 Special Education

Screening and Evaluation Process - PAGE agrees with this section.

16.21 General

(b) Awareness activities will be conducted annually - PAGE agrees with this section.

Rationale: To eliminate the need for two separate Child Find Screenings and public notifications as an undue burden upon school districts, we recommend that one system be used to conduct public awareness of programs and services: ties to Chapter 14 process. Also, makes gifted education information available for those parents of students who may need specially designed instruction.

change

(d) Each school district shall establish procedures to determine whether a student is mentally gifted. This term includes a person who has an IQ of 130 or higher (and) or when multiple criteria as set forth in this chapter and in Department Guidelines indicate gifted ability. Determination of gifted ability will not be based on IQ score alone. Deficits in memory and/or processing speed as indicated by such test, cannot be used solely to exclude a student for eligibility for gifted special education. A person with an IQ score lower than 130 (may be admitted to gifted programs) must receive gifted educational programming and services when other educational criteria in the profile of the person strongly indicate gifted ability. Determination of mentally gifted shall include an assessment by a certified school psychologist.

Rationale: Change to “Or” - As the definition currently is written, it can be interpreted to mean that schools /districts are free to use either an IQ cutoff or multiple criteria when they really should use multiple criteria that include IQ scores.

Change to “Must” - PAGE would like it to say “must” instead of “may,” for the same reason as above—the current wording suggests that identification of such students is optional. Use of “gifted educational programming and services” rather than “admitted to gifted programs” indicates that the student should receive services that are appropriate to the individual student.

(d) (1) subjects should be subtests - correct typo

16.22 Gifted multidisciplinary evaluation.

(c) use Chapter 14 Language – add parents may request a gifted multidisciplinary evaluation at any time, with a limit of one request per school term, and the request shall be in writing. If a request is made orally to the LEA, the LEA shall inform the parents that the request must be made in writing and shall provide, within five school days, the parents with a form for that purpose.

add

Rationale: Consistency with Chapter 14 as much as possible so that one process or system will be easier for school entities to comply while one process helps ease administrative procedures.

Under (g) (3) (v) Selected and administered to assess specific areas of educational need and ability and not merely a single general IQ. The use of an index score such as the GAI (General Ability Index) when recommended by test producers for identifying gifted students may be appropriate rather than a full scale IQ score.

add

Rationale:

Relevance of the Full Scale IQ can be questionable. Current wording of Chapter 16 is not clear about which component of the IQ must be at the 130 level for a child to be considered gifted – The Full Scale IQ (FSIQ) or an Index Score (e.g., on the WISC-IV, Verbal Comprehension, Perceptual Reasoning, Working memory, or Processing Speed). Many schools use the FSIQ.

Especially with the WISC-IV, the FSIQ is comprised of abilities in verbal reasoning, nonverbal reasoning, working memory, and processing speed. It is not clear that all of these abilities are relevant to identifying gifted students. For instance, given the way curricula often are constructed, significant review of previous topics is built in. Therefore, even a student who is accelerated (often the strongest form of gifted programming) probably does not need to have “gifted-range” processing speed since there is plenty of time to learn the material. Previous editions of the WISC based the FSIQ more on the reasoning components of the test, and less on working memory and processing speed. This still may be appropriate in many, if not most, cases. We are asking that the General Ability Index (GAI; see Technical Report #4 at www.harcourtassessments.com) be considered in place of a FSIQ unless there is a clear reason why processing speed and working memory are relevant in a given school/district.

Research has clearly shown that giftedness cannot always be demonstrated via an I.Q. score, hence the need for multiple criteria. It is especially important that multiple criteria be used as a basis in determining whether or not a student is gifted for students with cultural, learning and/or language differences or lack support/resources from home. Research also indicates that a number of gifted students are perfectionists, taking more time to ensure accuracy in task completion or may be stifled altogether on any timed task, resulting in a lower score. Thus, it is possible that one of the characteristics that some gifted students express may result in the student not being identified as gifted.

16.22 (j) 60 school days

Rationale: This is another parallel with Chapter 14 and we support the process to make a uniform system for both Special Education Chapters

16.31 GIEP General

PAGE agrees with the draft in this section. Moving from another state outside the Commonwealth wording is ok.

16.32 GIEP OK with deletion

(a) Present education levels – does this mean present levels of education performance?

(6) a teacher of the gifted – PAGE agrees with this section.

add

(e)(1) A statement of the student's present levels of educational performance including: results of standardized testing, above-grade level testing, and curriculum-based assessment.

Rationale: PAGE sees present levels of performance to be a problem area for teachers and parents. More information and direction as to where the student is performing is needed in order to provide adequate programming for each student and to monitor progress for that student.

add

(e) (2) remove short-term learning outcomes – Ok to align with Chapter 14.
Keep annual goals and make them measurable.

Rationale: Outcomes must be measurable in order to ensure that students make progress

(e) (4) Graduation Plan

(4) Projected dates for initiation and anticipated duration of gifted education.

add

ADD: The GIEP of each exceptional student shall contain the following: A plan for the completion of necessary credits for graduation developed at least three years prior to the anticipated date of graduation, and an analysis of acceleration on high school credit requirements and admission to post-secondary schools.

Rationale: Many students take high school classes in middle school and do not receive high school credit, and the lack of planning has led to litigation. We need to have schools plan ahead so that a student's needs are met the whole way through the school system.

add

(6) The names and positions of GIEP teams participants, their signatures, and the date of the meeting

Rationale: This assures that all members of the GIEP team actually attend the meeting and are informed of its contents.

(e) The school entity will notify teachers who work with a student who has been identified as gifted and in need of specially designed instruction of their implementation responsibilities.

Rationale to support – This is good - students who are gifted will receive services throughout the day from all teachers in the area they need specially designed instruction.

add

(g) (2)

The GIEP of each student shall be implemented no more than 10 school days after a Notice of Recommended Assignment (NORA) is signed or. . . .

Rationale: The GIEP is not signed. The NORA is what is signed.

General (16.41). Case size and class roster

Educational Placement: Our recommendation regarding this section is:

c) Districts shall adopt board policies relating to caseloads and class sizes for gifted students which:

add

3. Limit the number of gifted students which can be on a full-time individual gifted teacher's caseload to a maximum of 60 students, proportionately reduced for each regular classroom assignment.

Rationale: As districts strive to implement Chapter 16 and uphold the spirit of its intent “to provide individualized specially designed instruction” for all identified gifted students to allow for meaningful academic progress and achieve to their potential, programming for gifted students has changed dramatically. Gifted support teachers’ role now includes:

- *Developing differentiated curriculum and pre- and post-assessments that meet the needs of gifted students across all core and special subject areas, such as the humanities and foreign language, across a range of grade levels (K-6, 5-8, 9-12, and in some cases, K-12). No one teacher can possibly be knowledgeable in so many different curricular areas across so many grade levels or have the time needed to fulfill such an overwhelming task for 75 students with varying degree of need, representing multiple grade levels.*
- *In addition to curriculum development, gifted teachers co-teach, instruct gifted support students in pull-out seminars or in some cases, enrichment/acceleration on a one-to-one basis.*
- *At the middle school, and high school levels, the level and depth of curriculum increases and many of these teachers are teaching a partial or full teaching schedule.*
- *While meeting these curricular needs, the gifted support teacher is responsible for overseeing the identification, re-evaluation, and the development and implementation of the GIEP processes.*
- *Many gifted support teachers are involved in or are directly responsible for staff development in the many areas that fall under the umbrella of gifted education (e.g. characteristics of the gifted student, identification/screening/evaluation/GIEP processes, best practices and strategies, differentiated curriculum and instruction, and social-emotional issues, etc.)*
- *Caseloads include the twice-exceptional student and, although these students receive the specially designed instruction afforded other identified students, they are not counted on the gifted teacher’s caseload because the primary placement resides with special education (e.g. speech/language, learning support, and/or emotional support).*
- *With the ever-increasing demands placed on the regular classroom teacher, NCLB and standards-driven curriculum, it is more important than ever to ensure the gifted support teacher’s ability to provide the services required in each gifted student’s GIEP. A reduction in caseload will help achieve this requirement of Chapter 16 (16.41, (c) (1), and gifted children will receive the appropriate services and individualized specially designed instruction to make meaningful progress and achieve to their potential.*

change

(4) Limit the total number of gifted students which can be on an individual gifted teacher’s class roster to a maximum of 20 students.

Rationale: Having 25 gifted students in a classroom limits the amount of differentiation and individualizing that can be accomplished by one teacher. We recommend 15 students be the number to optimize learning but will accept 20.

16.63 Impartial due process hearing – Appellate hearing officers’ panel elimination - Align with Chapter 14

Rationale: We will accept the same process as in Chapter 14 even though it may be more difficult for parents of gifted since they may have to get an attorney to go to Commonwealth Court. PAGE encourages more training to be given to hearing officers to enable them to do a more consistent job. We want to emphasize the need for consistency and for judgments to be child centered.

(p) Upon receipt of a final decision from the Hearing Officer or the court of Competent Jurisdiction, the school entity shall provide to PDE an assurance of its implementation of such an order. Such assurance must be filed within 30 school days within receipt of the final decision.

Rationale: PAGE can support this since at the present time, some orders are going unfulfilled by the school entity. This section would ensure that the Department oversees the implementation of the order.

add

16. ? Prehearing conferences

The purpose of the prehearing conference is to reach an amicable agreement in the best interest of the gifted student.

(1) A parent may request the school entity to convene a prehearing conference in instances when the parent disapproves of the school entity's proposed action or refusal to act.

(2) When a parent requests and the school entity agrees to participate in a prehearing conference, the conference shall be convened within 10 days of receipt of the parent notice and shall be chaired by the superintendent.

(3) A parent or the school entity may waive the right to a prehearing conference and immediately request an impartial due process hearing under § 16.63 (relating to impartial due process hearing and expedited due process hearing).

(4) If the prehearing conference results in agreement, the provisions under § 16.31 (relating to GIEP) shall be applied.

(5) Within 5 days of the agreement, a parent may notify the school entity in writing of a decision not to approve the identification, evaluation, or recommended assignment. When a parent gives notice not to approve the identification, evaluation, recommended assignment, or if the prehearing conference does not result in an agreement, the provisions under § 16.63 shall be applied.

Rationale: Align with Chapter 14. Costs for both parents and districts will be kept down if agreement can be worked out at this prehearing conference.

For Chapter 14 :

change

14.125 Criteria for the Determination of Specific Learning Disabilities (a) - ... The school entity's procedures for the determination of specific learning disabilities (may) **(must)** (2) Use a severe discrepancy between intellectual ability and achievement for determining ...

Rationale: Twice exceptional or dual exceptional student, who is both learning disabled and gifted, needs to be identified early in order to maximize the development of the student. Using grade level as an indicator that the student needs support to overcome a learning disability is selling the gifted student short since many times they are compensating using their intelligence to mask the problem. We should not be striving for just good enough, but striving to meet the potential of every child.

PAGE recognizes that many of the millions of gifted students in the country also have disabilities and are receiving services under IDEA. However, there is a subpopulation of gifted students, those with learning disabilities, who are not being identified as disabled and as a result, are not receiving the critical services that they need to achieve their potential.

Identification of children for gifted programs or special education services for learning disabled tend to be mutually exclusive processes in school districts across the country. IDEA generally addresses children's deficits in developing educational services to meet the needs of children with disabilities. Conversely, the selection criteria used by school districts for gifted education programs and services, and the definition of gifted student used by the federal government and the states, focus on student strengths and abilities usually in relationship to the student's age peers. This deficit vs. strength distinction is important because current assessment procedures used by schools rarely address both aspects of students with both disabilities and gifts.

PAGE is concerned that gifted students with learning disabilities may become even less likely to be recognized and served when changes to the identification procedures for specific learning disabilities (discussed in 34 CFR 300.541) go into effect. In many cases these students aren't recognized as either learning disabled or gifted because they use their outstanding abilities in some

types of learning to compensate for their area(s) of disability. These students are not referred by the classroom teacher for special education services primarily because they are functioning at or near grade level. Although they may have superior capabilities and strong compensation skills, their actual performance levels may be depressed (or "masked") due to a disability in processing information. As a result, many of these "multi-exceptional" children are often considered "average" students. Since these students do not distinguish themselves, either as being gifted, or disabled, they often do not receive any special educational services. Although IDEA recognizes that there are many students in this country who have not had successful educational experiences because their disabilities were undetected, the law's promise is unfulfilled for many of these multi-exceptional students.

Until the 2004 reauthorization of IDEA, school districts were required to utilize the aptitude-achievement discrepancy model to identify specific learning disabilities (34 CFR 300.541), which allowed gifted students with learning disabilities to be identified and receive intervention in deficit areas. Delays in recognizing disabilities make successful intervention more difficult and also may hinder the development of gifts and talents that could be crucial to the student's overall development. PAGE recognizes that the discrepancy model is often criticized as contributing to the over-identification of students with learning disabilities. While this may be the case for certain students, the discrepancy model is the only way PAGE knows of to identify students of exceptional capability whose achievement is being depressed by a disability. PAGE is extremely concerned that because districts are no longer required to utilize the discrepancy model as a determination of a specific learning disability and because there are no alternatives currently available for identifying learning disabled gifted students, gifted students with learning disabilities will not be identified for services. As an example, the country has great need for engineers and computer scientists. There are students who may have great potential in these fields but whose potential aren't recognized because of a learning disability.

Therefore, PAGE urges the State Board of Education to examine assessment tools and procedures that will accurately and efficiently determine the special instructional, learning, and behavioral needs of gifted and talented children with specific learning disabilities. We urge you to note in the regulations that districts should continue to incorporate discrepancy analysis in their identification of gifted learning disabled students.

§ 14.131. IEP.

add

(a) In addition to the requirements incorporated by reference, 34 CFR 300.320 – 300.324 the following [apply to IEPs], must be included in IEPs:

(1) The student will receive the following type or types of support as defined below. Students may receive more than one type of support as appropriate and as outlined in the IEP and in accordance with this chapter. Type(s) of support must be based on student need and not based solely on disability category:

x. Gifted support – services for students who have been identified as gifted

Rationale: Adding gifted support to this section ensures that the needs of the gifted, learning disabled student or any gifted student with dual exceptionality will have the gifted needs addressed.

PAGE hopes we hear a "New Day Dawning" for Gifted Ed. in PA and that the State Board of Education will endorse the goal that giftedness and high potential in youth are recognized, universally valued, actively supported, and developed. PAGE has faith that the Board will strengthen Chapter 16 as a way to value the gifted youth of Pennsylvania, maintaining Pennsylvania's leadership in gifted education. Please clarify Chapter 16 to remove the "Hazy Shade of Winter" across the Commonwealth for gifted education