

## 05-071 DEPARTMENT OF EDUCATION

## Chapter 104: EDUCATIONAL PROGRAMS FOR GIFTED AND TALENTED CHILDREN

SUMMARY: Maine law requires school administrative units to establish educational programs for gifted and talented children by 1991-1992 in the schools of the unit. This rule establishes the gifted and talented education program standards governing each school administrative unit in the state and adopts procedures for ascertaining compliance with all applicable, legal requirements for the establishment, approval, and funding of such programs as authorized by Title 20-A, section 8101, et seq. and section 15603, sub-section 22(c).

## Part 1. GENERAL PROVISIONS

## 104.01 General Objectives

This rule establishes the standards and procedures governing the establishment, implementation, and approval of educational programs for gifted and talented children in each school administrative unit, including needs assessment, identification of students, and program planning, development, delivery and review. Its intent is to provide a framework to assure the establishment of programs in the elementary and secondary schools of each school administrative unit in an appropriate and timely manner.

## 104.02 Definitions

Commissioner: "Commissioner" shall mean the Commissioner of Education or a designee.

Department: "Department" shall mean the Department of Education.

Gifted and Talented Children: "Gifted and talented children" shall mean those children in grades K-12 who excel, or have the potential to excel, beyond their age peers, in the regular school program, to the extent that they need and can benefit from programs for the gifted and talented. Gifted and talented children shall receive specialized instruction through these programs if they have exceptional ability, aptitude, skill, or creativity in one or more of the following categories:

1. General Intellectual Ability as shown by demonstrated significant achievement or potential for significant accomplishment above their age peers in all academic areas

2. Specific Academic Aptitude as shown by demonstrated significant achievement or potential for significant accomplishment above their age peers in one or more academic area(s)
3. Artistic Ability as shown by demonstrated significant achievement or potential for significant accomplishment above their age peers in the literary, performing, and/or visual arts

NOTE: Children with exceptional General Intellectual Ability and/or exceptional Specific Academic Aptitude usually comprise five percent of the school population. Students with exceptional Artistic Ability usually comprise five percent of the school population. Children in the top two percent of the school population may be considered highly gifted.

Gifted and Talented Educational Program: A "gifted and talented educational program" shall mean a comprehensive, K-12 program that provides specialized instruction beyond that available within the regular school program.

## PART 2. STANDARDS AND PROCEDURES FOR EDUCATIONAL PROGRAMS FOR GIFTED AND TALENTED CHILDREN

### 104.03 General Requirement

Each school administrative unit shall, commencing with the 1987-1988 school year, establish a plan for the implementation of gifted and talented educational programs for grades kindergarten through twelve by 1991-1992 in the schools operated by the unit.

### 104.04 General Principles for Gifted and Talented Educational Programs.

Gifted and talented programs in the State are to be based on the following educational principles:

1. Gifted and talented children need to move at their own rate, regardless of chronological age or grade placement; therefore, academic subjects, including the fine arts, shall be taught to them in a manner that allows them to learn at their appropriate instructional level and at their own pace.
2. Gifted and talented children need diversity in their educational experiences; therefore, diverse and appropriate learning experiences shall be offered through a variety of program models, instructional strategies and materials.
3. Gifted and talented children need to be challenged to develop their abilities and potential; therefore, specialized curricula that are advanced,

conceptually complex and carefully differentiated from regular curricula shall be provided in lieu of the regular curricula.

4. Gifted and talented children's needs vary as they progress through the elementary and secondary grades; therefore, instructional settings shall be appropriate to their changing needs.
5. Highly gifted and talented children may need further modifications to their educational programs; therefore, appropriate adjustments or alternatives to their gifted and talented programs must be made.

#### 104.05 Needs Assessment and Five-Year Phase-In Plan

Each school administrative unit shall conduct a needs assessment for the establishment of the gifted and talented program in the schools of the unit, and, commencing with the 1987-1988 school year, establish a plan for phasing in gifted and talented educational programs, K-12, by 1991-1992.

By October 31, 1987, each school administrative unit, with the approval of its school board, shall submit to the Department a Five-Year Phase-In Plan on forms provided by the Department. The superintendent of the school unit is responsible for supplying all information necessary for a determination that a plan delineating activities for each year of the five year phase in period has been established for the schools in the unit. The plan submitted must be signed by the superintendent of the school administrative unit certifying that the form contains information that is accurate at the time of reporting, and that the plan will be implemented in a timely fashion.

Each school administrative unit shall annually update its plan on forms provided by the Department and submit it by September 30 of each school year.

#### 104.06 Identification: Establishment of Process

The superintendent, under policies adopted by the school board, shall establish a process for the identification of children for the gifted and talented program for each school in the school administrative unit. Each school unit shall conduct an initial screening and, thereafter, an annual review of the K-12 school population to ensure that all children have an equal opportunity to be considered for selection and placement in the gifted and talented program. Instruments and procedures used in the identification process shall be as non-discriminatory as possible with respect to race, cultural or economic background, religion, national origin, sex, or handicapping condition.

#### 104.07 Screening

Screening procedures shall be appropriate to the developmental characteristics of elementary and secondary school children and to the abilities or aptitudes being identified. Each school unit shall establish a procedure that uses a minimum of three assessment methods for each of the three categories in which gifted and talented children are identified. Information derived from any one of the selected screening methods may qualify a child for further consideration.

- A. For General Intellectual Ability: The screening procedure shall include objective and subjective assessment methods selected from the following:
  - 1. Objective
    - a. Individual intelligence, achievement, or aptitude tests
    - b. Group intelligence, achievement, or aptitude tests
    - c. For grades K-2, other appropriate methods that have received prior approval from the Commissioner
  - 2. Subjective
    - a. Teacher referral based on an appropriate screening checklist
    - b. Referral by parents, peers, or members of the community
    - c. Self-referral
    - d. Pupil products, performance, or record of past performance
    - e. Other appropriate methods that have received prior approval from the Commissioner

- B. For Specific Academic Aptitude: The screening procedure shall include objective and subjective assessment methods ,selected from the following:
1. Objective
    - a. Individual achievement, or aptitude tests
    - b. Group achievement, or aptitude tests
    - c. For grades K-2, other appropriate methods that have received prior approval from the Commissioner
  2. subjective
    - a. Teacher referral based on an appropriate screening checklist
    - b. Referral by parents, peers, or members of the community
    - c. Self-referral
    - d. Pupil products, performance, or records of past performance
    - e. other appropriate methods that have received prior approval from the Commissioner
- C. For Artistic Ability: The screening procedure shall include three measures chosen from the following:
1. Pupil products, such as auditions, portfolios, works-in-progress, performance
  2. Pupil interview
  3. Teacher referral
  4. Referrals by professional artist(s) based on analysis of pupil work
  5. Self-referral
  6. Referral by parents, peers, members of the community

7. Other appropriate measures that have received prior approval from the Commissioner

#### 104.08 Selection

Annually, a team of at least three qualified professionals shall select children for placement in the gifted and talented program.

- A. The team shall include, but not be limited to, the following staff:
  1. An administrator
  2. A teacher
  3. Another individual, who may be a school employee or another person, who would aid the selection procedure, e.g., an artist for selection of students with artistic ability; a guidance counselor
- B. The responsibilities of this selection team are as follows:
  1. Review the information collected on children who have met the screening criteria.
  2. Collect additional information when appropriate.
  3. Select children for placement in the gifted and talented program based upon an in-depth assessment of the collected information.
  4. Oversee the annual review of the selection process.
  5. Assure that the selection process is equitable.

#### 104.09 Placement

Selected children shall be appropriately placed in a gifted and talented program. The superintendent, under policies adopted by the school board, shall establish procedures to accomplish the following:

1. Assure collaboration between the regular classroom teacher and gifted and talented program staff to develop the program that will be provided for selected children.."
2. Notify the superintendent of the children selected for the program.
3. Provide the superintendent a description of the program(s) that will be provided.

4. Notify parents of the eligibility of their child for participation in the program, provide them with a description of the program and obtain written parental permission to place the child in the program.
5. Maintain records on each child's participation in the gifted and talented program.
6. Conduct an annual review of each child's program to evaluate appropriateness of placement and instruction.

#### 104.10 Review of Identification

The superintendent, under policies adopted by the school board, shall establish a procedure to review the identification of children for the gifted and talented program. Requests for such review may be made to the superintendent for these purposes:

1. To reconsider the eligibility of a child to be selected for inclusion in the gifted and talented program
2. To review the appropriate placement of a child within the program
3. For removal of a child from the program

#### 104.11 Program Personnel

Personnel employed in the school unit's gifted and talented program shall be properly certified and possess such other skills as are appropriate and necessary for the particular assignments within the program.

1. Personnel with overall administrative responsibility for the program shall be certified administrators.
2. Professional staff with teaching, coordinating or consulting responsibilities for the program shall be certified teachers or administrators.
3. other personnel who assist with program activities or who work directly with gifted and talented children may be individuals classified as auxiliary personnel who have received prior approval from the Commissioner.
4. Personnel who are not employed as full- or part-time employees of the school unit but who render instructional or consulting services may work in the capacity of independent contractors. These may include persons sponsored by the Maine Arts Commission in the visiting artist program.

Personnel shall participate in gifted and talented education training experiences appropriate to their program responsibilities and as required and approved by the Department, including, but not limited to, the Department-sponsored Gifted and Talented Summer Training Institute.

### PART 3 PROCEDURAL REQUIREMENTS

#### 104.12 General Purpose

This section establishes the procedures for compliance with State requirements for program approval, program reviews, and receipt of State subsidy aid.

#### 104.13 Program Approval: General Principles

Each school administrative unit shall apply annually to the Department for approval of its gifted and talented program(s) on forms provided by the Department. The superintendent of the school administrative unit is responsible for supplying all information necessary for a determination that the program is entitled to approval. The application form must be signed by the superintendent of the school administrative unit in which the program is located certifying that the form contains information that is accurate at the time of reporting.

#### 104.14 Program Approval Application

The application for Program Approval submitted for September 30, 1987 through September 30, 1990 may represent partial or full implementation of the gifted and talented program in the schools of the unit. As of September 30, 1991, the application for Program Approval must represent full implementation of the gifted and talented program. The following information shall be required and must reflect the degree of implementation at the time of reporting:

1. The school unit's philosophy for the gifted and talented program
2. A program abstract which describes the children to be served and the program(s) to be implemented in the school(s) of the unit
3. The goals, objectives, and activities for each program component, K-12
4. A description of the identification process used: screening, selection, placement, and review policies and procedures
5. The staff development that takes place in order to implement the program(s)
6. A description of the staffing and management of the program(s)



7. A description of the annual program self-evaluation process
8. A description of the costs to be incurred to implement the program(s)
9. For those school units requesting approval of allowable costs for State subsidy aid, a budget proposal

#### 104.15 Approval Status

Approval status shall be awarded when the Commissioner determines that the program complies with all approval standards related to the degree of implementation of the program. Upon obtaining approval by the Commissioner, the school unit shall be entitled to operate the gifted and talented program and to receive State subsidy aid in order to implement the program. As of September 30, 1992, approval status shall be awarded when the Commissioner determines that the program complies with all approval standards and represents the full implementation of the program.

#### 104.16 Annual Program Approval

To maintain program approval status, the following information shall be required annually of each school unit:

1. Any information that represents an alteration, addition, or deletion to any program category (104.14, 1-9) as reported and approved in the original Program Approval Application.
2. Results of the annual self-evaluation process.

Failure to submit required reports and applications in a timely manner shall be grounds for loss of program approval and of State subsidy aid. As of September 30, 1992, such failure to establish educational programs for gifted and talented children in the school administrative unit may result in a finding of noncompliance by the Commissioner, loss of general school approval status, and penalties provided by law.

#### 104.17 Program Review

For the purpose of determining compliance with this rule, the Department will conduct periodic reviews of the gifted and talented program(s) in each school administrative unit.

##### A. Review As a Part of the Comprehensive School Approval Review

At least once in each five-year period, the Department shall conduct a review of the gifted and talented program(s) in the

schools of each school administrative unit as a part of the comprehensive review of all schools in the unit. The findings resulting from this review, the program approval application submitted annually by the school unit, and the results of the local, annual, self-evaluation shall be the basis for determining whether the unit, and/or any school within it, is in compliance with gifted and talented program approval standards. These reviews shall be scheduled as part of and pursuant to Chapters 125 and 127 of the Department's rules.

**B. Review As a Part of the Special Education Review**

The Department may conduct a review as a part of the regularly scheduled Special Education Program Review.

**C. Review As a Special Review**

The Commissioner may conduct such other reviews of the gifted and talented program in the schools in a school administrative unit as may be appropriate. This may include a review as part of an inspection at any time, pursuant to Title 20-A, section 258-A in order to determine whether the unit is in compliance with gifted and talented program standards. The Commissioner may schedule a comprehensive review as soon as practicable or conduct a more limited review for this purpose.

## 104.18 Reporting

The results of all program reviews and recommendations for the gifted and talented program shall be presented to the superintendent of a school administrative unit and to the commissioner.

Any program which demonstrates approved standards, promising practices, exemplary program models, and/or replicable approaches to programming shall be recognized.

Any program which fails to meet gifted and talented program approval standards for compliance shall be in a probationary status, subject to loss of State subsidy aid for this program, subject to loss of general school approval and shall be required to file with the Commissioner an acceptable written plan of corrective action to be accomplished within a reasonable time. Approval status shall be reinstated upon a determination of compliance with program approval standards.

## PART 4 ALLOWABLE COSTS

### 104.19 Allowable Costs for State Subsidy Purposes

The costs for a gifted and talented program which has been approved by the Commissioner for State subsidy aid and is a part of the school day, are allowed. These costs may be claimed as a Special Education Program cost in gifted and talented education in lieu of regular Elementary and Secondary Operating Costs and may include the budget categories listed below.

#### 104.20 Program Personnel

The costs of personnel, including contracted salary and benefits, or a portion thereof, are allowed. Staffing options include:

1. Personnel with full time teaching and/or administrative responsibility for the gifted and talented program.
2. Professional staff with full or part time teaching, coordinating and/or consulting responsibility for the gifted and talented program.

NOTE: Full-time staff for the program may use up to 10 percent of their time to carry out the program related activities that benefit children other than those participating in the gifted and talented program in order to provide a bridge to the regular school program.

- a. The costs, or a portion thereof, of elementary school personnel are allowed if such personnel work a minimum of one-fifth time exclusively in the gifted and talented program.

Secondary school personnel with coordinating and/or consulting responsibility or who teach a credit-bearing course of specialized instruction in the gifted and talented program may have a percentage of their time included in the annual claim of allowable gifted and talented expenditures. The course taught must have a total maximum enrollment of fifteen (15) identified gifted and talented students per class period and follow a course syllabus approved within the school administrative unit's approved program. The salary and benefits of the teacher are divided by the number of classes scheduled per day in the school schedule. For example, a teacher with one approved class of gifted and talented students out of a seven-period day may have one-seventh ( $1/7$ ) of his/her salary and benefits included in the claim for allowed costs under this rule.

3. other individuals classified as auxiliary personnel, with specialized knowledge, skills or expertise who assist with program activities or work directly with gifted and talented children.
  - a. The costs of compensation to individuals who lack professional certification and who have specialized knowledge and/or skills in a particular field are allowed, provided that:

- (i) The services to be provided by these individuals are an integral part of the unit's overall program of services for gifted and talented children.
  - (ii) The services are not available from the unit's regular professional educational staff.
  - (iii) The services are necessary to fulfill the educational plans of gifted and talented children
  - (iv) The services are carried out under the direct supervision of a certified teacher or administrator in the gifted and talented program.
  - (v) The employment of such personnel has received prior approval from the Commissioner.
- 4. Individuals, classified as independent contractors, with specialized knowledge, skills or expertise who provide consulting services to school staff or instructional services to children.
  - a. The costs of consulting services by such individuals are allowed, provided that:
    - (i) The consulting services are appropriate and necessary for the gifted and talented program.
    - (ii) The consulting services are limited in scope and do not replace direct instructional services to children.
  - b. The costs of instructional services by such individuals are allowed, provided that:
    - (i) The services to be provided by these individuals are an integral part of the unit's overall program of services for gifted and talented children.
    - (ii) The services are not available from the unit's regular professional educational staff.
    - (iii) The services are necessary to fulfill the educational plans of gifted and talented children.

- (iv) The services are carried out under the direct supervision of a certified teacher or administrator in the gifted and talented program.
- (v) The services are limited in scope and duration.
- (vi) The employment of such personnel has received prior approval from the Commissioner.

#### 104.21 Staff Development

The costs of staff development in gifted and talented education for professional staff are allowed. These may include school administrative unit or school in-service programs, training institutes, or conferences.

#### 104.22 Tuition

1. The tuition of certified teachers or administrators to university-level courses in gifted and talented education is allowed for personnel with direct administrative or instructional responsibility for the gifted and talented program. The tuition reimbursement is limited to one course per person per semester.
2. The tuition of students to summer gifted and talented programs which are sponsored by the Department is allowed.

#### 104.23 Educational Materials and Supplies

The costs of educational materials and supplies which are used to implement the gifted and talented program are allowed.

#### 104.24 Federal and State grant funds

Federal and State grant funds used for gifted and talented programs approved by the Commissioner may be included as allowable costs under this program.

#### 104.25 Reports

Annual expenditures and claims for the inclusion in the State and local allocation of allowable gifted and talented program expenditures shall be made, following the close of each school fiscal year, using the EF-S-02 Special Education Program report form in accordance with its accompanying instructions under the provisions of the School Finance Act, and pursuant to 20A MRSA Section 8301, sub-section 19(c). Only costs allowed and approved by the Commissioner may be claimed.

STATUTORY AUTHORITY: 20-A MRSA Section 8101 et seq. and section 15603,  
sub-section 22(c).

EFFECTIVE DATE: July 1, 1987

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