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# Gifted Education Q+A

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Start by getting used to making this face . . .



# GIFTED EDUCATION IN PA

## GOOD NEWS

- PA recognizes giftedness via *State law*
- PA has developed gifted regulations (Chap. 16)
- PA regulations lay out District requirements
- Parents may formally challenge gifted issues concerning child

## BAD NEWS

- No *Federal law* concerning giftedness
- PA generally provides no funding at State level
- PA regulations lay out District requirements
- PA regs lack several provisions that would make enforcement easier

# Why are there so few gifted cases out there?

- Independent evaluation reimbursement
  - Expert witnesses
- Tuition reimbursement
- Compensatory education
  - *Brownsville Area School District, 729 A.2d 198 (1999)*
- **ATTORNEY FEES**



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# Miscellaneous complicating issues to keep in mind:

- Isn't my child's education a Constitutional right?
  - Regular ed v. Gifted v. Disabled Students
- What are the qualifications to become a gifted teacher?
  - Training? *Saucon Valley SD v. Jason O.*, 785 A.2d. 1069 (2001)
- Differences in elementary, middle, secondary?
- But my friend's child in another school district gets "X"...
- Surely we can at least agree that a gifted child is a gifted child is a gifted child?

# What is the purpose of gifted programming?

What makes a child gifted (in PA)?

1. Mentally gifted
2. Specially Designed Instruction
3. Benefit meaningfully from the rate, level and manner of instruction
4. Acceleration or enrichment, or both, as appropriate for the student's needs. *These opportunities must go beyond the program that the student would receive as part of a general education.*

BUT Could a child's proscribed classwork be enough?

## What is ACCELERATION?

Access to higher level learning activities and skill development than is typically provided to regular ed students of the same age. Can include:

- Planned course compacting;
- Grade/subject advancement
- Credit by exam/performance
- Distance learning courses
- Higher education level coursework
- Independent study

# What is ENRICHMENT?

In-depth learning experiences that provide interactions with new ideas, skills and topics that enhance the curriculum. Should be based on individual student strengths, interests and needs. Could include:

- Subject matter/Content augmentation
- Planned opportunities to work with gifted peers
- Appropriate out-of-school educational experiences
- Mentorships, internships



# How is a child determined to be gifted?

## Who decides?

# Comprehensive Evaluation by a Certified School Psychologist / GMDT determines

- A. Child has an IQ of 130 or higher
- B. OR, less than 130, but multiple criteria otherwise indicate gifted ability, such as:
  - 1. A year or more above grade achievement level
  - 2. Acquisition/retention rates of new content/skills reflect gifted ability
  - 3. Demonstrated achievement/performance/expertise in one or more academic areas
  - 4. Early and measured use of high level thinking / creativity / leadership / communications / technology skills
  - 5. Evidence of intervening factors masking gifted abilities

*However IQ score alone cannot be only factor, and deficits in memory or processing speed cannot be sole reason for denial*

# If determined to be gifted, then that child:

- 1) Receives a GIEP that includes present education levels, annual goals and short-term learning objectives, specially designed instruction and supports based on that student's individual needs **(Sec. 16.32 (d))**
- 2) The GIEP is reviewed at least annually for appropriateness / meeting child's needs

If I move to another PA school district, does my child's GIEP follow?

What about charter schools?

# CHARTER SCHOOLS

Do charter schools have to provide gifted programming? No, though nothing prevents them from providing advanced programming

Is there any entitlement to a gifted evaluation from a district of residence even if my child attends a charter school? Good question – possibly . . .

Can the district identify a child in elementary school as gifted, but then refuse to allow the child to receive gifted services because s/he is not getting all A's on report cards?

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# Can a district force a child out of a GIEP and gifted education if parents do not agree to their GIEP proposal?

# NO and NO – so how is a child removed from a GIEP/gifted then?

“Gifted students shall be reevaluated before a change in educational placement is recommended for the student.” **§ 16.23(a)**

What does this mean?

How often must a re-evaluation occur? How often can a parent request?

Gifted students may also be reevaluated at any time under recommendation by the GIEP team

**If the district eliminates the self-contained 6th grade gifted classes where the children get academic acceleration and enrichment all day long, 5 days a week and replaces them with a "pull out" program where the children spend only a few hours a week getting enrichment with the SIP teacher (like is done in the lower grades), what can parents do to ensure their children's needs are met?**

1. Can a gifted class have more than 20 students in it?
2. Can any other class (say honors or AP) class have more than 20 gifted kids on the roster of that class - say 22 gifted, 6 regular ed?

# GENERALLY NO - AND IT PROBABLY DEPENDS

1. GENERALLY NO - The total number of *gifted* students that can be on an individual gifted teacher's class roster is a maximum of 20 students (caseload limit 65)

- (**HOWEVER** Caseload and class size maximums may be waived by the State upon written request by a district for extenuating circumstances)

2. IT PROBABLY DEPENDS – Teacher? Program?

# YES OR NO?

- At the high school level can AP and Honors courses alone constitute an appropriate gifted education?
- What about programs like Odyssey of the Mind, Future Problem Solvers, Mock Trials, etc.?

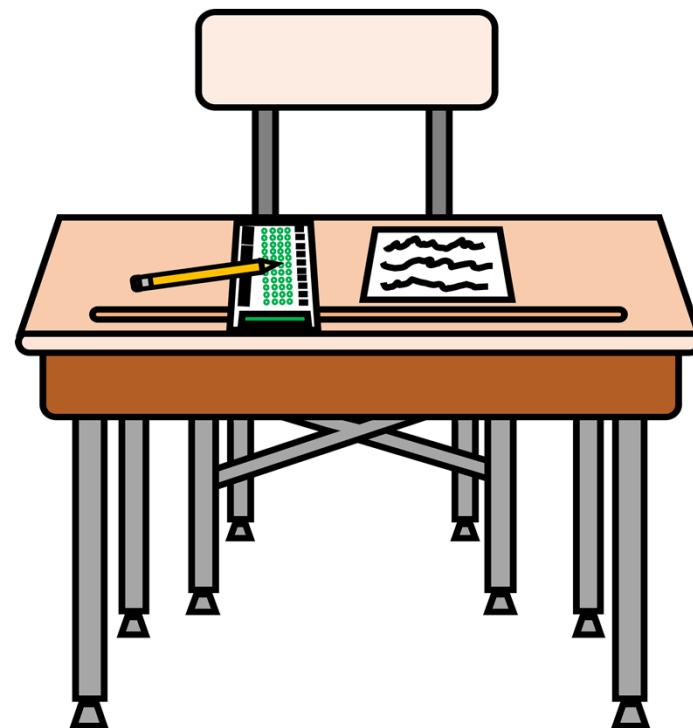


# NO. . . UNLESS . . .

- AP and/or Honors programs alone are generally not enough to constitute “gifted education services”, as alone they are not “specially designed instruction”
- *However*, AP/Honors classes could constitute gifted programming if, for example, such were offered to a student who would not normally qualify, or included additional supports beyond the regular curriculum

# Can districts require former GIEP students to be re-evaluated in order to return to gifted programming?

- Not only can a district require a re/evaluation, the regs suggest that they *must do so*
- WHY?
- Does it need to be a full evaluation?



Can districts use *waivers* if parents don't feel that their child is in need of gifted services at the time but expect that they might in the future?

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NO (BUT *MAYBE* YES . . . IF NO ONE  
COMPLAINS/IS GOOD WITH IT . . .)

WHY?

“Gifted students shall be reevaluated before a change in educational placement is recommended for the student.” § 16.23(a)

No waiver provision in the gifted regs

If a child has been successful in the gifted program in and before 6th grade, but then starts receiving poor grades in 7th or 8th grade, how is it determined if the child is "no longer in need of gifted services" and should be returned to general education classes?

What options do parents have if the district says they want to remove the child from the gifted program?

# DISPUTE OPTIONS



## ***IN NO REQUIRED ORDER:***

- Meet with GIEP team
- Meet with District administrators
- Facilitated GIEP
- Contact PDE – Bureau of Special Education
- Mediation
- Due Process

# WHAT IS GIEP FACILITATION?

- A neutral person assigned by the State to assist in discussing issues related to the IEP
- Why consider?
- Will the facilitator make decisions for the GIEP team?
- Do both the Parents and District need to agree to use a GIEP facilitator?
- How request?
- Any cost to Parents?

# WHAT IS MEDIATION?

- Mediation is a process in which parents and agencies involved in a special education for gifted students dispute may obtain the assistance of an impartial mediator in attempting to reach a mutually agreeable settlement. **§ 16.64 (a)**
- Do the Parents and District have to agree to participate?
- Is it legally enforceable?

# What is Due Process?

- Due process is a more formal dispute process, akin to a trial
- Parents or District may request a due process hearing when the identification and/or educational program and/or educational placement of a gifted student is in dispute.
- Players / Location / Procedures / General

# What NOTICE requirements are there for gifted?

## 16.61. Notice.

(a) A school district shall document the provision of written notice to the parents of a gifted student at least 10 school days prior to one or more of the following events:

(1) The school district proposes to conduct a gifted multidisciplinary evaluation or reevaluation of the student.

(2) The school district proposes or refuses to initiate or change the identification, evaluation or educational placement of the student, or proposes or refuses to make any significant changes in the GIEP.

## ***How is this notice communicated? NORA***

# Stay put provision (Pendency)

When **mediation or a due process hearing** is filed, the student remains in the last agreed upon educational program and placement until the proceedings are completed, unless the parties agree otherwise.

**IMPORTANT:** Pendency does not apply to any other “disapproval” tact parents may make

I feel that there is a wide difference in the identification rates of gifted students across the district's 6 elementary schools and almost no children are identified in (full day) kindergarten or in first grade - if I feel that the district is refusing to address this issue, which would be a better option: filing a "state complaint" or "due process?"

What is the district's responsibility to be transparent and open about practices/procedures that are used when implementing Chapter 16 and what is their responsibility to provide professional development for district and building administrators, "gifted teachers" and "general education" educators--including teachers, guidance counselors, school psychologists?

PDE has monitored zero schools districts this year for gifted compliance, instead of the usual 10. What can we do as individuals or an organization to remedy the situation?

# Useful Info/Contacts

## PA Office for Dispute Resolution ConsultLine

- <http://odr-pa.org/parents/consultline/> or 1-800-879-2301

## PA Office for Dispute Resolution - <http://odr-pa.org/gifted>

### Gifted FAQs

- <http://www.education.pa.gov/Documents/K-12/Gifted%20Education/Gifted%20Education%20Frequently%20Asked%20Questions.pdf>

### Guidelines for Gifted

- <http://www.education.pa.gov/Documents/K-12/Gifted%20Education/Gifted%20Program%20Guidelines.pdf>

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# THANK YOU

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