

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-0404.02 Jane Ritter

HOUSE BILL 11-1077

HOUSE SPONSORSHIP

Peniston, Massey, Hamner, Murray, Ramirez, Schafer S., Solano, Summers, Todd

SENATE SPONSORSHIP

Spence,

House Committees
Education

Senate Committees
Education

A BILL FOR AN ACT

101 **CONCERNING THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT"**
102 **AS IT REFERS TO GIFTED CHILDREN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill separates the "Exceptional Children's Educational Act", article 20 of title 22, Colorado Revised Statutes, into two parts: One concerning children with disabilities and another concerning gifted children. Language related only to gifted children is relocated to the second part.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unam ended
February 28, 2011

SENATE
Am ended 2nd Reading
February 25, 2011

HOUSE
3rd Reading Unam ended
January 31, 2011

HOUSE
Am ended 2nd Reading
January 28, 2011

The bill also makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 22-20-102 (3), (4), and (5), Colorado Revised
3 Statutes, are amended to read:

4 **22-20-102. Legislative declaration.** (3) It is further the intent of
5 this ~~article~~ PART 1 to ensure that there is a coordination of all services
6 available to children with disabilities and to promote interagency
7 operating agreements or contracts between administrative units, other
8 public agencies, nonprofit organizations, and eligible facilities for the
9 provision of appropriate services for children with disabilities.

10 (4) It is further the intent of the general assembly that this ~~article~~
11 PART 1, and the rules promulgated pursuant to this ~~article~~ PART 1 by the
12 state board, align closely with the federal "Individuals with Disabilities
13 Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as
14 amended, and its implementing regulations, 34 CFR part 300 and 34 CFR
15 part 303, as they pertain to child find, in order to minimize the number of
16 rules, regulations, and policies to which administrative units,
17 state-operated programs, and eligible facilities are subject.

18 (5) Nothing in this ~~article~~ PART 1 shall be construed to affect the
19 placement of children out of the home or alternatives to such placements
20 as provided in section 19-1-116, C.R.S.

21 **SECTION 2. Repeal.** 22-20-102.5, Colorado Revised Statutes,
22 is repealed.

23 **SECTION 3.** The introductory portion to 22-20-103 and
24 22-20-103 (2), (12), (13), (13.5), (15), and (24), Colorado Revised
25 Statutes, are amended to read:

1 **22-20-103. Definitions.** As used in this ~~article~~ PART 1, unless the
2 context otherwise requires:

3 █
4 (2) ~~"Advanced learning plan" or "ALP" means a written record of~~
5 ~~gifted and talented programming utilized with each gifted child and~~
6 ~~considered in educational planning and decision-making.~~

7 (12) ~~"Exceptional children CHILD" means:~~

8 (a) ~~Those children~~ A CHILD defined in subsection (5) of this
9 section as ~~children~~ A CHILD with disabilities. An administrative unit shall
10 serve every child with a disability from three to twenty-one years of age
11 AND MAY SERVE █ children with disabilities from birth through two years
12 of age. ~~and persons enrolled in special educational programs or receiving~~
13 ~~special educational services deemed to be "exceptional children" for all~~
14 ~~purposes of this article.~~

15 (b) ~~Those children~~ A CHILD defined in ~~subsection (13) of this~~
16 ~~section~~ SECTION 22-20-202 (6) as ~~gifted children~~ A GIFTED CHILD.
17 Pursuant to ~~section 22-20-104.5 (1)~~ SECTION 22-20-204 (1), an
18 administrative unit shall adopt and submit to the department a program
19 plan to identify and serve gifted children who are at least five years of
20 age.

21 (13) ~~"Gifted children" means those persons from four to~~
22 ~~twenty-one years of age whose abilities, talents, and potential for~~
23 ~~accomplishments are so outstanding that they require special provisions~~
24 ~~to meet their educational needs.~~

25 (13.5) ~~"Highly advanced gifted child" means a gifted child who~~
26 ~~has been identified by an administrative unit, using criteria and a process~~
27 ~~established by rules promulgated by the state board pursuant to section~~

1 ~~22-20-104.5 (5), to be a highly advanced gifted child.~~

2 (15) "Individualized education program" or "IEP" means a written
3 statement for a child with a disability that is developed, reviewed, and
4 revised in accordance with this ~~article~~ PART 1 and the rules promulgated
5 by the state board.

6 (24) ~~"Special educational services" or "special educational~~
7 ~~programs" means the services or programs provided to gifted children~~
8 ~~pursuant to this article.~~

9 **SECTION 4.** 22-20-104 (1) (a), (1) (b), (2) (a), and (7) (a),
10 Colorado Revised Statutes, are amended to read:

11 **22-20-104. Administration - advisory committee - rules.**

12 (1) (a) This ~~article~~ PART 1 shall be administered by the department.
13 Administration of this ~~article~~ PART 1 shall include the recommendation to
14 the state board of reasonable rules necessary to implement this ~~article~~
15 PART 1, including but not limited to:

16 (I) Minimum standards for administrative units, state-operated
17 programs, eligible facilities, and personnel;

18 (II) Criteria for determining disability and eligibility for special
19 ~~educational~~ EDUCATION services;

20 (III) Procedures regarding the identification of ~~exceptional~~
21 children WITH DISABILITIES, including but not limited to part C child find
22 and part B child find activities described in section 22-20-118;

23 (IV) Requirements for parental consent, including but not limited
24 to parental consent for the evaluation of children with disabilities and the
25 initial provision of special education services;

26 (V) Required IEP content and procedures for IEP development,
27 review, and revision;

1 (VI) Application of school discipline procedures to children with
2 disabilities;

3 (VII) Required procedural safeguards;

4 (VIII) Procedures for special education dispute resolution;

5 (IX) Extended school year services;

6 (X) Requirements pursuant to the IDEA regarding children with
7 disabilities who are enrolled in private schools; and

8 ~~(XI) Criteria for administrative units to satisfy in adopting
9 program plans to identify and serve gifted children.~~

10 (b) The state board shall adopt appropriate recommendations as
11 rules to implement this ~~article~~ PART 1 following public comment and
12 hearing. The rules promulgated by the state board shall be in accord with
13 the legislative ~~declarations~~ DECLARATION set forth in ~~sections~~ SECTION
14 22-20-102. ~~and 22-20-102.5.~~

15 (2) (a) In order to assist the state board in the performance of its
16 responsibilities for the implementation of this ~~article~~ PART 1, the state
17 board shall appoint a state special education advisory committee of an
18 appropriate size. The members of the advisory committee shall be
19 representative of the state population and shall be composed of persons
20 involved in or concerned with the education of children with disabilities,
21 including parents of children with disabilities ages birth through
22 twenty-six years; individuals with disabilities; teachers; representatives
23 of institutions of higher education that prepare special education and
24 related services personnel; state and local education officials, including
25 officials who carry out activities under section 22-33-103.5;
26 administrators of programs for children with disabilities; representatives
27 of other state agencies involved in the financing or delivery of related

1 services to children with disabilities; representatives of private schools,
2 district charter schools, and institute charter schools; at least one
3 representative of a vocational, community, or business organization
4 concerned with the provision of transition services to children with
5 disabilities; a representative from child welfare services in the department
6 of human services established pursuant to section 26-5-102, C.R.S.; and
7 representatives from the division of youth corrections in the department
8 of human services and from the department of corrections. A majority of
9 the members of the advisory committee shall be individuals with
10 disabilities or parents of children with disabilities. Members shall be
11 appointed for one-year or two-year terms. Any additions to the
12 composition of the advisory committee shall be made pursuant to the
13 procedures of the state board.

14 ~~(7) (a) In order to implement the provisions of sections~~
15 ~~22-20-102.5 and 22-20-104.5, the state board and the department may, at~~
16 ~~their discretion, provide for such personnel as deemed necessary for such~~
17 ~~purposes.~~

18 **SECTION 5. Repeal.** 22-20-104.5, Colorado Revised Statutes,
19 is repealed.

20 **SECTION 6.** 22-20-106 (1) (b), (2) (b), (3) (a), (3) (c), and (4),
21 Colorado Revised Statutes, are amended to read:

22 **22-20-106. Special education programs - early intervening**
23 **services - rules.** (1) (b) The state charter school institute shall be an
24 administrative unit for the purpose of delivering special education
25 services to all institute charter schools and shall meet the criteria
26 established by the state board governing the duties and responsibilities of
27 the director of special education. An administrative unit shall also be a

1 school district or board of cooperative services that meets criteria
2 established by the state board governing the duties and responsibilities of
3 the director of special education and is either a board of cooperative
4 services that conducts special ~~educational~~ EDUCATION programs for all
5 school districts that are members of the board of cooperative services or
6 is a school district that meets criteria of geographic size, location, and
7 number of pupils established by the state board to achieve maximum
8 efficiency in administering programs of special education.

9 (2) (b) ~~If an administrative unit receives funding to educate gifted~~
10 ~~children, the administrative unit shall submit an annual plan for educating~~
11 ~~said children to the department pursuant to rules promulgated by the state~~
12 ~~board.~~

13 (3) (a) Each administrative unit, state-operated program, and
14 eligible facility shall make available special education services as
15 specified by the IEP for any child with a disability for whom it is
16 responsible, as defined by the rules adopted by the state board pursuant
17 to this article. ~~For the purpose of implementing the program plan adopted~~
18 ~~by each administrative unit pursuant to section 22-20-104.5, each~~
19 ~~administrative unit shall ensure that its constituent schools and school~~
20 ~~districts make available appropriate special provisions for gifted children~~
21 ~~to the extent that funds are provided for such implementation~~ PART 1.

22 (c) An administrative unit may annually use no more than fifteen
23 percent of the funding amount that the administrative unit annually
24 receives pursuant to this ~~article~~ PART 1 for the provision of early
25 intervening services.

26 (4) To comply with this section, an administrative unit may
27 contract with one or more administrative units to establish and maintain

1 special ~~educational~~ EDUCATION programs for the education of exceptional
2 children, sharing the costs thereof in accordance with the terms of the
3 contract agreed upon; or an administrative unit having fewer than six
4 children who need a particular kind of special ~~educational~~ EDUCATION
5 program may purchase services from one or more administrative units
6 where an appropriate special ~~educational~~ EDUCATION program exists.

7 **SECTION 7.** 22-20-108 (1), (3) (a), and (6), Colorado Revised
8 Statutes, are amended to read:

9 **22-20-108. Determination of disability - enrollment.**

10 (1) (a) The determination that a child has a disability and is eligible for
11 special education services shall be made by a multidisciplinary team that
12 shall include, at a minimum, the parent of the child and professionally
13 qualified personnel designated by the responsible administrative unit or
14 state-operated program. The composition of the multidisciplinary team
15 and the procedures to be used for determining a child's eligibility for
16 special education services shall be prescribed by rules promulgated by the
17 state board pursuant to this ~~article~~ PART 1.

18 (b) The development of an IEP for a child with disabilities and
19 determination of placement shall be made by the child's IEP team,
20 including but not limited to the child's parent and qualified professional
21 personnel designated by the responsible administrative unit or
22 state-operated program. The composition of the IEP team and the
23 procedures to be used for developing the child's IEP shall be prescribed
24 by rules promulgated by the state board pursuant to this ~~article~~ PART 1.

25 (3) (a) In the event of an appeal of the determination of disability,
26 the determination of eligibility for services, the IEP to be offered, the
27 determination of placement, or the provision of a free appropriate public

1 education for a child with disabilities pursuant to this ~~article~~ PART 1, the
2 administrative unit or state-operated program shall utilize the procedures
3 and timetable for impartial due process hearings established by rules
4 promulgated by the state board pursuant to this ~~article~~ PART 1.

5 (6) ~~Requirements for the placement in special education programs~~
6 ~~of exceptional children who are identified as gifted are not applicable as~~
7 ~~stated in this section.~~

8 **SECTION 8.** 22-20-112 (1), Colorado Revised Statutes, is
9 amended to read:

10 **22-20-112. Length of school year.** (1) An administrative unit
11 may conduct special ~~educational~~ EDUCATION programs as prescribed in
12 this ~~article~~ PART 1 for any length of time; except that the administrative
13 unit must meet the minimum length of time as established by law for
14 school districts.

15 **SECTION 9.** 22-20-114 (5), Colorado Revised Statutes, is
16 amended to read:

17 **22-20-114. Funding of programs.** (5) Payments made under the
18 provisions of this ~~article~~ PART 1 shall not affect the amount of other state
19 aid for which an administrative unit may qualify.

20 **SECTION 10.** 22-20-114.5 (1) (b), (3) (a), (3) (a.5), and (3) (b)
21 (II) (A), Colorado Revised Statutes, are amended to read:

22 **22-20-114.5. Special education fiscal advisory committee -**
23 **special education high-cost grants - definitions - repeal.** (1) As used
24 in this section, unless the context otherwise requires:

25 (b) "High costs" means the costs incurred by an administrative
26 unit above a threshold amount determined pursuant to paragraph (e) of
27 subsection (3) of this section in providing special ~~educational~~ EDUCATION

1 services, either directly or by contract, to a child with disabilities
2 regardless of the child's district of residence.

3 (3) (a) An administrative unit that incurs high costs in providing
4 special ~~educational~~ EDUCATION services to a child with disabilities may
5 apply for a high cost grant to recover all or a portion of such high costs.
6 To receive a grant, an administrative unit shall apply to the committee in
7 a form and manner determined by the committee and provide such
8 information as may be requested by the committee to document the
9 administrative unit's high costs.

10 (a.5) Of the total amount appropriated in a budget year for the
11 purpose of awarding grants pursuant to this section, the committee shall
12 use fifty percent of the amount to award grants to administrative units that
13 have one or more children being served in an out-of-district placement for
14 special ~~educational~~ EDUCATION services and fifty percent of the amount
15 to award grants to administrative units with one or more children being
16 served in an in-district placement for special ~~educational~~ EDUCATION
17 services.

18 (b) (II) (A) In awarding grants pursuant to this section to
19 administrative units that have one or more children being served in an
20 out-of-district placement for special ~~educational~~ EDUCATION services, the
21 committee shall first prioritize those administrative units that spent the
22 highest percentages, based on the administrative unit's annual audited
23 operating expenses, in the preceding budget year on high costs incurred
24 in providing special education services to children in such out-of-district
25 placements.

26 **SECTION 11.** Article 20 of title 22, Colorado Revised Statutes,
27 is amended BY THE ADDITION OF A NEW PART to read:

1 PART 2

2 EDUCATION OF GIFTED CHILDREN

3 **22-20-201. Legislative declaration.** THE GENERAL ASSEMBLY,
4 RECOGNIZING THE OBLIGATION OF THE STATE OF COLORADO TO PROVIDE
5 EDUCATIONAL OPPORTUNITIES TO ALL CHILDREN THAT WILL ENABLE THEM
6 TO LEAD FULFILLING AND PRODUCTIVE LIVES, DECLARES THAT THE
7 PURPOSE OF THIS PART 2 IS TO PROVIDE MEANS FOR IDENTIFYING AND
8 EDUCATING THOSE CHILDREN WHO ARE EXCEPTIONAL. THE GENERAL
9 ASSEMBLY FURTHER FINDS AND DECLARES THAT TRADITIONAL
10 ASSESSMENT METHODS CURRENTLY USED DO NOT ADEQUATELY IDENTIFY
11 SOME GIFTED CHILDREN, INCLUDING THOSE WHO ARE ECONOMICALLY
12 DISADVANTAGED, THOSE WHO ARE FROM ETHNIC OR CULTURAL
13 MINORITIES, AND THOSE WITH DISABILITIES; AND THAT THE STATE BOARD,
14 THE DEPARTMENT, AND EVERY ADMINISTRATIVE UNIT ARE ENCOURAGED
15 TO GIVE THE HIGHEST PRIORITY TO THE IDENTIFICATION OF GIFTED
16 CHILDREN AND TO THE DEVELOPMENT OF EDUCATIONAL PROGRAMS THAT
17 INCLUDE GIFTED CHILDREN.

18 **22-20-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

20 (1) "ADMINISTRATIVE UNIT" MEANS A SCHOOL DISTRICT, A BOARD
21 OF COOPERATIVE SERVICES, OR THE STATE CHARTER SCHOOL INSTITUTE
22 THAT IS PROVIDING EDUCATIONAL SERVICES TO EXCEPTIONAL CHILDREN
23 AND THAT IS RESPONSIBLE FOR THE LOCAL ADMINISTRATION OF THIS
24 ARTICLE. ■■■

25 (2) "ADVANCED LEARNING PLAN" OR "ALP" MEANS A WRITTEN
26 RECORD OF GIFTED AND TALENTED PROGRAMMING UTILIZED WITH EACH
27 GIFTED CHILD AND CONSIDERED IN EDUCATIONAL PLANNING AND

1 DECISION-MAKING.

2 (3) "BOARD OF COOPERATIVE SERVICES" MEANS A REGIONAL
3 EDUCATIONAL SERVICES UNIT CREATED PURSUANT TO ARTICLE 5 OF THIS
4 TITLE AND DESIGNED TO PROVIDE SUPPORTING, INSTRUCTIONAL,
5 ADMINISTRATIVE, FACILITY, COMMUNITY, OR ANY OTHER SERVICES
6 CONTRACTED BY PARTICIPATING MEMBERS.

7 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
8 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

9 (5) "EXCEPTIONAL CHILD" MEANS:

10 (a) A CHILD DEFINED IN SECTION 22-20-103 (5) AS A CHILD WITH
11 A DISABILITY. AN ADMINISTRATIVE UNIT SHALL SERVE EVERY CHILD WITH
12 A DISABILITY FROM THREE TO TWENTY-ONE YEARS OF AGE AND MAY
13 SERVE CHILDREN WITH DISABILITIES FROM BIRTH THROUGH TWO
14 YEARS OF AGE.

15 (b) A CHILD DEFINED IN SUBSECTION (6) OF THIS SECTION AS A
16 GIFTED CHILD. PURSUANT TO SECTION 22-20-204 (1), AN ADMINISTRATIVE
17 UNIT SHALL ADOPT AND SUBMIT TO THE DEPARTMENT A PROGRAM PLAN TO
18 IDENTIFY AND SERVE GIFTED CHILDREN WHO ARE AT LEAST FIVE YEARS OF
19 AGE.

20 (6) "GIFTED CHILD" MEANS A PERSON FROM FOUR TO TWENTY-ONE
21 YEARS OF AGE WHOSE ABILITIES, TALENTS, AND POTENTIAL FOR
22 ACCOMPLISHMENTS ARE SO OUTSTANDING THAT HE OR SHE REQUIRES
23 SPECIAL PROVISIONS TO MEET HIS OR HER EDUCATIONAL NEEDS.

24 (7) "GIFTED EDUCATION SERVICES" OR "GIFTED EDUCATION
25 PROGRAMS" MEANS THE SERVICES OR PROGRAMS PROVIDED TO GIFTED
26 CHILDREN PURSUANT TO THIS PART 2.

27 (8) "HIGHLY ADVANCED GIFTED CHILD" MEANS A GIFTED CHILD

1 WHO HAS BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT, USING CRITERIA
2 AND A PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE
3 BOARD PURSUANT TO SECTION 22-20-204 (6), TO BE A HIGHLY ADVANCED
4 GIFTED CHILD.

5 (9) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED
6 AND EXISTING PURSUANT TO LAW, BUT SHALL NOT INCLUDE A JUNIOR
7 COLLEGE DISTRICT.

8 (10) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION
9 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE
10 STATE CONSTITUTION.

11 **22-20-203. Administration - rules.** (1) (a) THIS PART 2 SHALL
12 BE ADMINISTERED BY THE DEPARTMENT. ADMINISTRATION OF THIS PART
13 2 SHALL INCLUDE THE RECOMMENDATION TO THE STATE BOARD OF
14 REASONABLE RULES NECESSARY TO IMPLEMENT THIS PART 2, INCLUDING
15 BUT NOT LIMITED TO:

16 (I) PROCEDURES REGARDING THE IDENTIFICATION OF GIFTED
17 CHILDREN; AND

18 (II) CRITERIA FOR ADMINISTRATIVE UNITS TO SATISFY IN ADOPTING
19 PROGRAM PLANS TO IDENTIFY AND SERVE GIFTED CHILDREN.

20 (b) THE STATE BOARD SHALL ADOPT APPROPRIATE
21 RECOMMENDATIONS AS RULES TO IMPLEMENT THIS PART 2 FOLLOWING
22 PUBLIC COMMENT AND HEARING. THE RULES PROMULGATED BY THE
23 STATE BOARD SHALL BE IN ACCORD WITH THE LEGISLATIVE DECLARATION
24 SET FORTH IN SECTION 22-20-201.

25 (c) AN ADMINISTRATIVE UNIT THAT PROVIDES PLANS, PROGRAMS,
26 OR SERVICES THAT DO NOT COMPLY WITH THE RULES ADOPTED BY THE
27 STATE BOARD WILL BE PROVIDED BY THE DEPARTMENT WITH A DETAILED

1 ANALYSIS OF ANY DISCREPANCIES NOTED ALONG WITH SPECIFIC
2 RECOMMENDATIONS FOR THEIR CORRECTION. APPLICABLE FEDERAL AND
3 STATE FUNDING WILL BE PROVIDED OR CONTINUED FOR A REASONABLE
4 PERIOD OF TIME, AS DETERMINED BY THE DEPARTMENT, TO ALLOW THE
5 ADMINISTRATIVE UNIT AN OPPORTUNITY TO COMPLY WITH SUCH RULES.
6 AN ADMINISTRATIVE UNIT MAY ESTABLISH A CLAIM FOR VARIANCE BASED
7 UPON CONDITIONS INDIGENOUS TO OR UNIQUE TO THE ADMINISTRATIVE
8 UNIT.

9 (2) IN ORDER TO IMPLEMENT THE PROVISIONS OF SECTIONS
10 22-20-201 AND 22-20-204, THE STATE BOARD AND THE DEPARTMENT MAY
11 PROVIDE, AT THEIR DISCRETION, FOR SUCH PERSONNEL AS DEEMED
12 NECESSARY FOR SUCH PURPOSES.

13 **22-20-204. Plan for academic excellence - inclusion of gifted**
14 **children - cooperation - rules.** (1) EACH ADMINISTRATIVE UNIT SHALL
15 ADOPT AND IMPLEMENT A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED
16 CHILDREN WHO ARE AT LEAST FIVE YEARS OF AGE. ANY PROGRAM PLAN
17 DEVELOPED AND IMPLEMENTED PURSUANT TO THE PROVISIONS OF THIS
18 SECTION SHALL SATISFY ANY CRITERIA ESTABLISHED BY RULES
19 PROMULGATED BY THE STATE BOARD FOR THE IMPLEMENTATION OF THIS
20 PART 2. A PROGRAM PLAN ADOPTED BY AN ADMINISTRATIVE UNIT
21 PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE ADVANCED
22 LEARNING PLANS OF THE GIFTED CHILDREN WHO ARE IDENTIFIED BY THE
23 ADMINISTRATIVE UNIT, AND THE PROGRAM PLAN SHALL BE IMPLEMENTED
24 TO THE EXTENT THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION.
25 NOTHING IN THIS PART 2 SHALL BE CONSTRUED TO REQUIRE AN
26 ADMINISTRATIVE UNIT TO IMPLEMENT A PROGRAM PLAN IN THE EVENT
27 THAT SUFFICIENT MONEYS ARE NOT PROVIDED FOR SUCH

1 IMPLEMENTATION.

2 (2) (a) IN ADOPTING AND IMPLEMENTING A PROGRAM PLAN TO
3 IDENTIFY AND SERVE GIFTED CHILDREN PURSUANT TO SUBSECTION (1) OF
4 THIS SECTION, EACH ADMINISTRATIVE UNIT MAY INCLUDE IN ITS PROGRAM
5 PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED
6 CHILDREN WHO ARE:

7 (I) FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO
8 KINDERGARTEN IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT;
9 AND

10 (II) FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST
11 GRADE IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT.

12 (b) IN MAKING DETERMINATIONS PURSUANT TO PARAGRAPH (a) OF
13 THIS SUBSECTION (2), AN ADMINISTRATIVE UNIT SHALL APPLY THE
14 CRITERIA AND PROCESS ESTABLISHED BY RULES PROMULGATED BY THE
15 STATE BOARD PURSUANT TO SUBSECTION (6) OF THIS SECTION.

16 (c) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN
17 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN
18 AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE
19 ADMINISTRATIVE UNIT SHALL MAKE AVAILABLE UPON REQUEST TO ANY
20 PERSON THE ADMINISTRATIVE UNIT'S CRITERIA AND PROCESS FOR
21 IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY
22 ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED APPROPRIATE,
23 INCLUDING TIME FRAMES, DEADLINES, AND ANY SPECIFIC TESTS AND
24 THRESHOLD SCORES USED BY THE ADMINISTRATIVE UNIT IN IDENTIFYING
25 AND MAKING A FINAL DETERMINATION CONCERNING SUCH A STUDENT.

26 (d) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN
27 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN

1 AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE
2 ADMINISTRATIVE UNIT MAY CHARGE A FEE FOR ANY ASSESSMENTS OR
3 OTHER PROCEDURES THAT THE ADMINISTRATIVE UNIT PERFORMS FOR THE
4 PURPOSE OF IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM
5 EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED
6 APPROPRIATE; EXCEPT THAT AN ADMINISTRATIVE UNIT SHALL NOT CHARGE
7 SUCH A FEE FOR ANY SUCH ASSESSMENTS OR OTHER PROCEDURES IF THE
8 CHILD WHO IS THE SUBJECT OF SUCH ASSESSMENTS OR OTHER PROCEDURES
9 IS ELIGIBLE FOR A REDUCED-COST MEAL OR FREE MEAL PURSUANT TO THE
10 FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

11 (e) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT,
12 FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION,
13 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN
14 WHO ARE FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO
15 KINDERGARTEN IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT OR
16 WHO ARE FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST
17 GRADE IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT ARE
18 IMPORTANT ELEMENTS OF ACCOUNTABLE EDUCATION REFORM AND
19 EXPANDING THE AVAILABILITY OF PRESCHOOL AND KINDERGARTEN
20 PROGRAMS AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE
21 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE
22 STATE CONSTITUTION.

23 (3) INSTITUTIONS OF HIGHER EDUCATION THAT ARE LOCATED
24 WITHIN THE STATE ARE ENCOURAGED TO WORK WITH THE
25 ADMINISTRATIVE UNITS, THE STATE BOARD, AND THE DEPARTMENT TO
26 PROVIDE STAFF DEVELOPMENT AND IN-SERVICE OPPORTUNITIES TO
27 SUPPORT SUCH MANAGEMENT PLANS SPECIFIED IN SUBSECTION (1) OF THIS

1 SECTION.

2 (4) FUNDING FOR GIFTED PROGRAMS SHALL BE FOR
3 APPROPRIATELY CERTIFIED, ENDORSED, OR LICENSED STAFF, FOR
4 ACTIVITIES RELATED TO SERVING GIFTED CHILDREN, AND FOR
5 EDUCATIONAL EQUIPMENT AND MATERIALS. FUNDING FOR GIFTED
6 PROGRAMS SHALL SUPPLEMENT, NOT SUPPLANT, PROGRAMS FOR STUDENTS
7 WITH DISABILITIES.

8 (5) FOR EACH FISCAL YEAR, APPROPRIATIONS MADE BY THE
9 GENERAL ASSEMBLY TO FUND PROGRAMS FOR GIFTED CHILDREN SHALL BE
10 DESIGNATED BY A SEPARATE LINE ITEM IN THE ANNUAL GENERAL
11 APPROPRIATION ACT.

12 (6) (a) ON OR BEFORE JULY 1, 2008, THE STATE BOARD SHALL
13 PROMULGATE RULES TO ESTABLISH CRITERIA AND A PROCESS THAT AN
14 ADMINISTRATIVE UNIT SHALL USE, PURSUANT TO PARAGRAPH (b) OF
15 SUBSECTION (2) OF THIS SECTION, TO MAKE DETERMINATIONS REGARDING
16 THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN
17 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

18 (b) THE CRITERIA ESTABLISHED BY RULES PROMULGATED
19 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE
20 CONSIDERATION OF A CHILD'S:

21 (I) APTITUDE;

22 (II) ACHIEVEMENT;

23 (III) PERFORMANCE;

24 (IV) READINESS FOR ADVANCED PLACEMENT;

25 (V) OBSERVABLE SOCIAL BEHAVIOR;

26 (VI) MOTIVATION TO LEARN; AND

27 (VII) SUPPORT FROM PARENTS, TEACHERS, AND SCHOOL

1 ADMINISTRATORS.

2 (c) THE PROCESS ESTABLISHED BY RULES PROMULGATED
3 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE:

4 (I) A TIMELINE ACCORDING TO WHICH A CHILD'S PARENTS MAY
5 APPLY FOR ADVANCED PLACEMENT FOR THE CHILD;

6 (II) A DESCRIPTION OF ADMINISTRATIVE UNIT PERSONNEL WHO
7 SHALL BE INVOLVED IN THE PROCESS OF IDENTIFYING HIGHLY ADVANCED
8 GIFTED CHILDREN FOR WHOM ADVANCED PLACEMENT IS APPROPRIATE;

9 (III) A DESCRIPTION OF HOW EACH CHILD FOR WHOM THE CHILD'S
10 PARENTS ARE SEEKING ADVANCED PLACEMENT SHALL BE EVALUATED;

11 (IV) A DESCRIPTION OF THE ENTIRE BODY OF EVIDENCE THAT
12 SHALL BE USED TO EVALUATE EACH CHILD FOR WHOM THE CHILD'S
13 PARENTS ARE SEEKING ADVANCED PLACEMENT;

14 (V) A DESCRIPTION OF HOW DECISIONS CONCERNING THE
15 ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN SHALL
16 BE MADE COLLABORATIVELY BY ADMINISTRATIVE UNIT PERSONNEL; AND

17 (VI) A DESCRIPTION OF HOW AN ADMINISTRATIVE UNIT SHALL
18 MONITOR THE PERFORMANCE OF A CHILD WHO HAS RECEIVED AN
19 ADVANCED PLACEMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION.

20 **22-20-205. Gifted education programs.** (1) IF AN
21 ADMINISTRATIVE UNIT RECEIVES FUNDING TO EDUCATE GIFTED CHILDREN,
22 THE ADMINISTRATIVE UNIT SHALL SUBMIT AN ANNUAL PLAN FOR
23 EDUCATING SAID CHILDREN TO THE DEPARTMENT PURSUANT TO RULES
24 PROMULGATED BY THE STATE BOARD.

25 (2) FOR THE PURPOSE OF IMPLEMENTING THE PROGRAM PLAN
26 ADOPTED BY EACH ADMINISTRATIVE UNIT PURSUANT TO SECTION
27 22-20-204, EACH ADMINISTRATIVE UNIT SHALL ENSURE THAT ITS

1 CONSTITUENT SCHOOLS AND SCHOOL DISTRICTS MAKE AVAILABLE
2 APPROPRIATE SPECIAL PROVISIONS FOR GIFTED CHILDREN TO THE EXTENT
3 THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION.

4 (3) TO COMPLY WITH THIS SECTION, AN ADMINISTRATIVE UNIT MAY
5 CONTRACT WITH ONE OR MORE ADMINISTRATIVE UNITS TO ESTABLISH AND
6 MAINTAIN GIFTED EDUCATION PROGRAMS FOR THE EDUCATION OF
7 EXCEPTIONAL CHILDREN, SHARING THE COSTS THEREOF IN ACCORDANCE
8 WITH THE TERMS OF THE CONTRACT AGREED UPON; OR AN
9 ADMINISTRATIVE UNIT HAVING FEWER THAN SIX CHILDREN WHO NEED A
10 PARTICULAR KIND OF GIFTED EDUCATION PROGRAM MAY PURCHASE
11 SERVICES FROM ONE OR MORE ADMINISTRATIVE UNITS WHERE AN
12 APPROPRIATE GIFTED EDUCATION PROGRAM EXISTS.

13 **22-20-206. Length of school year.** AN ADMINISTRATIVE UNIT
14 MAY CONDUCT GIFTED EDUCATION PROGRAMS AS PRESCRIBED IN THIS
15 PART 2 FOR ANY LENGTH OF TIME; EXCEPT THAT THE ADMINISTRATIVE
16 UNIT MUST MEET THE MINIMUM LENGTH OF TIME AS ESTABLISHED BY LAW
17 FOR SCHOOL DISTRICTS.

18 **SECTION 12. Repeal.** Article 26 of title 22, Colorado Revised
19 Statutes, is repealed.

20 **SECTION 13.** 22-7-402 (8.5), Colorado Revised Statutes, is
21 amended to read:

22 **22-7-402. Definitions.** As used in this part 4, unless the context
23 otherwise requires:

24 (8.5) "Exceptional students" means those students defined in
25 section 22-20-103 (5) as children with disabilities and students defined
26 in ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6) as gifted children.

27 **SECTION 14.** 22-11-301 (3) (f), Colorado Revised Statutes, is

1 amended to read:

2 **22-11-301. School district accountability committees - creation**
3 **- membership.** (3) If a local school board appoints the members of the
4 school district accountability committee, the local school board, to the
5 extent practicable, shall ensure that the parents who are appointed reflect
6 the student populations that are significantly represented within the
7 school district. Said student populations may include, but need not be
8 limited to:

9 (f) Students who are identified as gifted children as defined in
10 ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6).

11 **SECTION 15.** 22-11-401 (1) (d) (VI), Colorado Revised Statutes,
12 is amended to read:

13 **22-11-401. School accountability committee - creation -**
14 **qualifications - elections.** (1) (d) If the local school board or the
15 institute determines that the members of a school accountability
16 committee should be appointed, the appointing authority shall, to the
17 extent practicable, appoint persons to serve on the school accountability
18 committee who reflect the student populations that are significantly
19 represented within the school. If the local school board or the institute
20 determines that persons shall be elected to serve on the school
21 accountability committee, the school principal shall encourage persons
22 who reflect the student populations that are significantly represented
23 within the school to seek election to the committee. Said student
24 populations may include, but need not be limited to:

25 (VI) Students who are identified as gifted children, as defined in
26 ~~section 22-20-103 (13)~~ SECTION 22-20-202 (6).

27 **SECTION 16.** 22-54-103 (10) (a) (IV) (B) and (10) (b) (I) (B),

1 Colorado Revised Statutes, are amended to read:

2 **22-54-103. Definitions - repeal.** As used in this article, unless
3 the context otherwise requires:

4 (10) (a) (IV) (B) For purposes of determining pupil enrollment in
5 first grade for the 2007-08 budget year and each budget year thereafter,
6 in addition to the pupils counted pursuant to sub-subparagraph (A) of this
7 subparagraph (IV), a district may count and receive funding for a pupil
8 who is enrolled in first grade who is at least five years old on or before
9 October 1 of the applicable budget year if the pupil attended at least one
10 hundred twenty days of kindergarten in a state other than Colorado. A
11 district may also receive funding for a pupil who is five years old and
12 who has been identified by the district or an administrative unit as a
13 highly advanced gifted child for whom early access to first grade is
14 appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

15 (b) (I) A pupil enrolled in a kindergarten educational program
16 pursuant to section 22-32-119 (1) shall be counted as not more than a
17 half-day pupil. For the 2005-06 budget year and each budget year
18 thereafter, a district shall count and receive funding only for pupils
19 enrolled in a kindergarten educational program who are:

20 (B) Four years old as of October 1 of the applicable budget year
21 and who have been identified by an administrative unit to be highly
22 advanced gifted children for whom early access to kindergarten is
23 appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

24 **SECTION 17. Act subject to petition - effective date.** This act
25 shall take effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part shall not take effect
4 unless approved by the people at the general election to be held in
5 November 2012 and shall take effect on the date of the official
6 declaration of the vote thereon by the governor.