Virginia Department of Education

Understanding the Virginia Regulations Governing Educational Services for Gifted Students

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Acknowledgements

Virginia Department of Education

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I. Introduction

A. Rationale

Understanding the Virginia Regulations Governing Educational Services for Gifted Students is designed to be an explanatory guide to the *Regulations Governing Educational Services for Gifted Students*. It is created for parents, educators, and citizens of the Commonwealth of Virginia.

Section § 22.1-16 of the Code of Virginia permits the Board of Education to promulgate regulations as necessary to carry out its powers and duties. Under the powers delegated to it by the General Assembly and by federal laws and regulations, the Board of Education promulgates and adopts regulations concerning educational programs. The Board of Education adopted the *Regulations Governing Educational Services for Gifted Students* on May 27, 2010. These regulations were revised to align with changes in the Code of Virginia on August 31, 2012.

B. Standards of Quality Related to Gifted Education

The Virginia General Assembly has established the *Standards of Quality for Public Schools in Virginia* (§ 22.1-253.13:1 – 13:8) to serve as the framework for public education services in the Commonwealth. As they relate to gifted education, the standards state:

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia. (§22.1-253.13:1.A)

B. To support this fundamental goal, the *Standards of Quality* require school divisions to provide
   a. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success (§22.1-253.13:1.D.1),
   b. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs (§22.1-253.13:1.D.6),
   c. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs, and
   d. Assessment of the educational progress of students as individuals and as groups. (§22.1-253.13:3.F)

C. Additionally, the *Standards of Quality* require each local school board to:
   a. Require the use of Standards of Learning assessments and other relevant data to evaluate student progress and to determine educational performance (§22.1-253.13:3.F), and
   b. Provide a program of high-quality professional development for teachers and administrators:
      i. In the use and documentation of performance standards and evaluation criteria based on student academic progress and skills;
      ii. To facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels;
      iii. To assist teachers and principals in acquiring the skills needed to work with gifted students; and,
      iv. To increase student achievement and expand the knowledge and skills students require to meet the standards for academic performance set by the Board of Education. (§22.1-253.13:5.E)

The *Virginia Standards of Learning*, approved by the Virginia Board of Education, provide the basis for increased academic standards for all students in the four core content areas (i.e., English, history/social science, mathematics, and science). With the *Standards of Learning* as a framework, differentiated instructional services for gifted students is then designed to match their individual learning needs.

C. Regulations Governing Educational Services for Gifted Students

The *Regulations Governing Educational Services for Gifted Students* (8VAC20-40-10 et. seq.), approved by the Virginia Board of Education, establish guidelines for the differentiated education that school divisions are required to provide to gifted students. The *Regulations* are comprehensive, yet flexible enough to encourage the design of unique and successful programs for gifted students throughout the Commonwealth. Revised in August 2012, they outline the Commonwealth's expectations for the school divisions' services.

D. Local Plans for the Education of the Gifted

Each school board must review and approve a comprehensive plan for the education of the gifted. That plan must provide specific explanations of the school division's implementation of the *Regulations*. It is a public document and must address all aspects of services for gifted students, including, but not limited to, the area(s) of giftedness the school division will serve, an operational definition of giftedness in the division and its supporting identification procedures, program services, professional development, curriculum development, and parent and community involvement.

The *Regulations* state, "Each school board shall submit a comprehensive plan for the education of gifted students to the Department of Education (DOE) for technical review on a schedule determined by the Department. Each school board shall approve a comprehensive plan for the education of gifted students that includes the components identified in these regulations." (8VAC20-40-60A)

For specific information on a school division's services for gifted students, refer to the division's local plan, which must be posted to the division's Web site. For a printed copy, contact the coordinator of gifted education for the local school division.

II. Gifted Students

A. Who are the Gifted?

In 8VAC20-40-20 of the *Regulations*, specific terms are defined to assist school divisions in their efforts to serve gifted students. Gifted students are defined as… "those students in public elementary, middle, and secondary schools beginning with kindergarten through twelfth grade who demonstrate high levels of accomplishment or who show the potential for higher levels of accomplishment when compared to others of the same age, experience, or environment. Their aptitudes and potential for accomplishment are so outstanding that they require special programs to meet their educational needs."

Section 8VAC20-40-40A of the *Regulations* requires school divisions to "establish uniform procedures for screening, referring, identifying, and serving students in kindergarten through twelfth grade who are gifted in general intellectual or specific academic aptitude. If the school division elects to identify students in general intellectual aptitude, it shall provide service options from kindergarten through twelfth grade. Identification in a specific academic aptitude area may occur as assessment instruments exist to support identification. If the division elects to identify students in one or more selected academic areas, it shall provide service options through twelfth grade. School divisions may identify and serve gifted students in career and technical aptitude or visual or performing arts aptitude, or both, at their discretion."

B. Defined Areas of Giftedness (as stated in 8VAC20-40-20 of the *Regulations*)

- **General intellectual aptitude.** "Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond their age-level peers."

- **Specific academic aptitude.** "Such students demonstrate or have the potential to demonstrate superior reasoning; persistent intellectual curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond their age-level peers in selected academic areas. Specific academic areas include English, history/social science, mathematics, or science."

- **Career and technical aptitude.** "Such students demonstrate or have the potential to demonstrate superior reasoning; persistent technical curiosity; advanced use of language; exceptional problem solving; rapid acquisition and mastery of facts, concepts, and principles; and creative and imaginative expression across a broad range of intellectual disciplines beyond their age-level peers in career and technical fields."

- **Visual or performing arts aptitude.** "Such students demonstrate or have the potential to demonstrate superior creative reasoning and imaginative expression; persistent artistic curiosity; and advanced acquisition and mastery of techniques, perspectives, concepts, and principles beyond their age-level peers in visual or performing arts."

III. Gifted Education Programs

A. Overview

Gifted students possess talents and abilities that differ from those of their age-level peers to such a degree that appropriately differentiated curriculum and instruction should be provided to nurture their growth and development. According to the *Regulations*, "appropriately differentiated curriculum and instruction means curriculum and instruction adapted or modified to accommodate the accelerated learning aptitudes of identified students in their areas of strength. Such curriculum and instructional strategies provide accelerated and enrichment opportunities that recognize gifted students' needs for:

- Advanced content and pacing of instruction;
- Original research or production;

- Problem finding and solving;
- Higher-level thinking that leads to the generation of products; and
- A focus on issues, themes, and ideas within and across areas of study.

Such curriculum and instruction should support advanced student achievement, and provide support necessary for these students to work at increasing levels of complexity that differ significantly from those of their age-level peers." (8VAC20-40-20) Gifted education programs should be designed to:

- Reflect local goals and objectives;
- Meet students' assessed needs in their areas of strength;
- Provide continuous and sequential, rather than intermittent service; and
- Integrate into the total school program.

B. Service Options

In 8VAC20-40-20 of the *Regulations*, "service options mean the instructional approaches, settings, and staffing selected for the delivery of appropriate service or services provided to eligible students based on their assessed needs in their areas of strength."

The decision to use one service option instead of another, or a combination of options, should be based upon the degree to which each option suits the philosophy of the school division and the unique needs of the gifted students in the division. At the division's discretion, service options may include:

- Special classes provided on a full-time or part-time basis;
- Differentiation in the regular classroom;
- Honors and/or advanced level courses;
- Full-time classes (center or school-based);
- Seminars and special workshops;
- Mentorships;
- Independent study;
- Counseling sessions; or
- Access to secondary-level specialized programs (i.e., Governor's Schools, International Baccalaureate).

Section 8VAC20-40-40E *Regulations* states that, "Identified gifted students shall be offered placement in an instructional setting that provides:

1. Appropriately differentiated curriculum and instruction provided by professional instructional personnel trained to work with gifted students; and
2. Monitored and assessed student outcomes that are reported to the parents and legal guardians."

In accordance with 8VAC20-40-60A of the *Regulations* "The approved local plan shall be accessible through the school division's Web site and the school division shall ensure that printed copies of the comprehensive plan are available to citizens who do not have online access." Interested individuals should review their division's local plan for details on screening, referral, identification, and service options.

IV. Student Eligibility For Gifted Education

Determining the educational needs of individual learners is a complex task. The *Regulations* outline the components of a broad-based, multi-staged identification process that includes student assessment information from multiple sources. The identification process should be designed to seek out those students with superior aptitudes, including students for whom accurate identification may be affected because they are economically disadvantaged, have limited English proficiency, or have a disability. The identification process involves the following aspects:

- Screening Procedures;
- Referral Procedures;
- Data Collection and Assessment; and
- Identification/Placement Process.

A. Screening Procedures

As stated in 8VAC20-40-40 of the *Regulations*, screening is the annual process of reviewing "current assessment data on each kindergarten through twelfth-grade student" that may then be referred for the formal identification process. Screening may take many forms; it may be a review of standardized test scores, current classroom achievement, performance on complex thinking tasks, or potential for advanced achievement.

B. Referral Procedures

The screening process may result in a student being referred for further evaluation and possible placement into gifted education services. In addition to those students who are referred as a result of the screening process, other students may be directly referred by themselves, a parent, or anyone else. Once a student is referred, the division must complete the assessment procedures as outlined in the school division's approved Local Plan for the Education of the Gifted.

Section 8VAC20-40-60 of the *Regulations* requires school divisions to develop procedures for the identification and placement committee to determine the eligibility status of each student referred for the division's gifted education program and notify the parent or guardian of its decision.

C. Data Collection and Assessment

Once a student is referred, the division must begin to collect a variety of data about the student's performance, aptitudes, behaviors, and interests. School divisions must receive permission from a parent or legal guardian to assess a student for gifted services.

The *Regulations* require school divisions to use multiple criteria to seek out students with superior aptitudes, with special attention paid to the identification of students who "are economically disadvantaged, have limited English proficiency, or have a disability." (8VAC20-40-60A.7) Nationally-normed tests and other measures that assess demonstrated advanced achievement and accomplishment, as well as instruments that assess potential for advanced achievement and accomplishment, must be used in the identification process.

D. Identification and Placement Processes

The school division's identification/placement committee, whose membership is outlined in the Local Plan for the Education of the Gifted, determines the eligibility of each referred student. "The identification process shall include at least three measures from the following categories:

- Assessment of appropriate student products, performance, or portfolio;
- Record of observation of in-classroom behavior;
- Appropriate rating scales, checklists, or questionnaires;
- Individual interview;
- Individually administered or group-administered, nationally norm-referenced aptitude and/or achievement tests;
- Record of previous accomplishments (such as awards, honors, grades, etc); or
- Additional valid and reliable measures of procedures." (8VAC20-40-40D.3)

For general intellectual aptitude identification, a nationally norm-referenced aptitude test shall be included.
For specific academic aptitude identification, a nationally norm-referenced aptitude or achievement test shall be included.
For visual and performing arts or career and technical aptitude, a portfolio or other performance assessment measure shall be included.

The identification process must ensure that no single criterion either makes a student eligible or ineligible for the school division's gifted education program. For each identified student, the identification/placement committee shall determine which service option offered by the division most effectively meets the learning needs of the student. Parents and legal guardians must be notified of the committee's decision within 90 instructional days of the receipt of parental consent for assessment.

E. Appeal Process

Parents have the right to appeal any decision of the identification and placement committee. According to 8VAC20-40-55.B of the *Regulations*, "each school division shall adopt a review procedure for students whose cases are appealed. This procedure shall involve a committee, the majority of whose members did not serve on the initial identification and placement committee, and shall inform parents or legal guardians, in writing, of the appeal process. Requests filed by parents or legal guardians to appeal any action of the identification and placement committee shall be filed within 10 instructional days of receipt of notification of the action by the division. The process shall include an opportunity to meet with an administrator to discuss the decision."

A parent or legal guardian of an identified student may appeal any action taken by the school division to change the student's identification for, placement in, or exit from the school division's gifted education program.

V. Local School Board and Advisory Committee Responsibilities

A. The Local School Board

Each school board shall approve and submit a comprehensive local plan for the education of gifted students to the Department of Education (DOE) for technical review on a schedule determined by the Department. If the school division elects to establish a local advisory committee, the school board shall appoint parents, school personnel, and other community members that reflect the ethnic and geographic composition of the school division. In addition, the school board shall receive the annual report of the local advisory committee. (8VAC20-40-60B)

The Virginia Department of Education has developed an informational brochure for local school boards highlighting their responsibilities as designated by the *Regulations*.

B. The Local Advisory Committee

If the school division elects to establish a local advisory committee, the committee shall reflect the ethnic and geographic composition of the school division. According to 8VAC20-40-60B of the *Regulations*, "this committee shall have two responsibilities: (i) to review annually the local plan for the education of gifted students, including revisions, and (ii) to determine the extent to which the plan for the previous year was implemented. The findings of the annual program effectiveness and the recommendations of the advisory committee shall be submitted annually in writing to the division superintendent and the school board."

The Virginia Department of Education has developed an informational brochure for local advisory committees highlighting their responsibilities as designated by the *Regulations*.

C. The Local Plan for the Education of the Gifted

Each school division shall develop a comprehensive plan for the education of gifted students that includes the following components for a gifted education program identified in 8VAC20-40-60 of the *Regulations*. The following is an abbreviated listing of the required components:

- A statement of philosophy for the gifted education program and the local operational definition of giftedness for the school division;
- A statement of the division's program goals and objectives for identification, delivery of services, curriculum and instruction, professional development, equitable representation of students, and parent and community involvement;
- Procedures for early and ongoing screening, referral, identification, and placement;
- Procedures for written notification to parents and legal guardians for testing;
- A policy for written notification to parents and legal guardians for identification and placement decisions;
- Evidence that service options from kindergarten through twelfth grade are continuous and sequential and parents and legal guardians shall receive assessment of each gifted student's academic growth;
- A description of the program's differentiated curriculum and instruction demonstrating accelerated and advanced content;
- Policies and procedures that allow access to programs of study and advanced courses at a pace and sequence commensurate with their learning needs;
- Professional development opportunities based on the teacher competencies outlined in 8VAC20-542-310 related to gifted education for instructional personnel within the division; and
- Procedures for the annual review of the effectiveness of the school division's gifted education program, including the review of screening, referral, identification, and program procedures toward the equitable representation of students, the review of student outcomes and the academic growth of gifted students.

School divisions must protect the rights of parents and students. According to 8VAC20-40-60 of the *Regulations*, the plan shall also include the following components:

- Assurances that student records are maintained in compliance with applicable state and federal privacy laws and regulations;
- Assurances that (i) the selected and administered testing and assessment materials have been evaluated by the developers for cultural, racial, and linguistic biases; (ii) identification procedures are constructed so that those procedures may identify high potential or aptitude in any student whose accurate identification may be affected by economic disadvantages, by limited English proficiency, or by disability; (iii) standardized tests and other measures have been validated for the purpose of identifying gifted students; and (iv) instruments are administered and interpreted by trained personnel in conformity with the developer's instructions;
- Assurances that accommodations or modifications determined by the school division's special education Individual Education Plan (IEP) team, as required for the student to receive a free appropriate public education, shall be incorporated into the student's gifted education services; and
- Assurances that a written copy of the school division's approved local plan for the education of the gifted is available to parents or legal guardians of each referred student, and to others upon request."

The *Reference Guide For the Development and Review of Local Plans For the Education of the Gifted* sets guidelines for the development of the local plan. According to the *Regulations*, the development process "shall include opportunities for public review of the school division's plan." Divisions submit the local plan to the Virginia Department of Education (DOE) for technical review on a schedule determined by the DOE. School boards set their own schedule for review and approval of the plan.

For specific information on a school division's services for gifted students, refer to the local plan on the division's Web site. For a printed copy contact the coordinator of gifted education for the local school division.

D. The Annual Report

According to 8VAC20-40-60C of the *Regulations* and §22.1-18.1 of the *Code of Virginia* "each school division shall submit an annual report to the Department of Education in a format prescribed by

the Department." Annual report data are submitted by the gifted education administrator in the August time frame, after the End-of-Year report has been submitted by the school division. Annual report information is reflective of the prior school year's student and program data.

VI. Funding For Gifted Education

According to 8VAC20-40-70 the Regulations, "funds designated by the Virginia General Assembly for the education of gifted students shall be used by school divisions in accordance with the provisions of the Appropriation Act." The local division funding appropriation for gifted education in accordance with the Appropriation Act can be found at the Virginia Department of Education's Web site as part of the direct aid payments to school divisions.
http://www.doe.virginia.gov/school_finance/budget/calc_tools/index.shtml

Appendices

A. Local Gifted Advisory Committee Brochure

B. Local School Board Brochure

C. NAGC-CEC Teacher Preparation Standards in Gifted & Talented Education

In late 2006, the National Council for Accreditation of Teacher Education (NCATE) approved new Teacher Preparation Standards in Gifted Education that were developed jointly by NAGC, the Council for Exceptional Children (CEC), and the Association for the Gifted (CEC-TAG). The standards, which are the foundation for the knowledge and skills in which teacher candidates demonstrate competency, as determined by the field of gifted education, are used by college and university teacher preparation programs in gifted education and are a model for district-based professional development programming.

D. The National Association for the Gifted (NAGC) Program Standards

The National Association for the Gifted (NAGC), an organization that advocates for the gifted, revised its Pre-K through Grade 12 Program Standards in 2010. NAGC established gifted education program standards in the areas of learning and development, assessment, curriculum planning and instruction, learning environments, programming, and professional development. These standards offer specific student outcomes of each component with evidence-based practices for each student outcome.

E. Reference Guide For the Development and Review of Local Plans For the Education of the Gifted

This guide is intended to assist Virginia school division personnel in the development and revision of the required local plan for the education of the gifted. As a technical assistance resource, it supports the *Regulations Governing Educational Services for Gifted Students* that require the approval of the local plan by the local school board and the technical review of such plans by the Virginia Department of Education.

F. Virginia Regulations Governing Educational Services for Gifted Students

On May 27, 2010, the Virginia Board of Education adopted the *Regulations Governing Educational Services for Gifted Students*, which outline the requirements of a school division's local plan for the education of the gifted. These regulations were revised to align with changes made to the Code of Virginia on August 31, 2012.

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VIRGINIA DEPARTMENT OF EDUCATION

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