

# Regulatory Analysis Form

This space for use by IRRC

RECEIVED

2007 AUG 23 AM 11:52

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency

State Board of Education

(2) I.D. Number (Governor's Office Use)

006-307

IRRC Number:

2635

(3) Short Title

Chapter 16 - Special Education for Gifted Students

(4) PA Code Cite

22 PA Code Chapter 16

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jim Buckheit, (717) 787-3787  
jbuckheit@state.pa.us

Secondary Contact: Linda Rhen, (717) 705-5014  
lrhen@state.pa.us

(6) Type of Rulemaking (check one)

- ☒ Proposed Rulemaking  
☐ Final Order Adopting Regulation  
☐ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- ☒ No  
☐ Yes: By the Attorney General  
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Chapter 16 establishes requirements for identification, screening and evaluation of students who are gifted. It defines requirements for the development of an individualized education program for each identified student, describes policies for placement in appropriate educational settings, and establishes procedural safeguards for the resolution of complaints.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Public School Code of 1949 24 P.S. 13-1372 and 26-2603-B

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is mandated by state law in section 1372(1) of the Public School Code of 1949 (24 P.S. 13-1372(1)).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Chapter 16 establishes requirements for public schools to provide appropriate educational services to students who are identified as gifted and in need of a program of specialized instruction.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Approximately 70,000 students identified as gifted would have reduced levels of educational services and programs and limited due process protections without state regulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Approximately 70,000 of Pennsylvania's 1.8 million school-age children are identified as gifted and receive services and programs as provided in Chapter 16.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply).

School districts and school boards (501), administrative staff (7,000), instructional staff (122,000) and support service staff (15,000).

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A committee of the State Board held five public regional roundtable meetings in December 2006 and January 2007 that were attended by over 375 individuals. Two roundtables were held in Harrisburg. The others were held in King of Prussia, Pittsburgh and the Lehigh Valley. Three regional public hearings were held in Harrisburg, King of Prussia and Pittsburgh. 58 individuals and organizational representatives presented testimony at the hearings. Notice of the roundtable meetings and public hearings were posted on the State Board web page, announced at public meetings of the State Board, email notices sent to all school administrators and to the Board's stakeholders list and mailings to the Chapter 16 interested parties list, Sunshine Meeting Notices were posted and legal notices placed in newspapers. In addition, the Department of Education alerted its contacts about the roundtable meetings and hearings as did numerous advocacy and state education associations through their own communication networks. Drafts of Chapter 16 were posted on the State Board web page throughout the drafting process.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The Commonwealth provides school districts nearly \$1.0 billion in state funding for special education, which includes funding for educational services and programs for students who are gifted. These regulations will have minimal impact on the regulated community as they clarify or update existing requirements.

### Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The Board believes the proposed regulation will not result in any additional costs or savings to school districts.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Department of Education began to conduct compliance monitoring under its existing statutory authority provided in 24 P.S. 13-1372 during the 2006-07 school year. Section 16.6(d) of these regulations require the Department to conduct compliance monitoring based on a process to be outlined in a Basic Education Circular. It is estimated the initial annual cost to conduct compliance monitoring of ten school districts each year will total approximately \$21,000.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government	0	21,000	21,000	21,000	21,000	21,000
<b>Total Costs</b>	0	21,000	21,000	21,000	21,000	21,000
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

10 monitoring visits per year at \$2,100 per school district. This includes the cost of providing honoraria to peer monitors, mileage, lodging and subsistence costs for 10 school district compliance reviews each year at 2 1/2 days each.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Special Education	\$904.6 million	\$929.175 million	\$953.064 million	\$980.619 million
General Govt Operations	\$26.21	\$25.06	\$24.72 million	\$25.49 million

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Costs associated with the revisions to Chapter 16 are minimal while the educational programs and services provided to students identified as gifted are significant.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The Secretary has authority under Section 1372 of the Public School Code to supervise the provision of special education, which includes gifted education. This regulation will require the Department to outline its policy regarding compliance monitoring in a Basic Education Circular. The alternative is to maintain current practice of permitting the Department to establish its policy and practice without public notice.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Through the public roundtables, hearings and correspondence received by the Board during the development of these regulations numerous comments were provided urging the Board to mandate compliance monitoring of school districts by the Department. The Board believes the proposed regulation provides an appropriate balance to assure that the compliance monitoring policy of the Department is described in a publicly available Basic Education Circular while providing the Department the flexibility to conduct monitoring consistent with annual staff availability, financial resources and workload priorities.

### Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Federal standards do not exist for gifted education.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulations do not put Pennsylvania at a competitive disadvantage with other states. These regulations are generally consistent with the policy and practice of other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board's Chapter 16 committee will meet to discuss the regulation and comments received from members of the public, legislative committees and Independent Regulatory Review Commission on July 18, September 19 and November 14 in the Honors Suite, first floor, 333 Market Street, Harrisburg. The exact meeting times have yet to be determined but each meeting will take place in the morning. The announcement of the meeting, its time, place and agenda will be posted on the Board's web pages and the meeting notice requirements of the Sunshine Act met.

### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. The Department is required to conduct monitoring of school districts as described in a new Basic Education Circular to be issued by the Department and posted on its web site.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The entire chapter addresses the needs of students who are gifted.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation becomes effective upon publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

State Board of Education policy is to review its regulations every four years.



CDL-1

RECEIVED

2007 AUG 23 AM 11:52

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

Copy below is hereby approved as to  
form and legality. Attorney General

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated by:

Copy below is approved as  
to form and legality.  
Executive or Independent  
Agencies.

By: State Board of Education

By: \_\_\_\_\_  
(Deputy Attorney General)

(Agency)

DOCUMENT/FISCAL NOTE NO. #006-307

JUL 25 2007

DATE OF APPROVAL

DATE OF ADOPTION: May 17, 2007

BY: J. B. Miller

TITLE: Executive Director  
(EXECUTIVE DIRECTOR, CHAIRMAN OR SECRETARY)

( ) Check if applicable  
Copy not approved.

( ) Check if applicable.  
No Attorney General approval  
Or objection within 30 days  
After submission.

PROPOSED REGULATION  
COMMONWEALTH OF PENNSYLVANIA

22 PA. CODE, CH. 16  
SPECIAL EDUCATION FOR GIFTED STUDENTS

# **PREAMBLE**

## **STATE BOARD OF EDUCATION**

### **[22 PA. CODE CH. 16]**

#### **Special Education for Gifted Students**

The State Board of Education (Board) proposes to amend Chapter 16 (relating to special education for gifted students) to read as set forth in Annex A. The Board is acting under the authority of sections 1372 and 2603-B of the Public School Code of 1949 (24 P.S. §§ 13-1372 & 26-2603-B).

#### *Purpose*

Chapter 16 sets forth requirements for gifted education programs and services in the public schools of this Commonwealth. It addresses the screening and evaluation process, gifted individualized education program, educational placement and procedural safeguards for students identified as gifted. As provided in the section 1749-A of the Public School Code of 1949, these regulations do not apply to charter schools and cyber charter schools.

#### *Requirements of the Proposed Rulemaking*

The proposed rulemaking amends the following items:

##### § 16.4. Strategic plans.

Adds a requirement that the gifted education portion of each school district's strategic plan address the process for identifying children who are gifted and in need of specially designed instruction. It also is to outline the gifted special education programs offered by the school district.

##### § 16.6. General supervision.

Adds a requirement that the Department conduct on-site monitoring of school entities to ensure compliance with this chapter. Directs the Secretary to outline the process and schedule for monitoring in a Basic Education Circular, which are available on the Department's web site.

##### § 16.7. Special education.

Adds a new requirement that a single Individualized Education Program be developed for students who are both gifted and have a disability under Chapter 14 (relating to special education services and programs).

§ 16.21. General.

Adds new language that outlines the types of awareness activities that school districts are to conduct each year to inform parents about gifted education. Also adds new language that deficits in memory or processing speed cannot be the sole basis for determining that a student is ineligible for gifted education services.

§ 16.22. Gifted multidisciplinary evaluation.

Requires that school districts have readily available an evaluation request form that professional staff and administrators can provide to parents who request an evaluation of their child. The regulation requires the parent be provided the evaluation request form within five days of the request. Adds a requirement that the Gifted Multidisciplinary Team include, in its written report, its recommendations for each student's educational programming. This section also revises the number of days in which the initial student evaluation must be completed from 45 school days to 60 school days after the school receives written parental consent for the evaluation, an order of a court or hearing officer. This aligns the timeframe with the requirements of Chapter 14 so that school districts have just one standard to follow.

§ 16.23. Gifted multidisciplinary reevaluation.

New language provides that the reevaluation be completed and presented to parents no later than 60 school days after the school district receives written permission to reevaluate.

§ 16.31. General.

Amendments include several revisions that update references to other applicable regulations. It revises the regulation to "grandfather" students already receiving gifted education services at the time the regulation becomes effective.

§ 16.32. GIEP.

Requires present education levels to be included in both the initial and all revisions to the GIEP. Also adds a requirement that a teacher of the gifted be included on the GIEP team. It also requires that the GIEP be based on the gifted multi-disciplinary team's written report. New language is also added to require the school to notify teachers of their responsibilities to each of their students who are identified as gifted as provided in the students' GIEP.

#### §16.41. General.

Revises the total number of gifted students on an individual gifted teacher's caseload from 75 to 60. Revises the total number of gifted students on an individual teacher's class roster from 20 to 25. These changes reflect feedback provided from schools regarding the current caseload and class roster limitations.

#### § 16.63. Impartial due process hearing.

Aligns this chapter with the proposed revisions to Chapter 14 by adding new requirements that due process hearings, appeal panel proceedings and hearing officers to adhere to Title I Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). Also requires the Department to provide an annual report to the Board as to the activities of the due process hearings and appeal panel proceedings and to also report activities taken by the Department to strengthen the due process hearings and appeal panel proceedings.

#### *Affected Parties*

The proposed rulemaking affects the students and professional employees of the public schools, except those in charter schools and cyber-charter schools, of this Commonwealth.

#### *Cost and Paperwork Estimates*

The proposed rulemaking will not result in significant added costs or savings to the Department or school entities since they update existing requirements. The Department will incur additional costs estimated at an initial cost of approximately \$21,000 per year to conduct compliance monitoring as provided in Section 16.6. The Department already collects information about due process hearings and appeal panel proceedings so any costs associated with providing an annual report the Board, as provided in Section 16.63(q) are negligible.

#### *Effective Date*

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

The Board will review the effectiveness of Chapter 16 every 4 years in accordance with the Board's policy and practice respecting all regulations promulgated by the Board. Thus, no sunset date is necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 23, 2007, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Public Comments and Contact Person*

Interested individuals and organizations may access the proposed regulations at [www.pabulletin.com](http://www.pabulletin.com). The current Chapter 16 regulations may be accessed at: [www.pacode.com](http://www.pacode.com).

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 or via email to [jbuckheit@state.pa.us](mailto:jbuckheit@state.pa.us) within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 783-8445.

Jim Buckheit  
Executive Director

## **Annex A**

### **TITLE 22. EDUCATION**

#### **PART I. STATE BOARD OF EDUCATION**

##### **Subchapter A. MISCELLANEOUS PROVISIONS**

#### **CHAPTER 16. SPECIAL EDUCATION FOR GIFTED STUDENTS**

##### **GENERAL PROVISIONS**

\*\*\*\*\*

##### **§ 16.4. Strategic plans.**

(a) Each school district's strategic plan developed under Chapter 4 (relating to academic standards and assessments) shall include procedures for the education of all gifted students enrolled in the district. The strategic plan shall be developed to ensure the [support of the] implementation of gifted education plans [developed under subsection (b)].

(b) Each school district shall [provide, as the Department may require, reports of students, personnel and program elements, including the costs of the elements, which are relevant to the delivery of gifted education] address the following in its gifted education plan:

1. The process for identifying children who are gifted and in need of specially designed instruction.

2. The gifted special education programs offered.

(c) Each school district shall provide, as the Department may require, reports of students, personnel and program elements, including the costs of the elements,

which are relevant to the delivery of gifted education.

\*\*\*\*\*

§ 16.6. General supervision.

\*\*\*\*\*

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

§ 16.7. Special education.

(a) Nothing in this chapter is intended to reduce the protections afforded to students who are eligible for special education as provided for under [Chapters] **Chapter 14 [and 342]** (relating to special education services and programs) and the Individuals with Disabilities Education Act (20 U.S.C.A. § § 1400—[1485] **1419**).

(b) If a student is determined to be both gifted and eligible for special education, the procedures in [Chapters] **Chapter 14 [and 342]** shall take precedence. For these students identified with dual exceptionalities, the needs established under gifted status in this chapter shall be fully addressed in the procedures required in [Chapters] **Chapter 14 [and 342]**.

(c) For students who are gifted and eligible for special education, it is not necessary for school districts to conduct separate screening and evaluations[, **develop separate IEPs**] or use separate procedural safeguards processes to provide for a student's needs as both a gifted and an eligible student.

(d) A single IEP will be developed and implemented, revised and modified in accordance with this chapter and Chapter 14, for students who are identified as eligible under both Chapters 14 and 16.

## SCREENING AND EVALUATION PROCESS

### § 16.21. General.

\*\*\*\*\*

(b) Each school district shall conduct awareness activities to inform the public of gifted education services and programs and the manner by which to request these services and programs. These awareness activities shall be designed to reach parents of students enrolled in the public schools and the parents of school age children not enrolled in the public schools. **Awareness activities shall be conducted annually and shall include providing information in local newspapers, other media, student handbooks and on the school district website.**

\*\*\*\*\*

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

(e) Multiple criteria indicating gifted ability include:

(1) A year or more above grade achievement level for the normal age group in one or more subjects as measured by [Nationally] **nationally** normed and validated achievement tests able to accurately reflect gifted performance. Subject results shall yield academic instruction levels in all academic subject areas.

\*\*\*\*\*

(3) Demonstrated achievement, performance or expertise in one or more



academic areas as evidenced by excellence of products, portfolio or research, as well as criterion-referenced team **[judgement] judgment.**

\*\*\*\*\*

**§ 16.22. Gifted multidisciplinary evaluation.**

(a) Prior to conducting an initial gifted multidisciplinary evaluation, the school district shall comply with the notice and consent requirements under [§] §16.61 and §16.62 (relating to notice; and consent).

\*\*\*\*\*

(c) Parents who suspect that their child is gifted may request a gifted multidisciplinary evaluation of their child at any time, with a limit of one request per school term. The request shall be in writing. **[If a parental request is made orally to school personnel, the personnel shall inform the parents that the request shall be made in writing and shall inform the parents that the request shall be made in writing and shall provide the parents with a form for that purpose.] The school district shall have readily available for such purpose an evaluation request form and if a request is made orally to any professional employee or administrator of the school district, that individual shall provide a copy of the evaluation request form to the parents within five school days of the oral request.**

\*\*\*\*\*

(h) The GMDT shall prepare a written report which brings together the information and findings from the evaluation or reevaluation concerning the student's educational needs and strengths. The report shall make recommendations as to whether the student is gifted and in need of specially designed instruction, shall indicate the **[bases] basis** for those recommendations, **shall include recommendations for the student's programming** and shall indicate the names and positions of the members of the GMDT.

(i) **[To recommend that a student who has been evaluated is a gifted student, the GMDT shall conclude that the student needs specially designed education and meets the criteria for eligibility as defined in § § 16.1 and 16.21 (relating to definitions; and**

general).] The GMDT shall determine eligibility as defined in § 16.1 and § 16.21 (relating to definitions; and general).

(j) [The following timeline applies to the completion of gifted multidisciplinary evaluations:

(1) Each district shall establish and implement procedures to complete a gifted multidisciplinary evaluation for a student referred for evaluation within 45 school days after receiving parental permission for an initial evaluation, after notifying the parents of a reevaluation or after receiving an order of a court or hearing officer to conduct a multidisciplinary evaluation.

(2) An evaluation report shall be completed within 10 school days after completion of the gifted multidisciplinary evaluation.

(3) Within 5 school days after its completion, a copy of the evaluation report shall be delivered to the parents of the student.]

The initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 school days after the school district receives written parental consent for evaluation or receives an order of a court or hearing officer to conduct a multidisciplinary evaluation.

#### **§ 16.23. Gifted multidisciplinary reevaluation.**

(a) Gifted students shall be reevaluated before a change in educational placement is recommended for the student [and when the conditions under § 16.22(b)(1) or (3) (relating to gifted multidisciplinary evaluation) are met]. In addition, gifted students may be reevaluated at any time under recommendation by the GIEP team.

\*\*\*\*\*

(d) The initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60 school days after the school district receives written parental consent for evaluation or receives an order of a court or hearing officer to conduct a multidisciplinary evaluation.

## **GIEP**

### **§ 16.31. General.**

\*\*\*\*\*

(c) [Every student receiving gifted education provided for in an IEP developed prior to December 9, 2000, shall continue to receive the gifted education under that IEP until the student's GIEP is developed. For a student also eligible under Chapters 14 and 342 (relating to special education services and programs), the student will continue to receive gifted education under that IEP until revised.]

[(d)] Every student receiving gifted education prior to [December 9, 2000] (LRB-insert the effective date of the regulation), shall continue to receive gifted education until the student meets one of the following conditions [exists]:

- (1) The student graduates from high school.
- (2) The student is no longer of school age.
- (3) A GIEP team determines that the student no longer needs gifted education.

### **§ 16.32. GIEP.**

(a) [Each school district shall establish and implement procedures to appoint a GIEP team to review the recommendations of the GMDT and, if the GIEP team determines a student is gifted, to develop a GIEP for the student. The GIEP shall be developed at a GIEP meeting and based on data and information presented at that meeting.]

[(b)] The GIEP team, in accordance with the requirements of this chapter shall, based upon the evaluation report, develop an initial GIEP [for a student it determines to be a gifted student,] and arrive at a determination of educational placement. Revisions to GIEPs, changes in educational placement, or continuation of educational placement for a student determined to be a gifted student shall be made by the GIEP team based upon a

review of the student's GIEP and instructional activities, present education levels of educational performance, as well as on information in the most recent evaluation.

[(c)] (b) Each GIEP team shall include persons who meet the following qualifications:

\*\*\*\*\*

**(6) A teacher of the gifted.**

[(d)] (c) The school district shall establish and implement procedures designed to ensure that the parents of the gifted student are offered the opportunity to be present at each GIEP team meeting. These procedures shall include any one or a combination of the following: documented phone calls, letters and certified letters with return receipts. Agencies shall maintain documentation of their efforts to encourage parents to attend. By including them in the invitation, the following shall be considered reasonable efforts to ensure parent participation in the GIEP meeting:

\*\*\*\*\*

[(e)] (d) The GIEP of each gifted student shall be based on the GMDT's [recommendations] written report and shall contain the following:

\*\*\*\*\*

[(f)] (e) A copy of the GIEP shall be provided to the parents, along with a notice of parental rights under § § 16.61—16.65 (relating to procedural safeguards).

**(f) The school district will notify teachers who work with a student who has been identified as gifted and in need of specially designed instruction of their responsibilities under the student's GIEP.**

(g) The following timeline governs the preparation and implementation of GIEPs:

\*\*\*\*\*

(3) GIEP team meetings shall be convened at least annually, or more frequently if

conditions warrant [as well as following an evaluation or reevaluation. A GIEP team meeting shall also be convened at the request of a GIEP team member, the parent, the student or the school district].

(4) A GIEP team meeting shall also be convened at the request of a GIEP team member, the parent, the student or the school district.

\*\*\*\*\*

## EDUCATIONAL PLACEMENT

### § 16.41. General.

\*\*\*\*\*

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

\*\*\*\*\*

(3) Limit the total number of gifted students which can be on an individual gifted teacher's caseload to a maximum of [75] 60 students.

(4) Limit the total number of gifted students which can be on an individual gifted teacher's class roster to a maximum of [20] 25 students.

\*\*\*\*\*

## PROCEDURAL SAFEGUARDS

\*\*\*\*\*

### § 16.63. Impartial due process hearing.

(p) Impartial due process hearings, appeal panel proceedings and the hearing officers who conduct the hearings and proceedings shall be subject to Title I Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(q) The Department will report to the Board by September 1 each year on the number of impartial due process hearings and appeal panel proceedings held during the previous school year. The report shall also provide a statewide summary of the results of the proceedings in such a manner that will not violate the confidentiality of children and families. The report shall also address actions taken during the previous school year and future plans to strengthen the activities of due process hearings and appeal panel proceedings.

(r) Upon receipt of a final decision from the Hearing Officer, Appellate Panel or the court of competent jurisdiction, the school district shall provide to PDE an assurance of its implementation of such order. Such assurance must be filed within 30 school days of the date of the final decision.

\*\*\*\*\*



**Commonwealth of Pennsylvania**  
**STATE BOARD OF EDUCATION**

August 23, 2007

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, 333 Market Street  
Harrisburg, PA 17126

Dear Mr. Kaufman:

Enclosed is a copy of proposed State Board of Education regulation 22 Pa. Code, Chapter 16, Special Education For Gifted Students (#006-307) for review by the Commission pursuant to the provisions of section 5(c) of the Regulatory Review Act. The act provides that the Commission may, within thirty days after the close of the public comment period, convey to the Board and committees any comments, recommendations and objections to the proposed regulation. The comments, recommendations and objections shall specify the regulatory review criterion which the proposed regulation has not met.

The State Board of Education will provide the Commission with whatever assistance it requires to facilitate a thorough review of the proposed regulations.

I look forward to working with you, your staff and members of the Commission in the review and consideration of these regulations that address the educational services and programs public schools are to provide to students identified as gifted.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Buckheit".

Jim Buckheit  
Executive Director

cc: Secretary Gerald Zahorchak  
Mollie O'Connell Phillips  
Gregory Dunlap, Esq.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 6-307  
SUBJECT: SPECIAL EDUCATION FOR GIFTED STUDENTS  
AGENCY: STATE BOARD OF EDUCATION

2007 AUG 23 AM 11:52

INDEPENDENT REGULATORY  
REVIEW COMMISSION

TYPE OF REGULATION

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/23/07	[Signature]	HOUSE COMMITTEE ON EDUCATION
8/23	Sandi Pance	
8-23	A. Ryberg	SENATE COMMITTEE ON EDUCATION
8-23	M. Armstrong	
8/23/07	Dr. Belmont	INDEPENDENT REGULATORY REVIEW COMMISSION
		<del>ATTORNEY GENERAL (for Final Omitted only)</del>
8/23/07	[Signature]	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

July 27, 2007