



## Gifted Education – Frequently Asked Questions

### General Information

1. Who do I contact if I have questions regarding gifted education?

Questions regarding gifted education should first be addressed by your local school district's gifted education coordinator. If the question is not resolved at this level, contact your local intermediate unit's gifted liaison. The listing of intermediate units and gifted liaisons is available on the Pennsylvania Department of Education's (PDE) website at [www.education.state.pa.us/gifted](http://www.education.state.pa.us/gifted).

If after contacting these individuals the question is still unresolved, the next contact will depend on the nature of the question. If the question is regarding specific gifted education regulatory procedures such as the identification process, the *Gifted Individualized Education Plan* process or conflict resolution, the question should be directed to PDE's Bureau of Special Education.

If the question is regarding the regulatory content of Pennsylvania Code (i.e., 22 Pa. Code Chapter 4), curriculum, instruction, types of programming, graduation requirements or instructional resources available on Pennsylvania's Standards Aligned System (SAS) portal the question should be directed to PDE's Bureau of Teaching and Learning.

2. Who do I contact if I have complaints or concerns regarding gifted education?

Gifted education complaints and concerns regarding specific regulatory procedures such as the identification process, the *Gifted Individualized Education Plan* process or conflict resolution should be directed to PDE's Bureau of Special Education.

3. Are gifted services a required part of a school district's special education plan?

No, it is not part of the Special Education Plan mandated under 22 Pa. Code Chapter 14. However, Chapter 4 mandates the following:

**Upon expiration of its current strategic planning phase, each school district shall develop and implement a gifted education plan every 6 years as required by § 16.4 (relating to strategic plans). A school district shall make its gifted education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school district's board of directors.**

4. Does a school district have an obligation to find all mentally gifted students in a district, including ones not attending a school within the district?

Yes. A school district must locate and identify all students who reside within the district who are thought to be gifted and in need of specially designed instruction. When considering a screening protocol for students, it is best practice to be as universal as possible to ensure no student has been overlooked. Screening at one particular grade level, using one particular test, or only in one domain area (i.e., literacy) is not an effective or universal screening process. It is necessary to use alternate screening methods if test bias is evident.

5. What is a school district's responsibility in providing services and programs for gifted students?

The Pennsylvania Code (22 Pa. Code §16.2) indicates that each school district must, by direct service or through arrangement with other agencies, provide the following:

- Services and programs planned, developed and operated for the identification and evaluation of each gifted student;
- Gifted education for each gifted student which is based on the unique needs of the student, not solely on the student's classification; and
- Gifted education for gifted students which enables them to participate in acceleration or enrichment programs, or both, as appropriate, and to receive services according to their intellectual and academic abilities and needs.

6. Are school districts required to provide gifted services to students enrolled in parochial or private schools?

No. Chapter 16 does not limit the right of parents to have their gifted children educated at parochial or private schools, completely at private expense. School districts are not required to provide gifted services to students attending private schools.

7. Do charter schools need to follow the gifted education regulations?

No, unless it is specifically addressed in the school's charter with the school district (brick-and-mortar charter school) or PDE (cyber charter school). Under Pennsylvania's Charter School Chapter 711, charter schools are not subject to Chapter 16 requirements and, thus, charter and cyber schools are not required to provide gifted services to identified students.

8. Under the screening and evaluation process 22 Pa. Code §16.21(b)), each school district is to conduct public awareness activities. What is meant by public awareness activities and what would be considered good practice?

- Public awareness activities could include the following:
  - Providing for the distribution of printed information regarding available gifted services and programs, and rights to due process; and
  - Providing annual public notification (published or announced in newspapers, or other media with circulation adequate to notify parents throughout the school district) of child identification activities.

- Good practice for providing annual public notification would include the following:
  - A description of gifted services and programs available and the needs of children served by these services;
  - The purpose, frequency, and tools considered as part of the screening process to be held in the district;
  - A description of how to request that the district initiate screening or evaluation activities for a child;
  - The steps, team members, and tools considered as part of the evaluation process to be held in the district; and
  - An explanation of the protection of the confidentiality of information obtained regarding a specific child.

9. The Pennsylvania Code (22 Pa. Code § 16.31) ensures that students receive gifted services until a student "is no longer of school age," what does this phrase mean?

School age is the period of a child's life from the earliest admission to a school district's kindergarten program, or when no kindergarten program is provided, the district's earliest admission for beginners until the child turns 21 or graduates from high school, whichever occurs first. For information regarding school age and attendance in public schools see Article 13 of the Pennsylvania Public School Code and 22 Pa. Code Chapter 11.

10. Must a school district provide gifted services for an identified gifted student prior to kindergarten?

No, a school district is not required to provide services to students who are not of school age and not enrolled in the public school.

11. Are districts required to identify gifted students in their data submissions to the Pennsylvania Information Management System?

Yes.

### **Criteria for a Gifted Designation**

12. The definition of “mentally gifted” includes a person with an IQ of 130 or higher but can a student be classified as gifted if their IQ is lower than 130?

Yes, 22 Pa. Code §16.21 indicates that a person with an IQ lower than 130 may be identified as gifted when other educational criteria in the student's profile strongly indicate gifted ability. An IQ score may not be the sole criteria for identifying a student as a gifted student.

13. If a student is identified as gifted does she/he automatically qualify for a *Gifted Individualized Education Plan*?

No. A gifted student is a student who meets the definition of “mentally gifted” and needs specially designed instruction beyond that required in 22 Pa. Code Chapter 4. Determination of

eligibility for specially designed instruction is the responsibility of the Gifted Multi-Disciplinary Team.

14. May school districts set criteria such as high-test ceilings or IQs of 140+ or design a matrix that is more restrictive than the requirements of 22 Pa. Code Chapter 16 to determine whether a student is gifted and in need of specially designed instruction?

No. Each school district must establish procedures for determining whether a student is mentally gifted through a screening and evaluation process that meets the requirements of 22 Pa. Code Chapter 16. Chapter 16 defines the term mentally gifted as "including a person who has an IQ of 130 or higher or when multiple criteria indicate gifted ability." The matrix used by the school district may not be more restrictive than the requirements of Chapter 16.

15. What are the multiple criteria that indicate a student may be mentally gifted?

The multiple criteria indicating a student may be mentally gifted include:

- A year or more above grade achievement level in one or more subjects as measured by nationally normed and validated achievement tests.
- An observed or measured rate of acquisition/retention of new academic content or skills.
- 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 judgment.
- Early and measured use of high level thinking skills (Guilford/Bloom's Taxonomy), academic creativity, leadership skills, intense academic interest areas, communications skills, foreign language aptitude or technology expertise.
- Documented, observed, validated or assessed evidence that intervening factors such as English as a second language, learning disability, physical impairment, emotional disability, gender or race bias, or socio/cultural deprivation are masking gifted abilities.

16. Under "multiple criteria," section 22 Pa. Code §16.21(e), how should a school determine a year or more above grade level achievement in one or more subjects as measured by nationally normed and validated achievement tests?

In addition to nationally normed tests correlated to the Pennsylvania Core Standards, there are many resources available through the Standards Aligned System to identify the level of a student's achievement within the Pennsylvania grade and course level standards. Also, there are suggested assessments, an assessment builder, learning progressions, classroom diagnostic tools, etc. to help determine if a child is working a year or more above grade level.

17. Under "multiple criteria," section in (22 Pa. Code §16.21(e), how does a school measure or show "an observed or measured rate of acquisition/retention of new academic content or skills that reflect gifted ability?"

Rate of acquisition is the rapidity or speed at which the student is able to acquire, understand, and demonstrate competency or mastery of new learning. Rate of acquisition and rate of retention of new materials/skills can be defined as how many repetitions the student needs before the student masters new information/skills and can use the information/skills appropriately any

time thereafter. This data can be obtained by simple procedures such as Curriculum Based Assessment, direct observation, and reporting from parents, teachers or supervisors.

18. Under "multiple criteria," section 22 Pa. Code §16.21(e), what is meant by "subject results shall yield academic instruction levels in all academic subject areas?"

Subject results means subtests of achievement tests or out-of-level testing should provide results that can be used to determine placement in academic instruction in all academic subject areas.

19. Under "multiple criteria," section 22 Pa. Code §16.21(e), what does "measured use" mean when referenced as follows: "early and measured use of high level thinking skills, academic creativity, leadership skills, intense academic interest areas, communications skills, and foreign language aptitude or technology expertise?"

Early and measured use of high level thinking skills could include checklists, inventories, and anecdotal notes. It could also include documentation of developmental milestones that are reached earlier than average students reach the milestone. For example:

- The average kindergarten student uses symbols and letters to represent words. A kindergarten student who is able to spell common words correctly, make appropriate and varied word choices, and/or understands common capitalization and end punctuation would be demonstrating achievements that are a result of early and measured use of high level thinking skills.

## **Evaluation Process**

20. What section of the *Gifted Written Report* contains the psychological evaluation results?

The psychological evaluation may be put into the "Ability and Achievement Scores" section of the *Gifted Written Report*.

21. Was it intentional that the *Gifted Written Report* does not list assessment of cognitive functioning in Section I under "Summary of Findings?" The *Gifted Written Report* currently begins with assessment of academic functioning.

Yes. The *Gifted Written Report* includes "Ability and Achievement Test Scores" under Findings & Assessment of Academic Functioning. This allows for the knowledge level of gifted students to be sufficiently addressed to meet the requirements of Chapter 16.

22. Why are signatures not required on the *Gifted Written Report*?

Chapter 16 does not require signatures on the *Gifted Written Report*. The *Gifted Written Report* is a compilation of information from the gifted multidisciplinary team. The *Gifted Written Report* contains information provided by the school district, by the parent, and/or anyone with information concerning the student's educational needs and strengths. This information is used by the gifted multidisciplinary team to determine if a child is gifted and needs specially designed instruction. By regulation the proper place for formal parent agreement/disagreement with what is being proposed by the school district is the *Notice of Recommended Assignment (NORA)* issued to the parent by the school district.

23. May individual results from a group test, such as one that is given yearly by a school district, be used to report achievement test scores on a *Gifted Written Report*?

Yes, however group achievement test scores should be only one piece of the achievement information included in the *Gifted Written Report*. Additional achievement information may include: individualized achievement or ability tests; book or unit tests; end-of-the year tests; curriculum-based assessments; or other on and above grade-level testing. These assessment results may be needed to identify the instructional or academic functioning level, and to support educational placement of the gifted student.

24. What tools are available for districts to measure academic growth during the evaluation process?

When determining a student's growth, the gifted multidisciplinary team should first consider achievement of grade- or course-level standards and assessments to determine where a student is academically at the time a *Gifted Individualized Education Plan* is created. In addition, standardized test data could be used to determine percentile ranking, which indicates whether growth has occurred. Progress on annual goals using the objective criteria, agreed upon by the *Gifted Individualized Education Plan* team during the *Gifted Individualized Education Plan* development process, are also important factors in determining the amount of growth that has occurred over the 12-month period.

25. Is a classroom observation required for the *Gifted Written Report*?

No, classroom observation is not required for the *Gifted Written Report*.

26. On a *Gifted Written Report* can N/A be used if there are no "intervening factors" that seem to be interfering with a student's gifted potential?

It is preferable to write a statement such as "the evaluation does not indicate intervening factors."

27. Does the gifted multidisciplinary team or the *Gifted Individualized Education Plan* team determine eligibility for gifted identification?

According to 22 Pa. Code §16.22(i) the gifted multidisciplinary team shall determine a student's eligibility for gifted services. According to the Pennsylvania Public School Code (22 Pa. Code §16.32(c) (4)), the determination will be made at the *Gifted Individualized Education Plan* meeting as to whether the student is gifted. This confusion was cleared up in the Basic Education Circular released by the Pennsylvania Department of Education (dated May 11, 2009) wherein it was clarified that the gifted multidisciplinary team makes the eligibility determination. If a child is determined not to be eligible, then there is no need for a *Gifted Individualized Education Plan* meeting. However, as the parents are members of the gifted multidisciplinary team, which carries out the gifted multidisciplinary evaluation, they should be invited to participate in a gifted multidisciplinary team meeting where the eligibility determination is made and any recommendations are developed collaboratively. At this meeting parents should receive the *Notice of Parental Rights for Gifted Students*.

28. May districts re-format the *Gifted Written Report* and *Gifted Individualized Education Plan* since they are not considered "forms?"

Yes, all of the information on the state promulgated formats must be included, but additional items may be added. The minimum requirements for compliance have been included and districts that go beyond that do so knowing it may establish precedence.

29. Can a parent remove a student from gifted services by just signing a waiver?

No. A waiver of this process is not contemplated by Chapter 16.

30. After a break in service, should a *Permission to Evaluate* or *Notice of Intent to Re-Evaluate* be issued when a student with a previous *Gifted Individualized Education Plan (GIEP)* is being re-considered as in need of specially designed instruction?

If the evaluation will require the administration of new assessments, then a *Permission to Evaluate* should be distributed and parent permission is required to proceed. If the evaluation process is just a review of records, and there are no new assessments, then parent permission is not required and a *Notice of Intent to Re-Evaluate* should be distributed.

### **Gifted Individualized Education Plan**

31. Is a *Gifted Individualized Education Plan* a strength-based document?

The identification of a gifted student is dependent upon demonstrated strength in one or more academic areas. If a child does not excel in those areas then it is the responsibility of the *Gifted Individualized Education Plan* team to determine if something is masking the child's gifted ability. Without the presence of a strength, or evidence that intervening factors such as English as a second language or a disability are present, the student's educational needs should be met through general education curriculum.

32. What is meant by "appropriate objective criteria" under the *Gifted Individualized Education Plan* development in 22 Pa. Code §16.32(d) (5)?

Objective criteria would set the level, standard, grade, and/or performance measured by a rubric, or the percent of mastery or completion expected. It is the evidence that will be collected by the *Gifted Individualized Education Plan* team to establish progress on stated goals or short-term learning objectives.

33. If a student has a learning need based on a weakness or discrepancy, can it be included in a *Gifted Individualized Education Plan*? If so, where and how should it be noted?

The *Gifted Individualized Education Plan* is a strength-based document and if a learning need exists that stems from a student's strength, it belongs in the *Gifted Individualized Education Plan*. The need(s) can be noted in the present levels and used to craft a goal/short-term learning outcome, or it can be incorporated into the specially designed instruction. An example of a need based on a student's strength might be support for long-term projects because he/she is working independently as part of a compaction opportunity. A child may need a learning contract developed to help chunk the project into intermediate steps with clear guidelines and

expectations in order for resources to be secured ahead of time and allow the student the maximum opportunity to work independently.

If a learning need does meet the definition of a disability and it is preventing the child from accessing the general education curriculum, then all needs, goals, etc. need to be addressed in one document, an individualized education plan according to the procedures in 22 Pa. Code Chapter 14.

If the learning need stems from a student's weakness and it is not a documented disability, it can be noted in the present levels section of the *Gifted Individualized Education Plan*, but it is not addressed in the goals, short-term learning outcomes, or specially-designed instruction. For instance, if a child struggles with organization and it is not connected to a disability or a medical diagnosis, it would be helpful for the *Gifted Individualized Education Plan* team to understand that aspect of a child's learning. The team (consisting of general education and gifted education staff) will provide support in accordance with 22 Pa. Code Chapter 4 through normal differentiation that would be offered to a child who struggles with organization and is not identified gifted. Therefore, since the support provided is not beyond the scope of the general education curriculum, there is no need to write it in a *Gifted Individualized Education Plan* as specially designed instruction.

34. In the Educational Placement Section of 22 Pa. Code §16.41(b) (2)), what does "benefit meaningfully" specifically mean?

Benefit meaningfully means accomplishment of or significant progress toward the *Gifted Individualized Education Plan* annual goals. A gifted student would have benefitted greatly when his/her rate of learning results in a rate of achievement. For example: A student is determined to need an acceleration rate that is 1½ times faster than the average, that is the student would be expected to learn 1½ years of new material in one school year. Meaningful benefit for that student would be achieving at least 1½ years academic growth for one year spent in school. The state expectation for all non-identified students is one year of academic achievement for one year enrolled in school.

35. Should the level of intervention of gifted support services in comparison to regular education placement be included on the *Gifted Individualized Education Plan*?

There is no level of intervention in 22 Pa. Code Chapter 16.

36. If a student qualifies for a 504 Plan, can it be included in a *Gifted Individualized Education Plan*?

According to 22 Pa. Code Chapter 15 a student with a physical or mental impairment that substantially limits or prohibits participation or access to an aspect of the student's school program may require a 504 Service Agreement to establish aids, services, and accommodations to access the general curriculum. There is no requirement to include or prohibit a 504 Plan in a *Gifted Individualized Education Plan*. For additional consideration, a side by side comparison of Chapter 15 and Chapter 16 is available from your Intermediate Unit's Gifted Liaison. If the student has a *Gifted Individualized Education Plan*, the 504 Agreement could be referenced in the Support Services section of the *Gifted Individualized Education Plan*.



37. What is the purpose of the waiting period to sign the *Notice of Recommended Assignment* (NORA) and does Chapter 16 permit a waiver for this instance?

The purpose of the waiting period is to provide parents the opportunity to reflect on the process. If the *Notice of Recommended Assignment* is presented in person at the time of the *Gifted Individualized Education Plan* meeting, parents have five calendar days to return the signed agreement. If the *Notice of Recommended Assignment* is sent home by certified mail after the meeting, parents have ten days to provide their response. Without a signed *Notice of Recommended Assignment*, the district will not be able to proceed with implementation of the initial *Gifted Individualized Education Plan*. For a *Gifted Individualized Education Plan* that is in the annual review cycle, the district may proceed with the proposed changes after the waiting period (which is determined by when the *Notice of Recommended Assignment* is presented to the parents) as long as both parties agreed to the changes and the parents have not submitted a written disapproval. A waiver of this process is not contemplated by Chapter 16.

38. What is the purpose of the 5-calendar day waiting period for services to begin after a *Gifted Individualized Education Plan* meeting if the parents have signed the *Notice of Recommended Assignment*?

The purpose of the 5-calendar day waiting period is to give the parents an opportunity to notify the district within the 5-day period of a decision to revoke the previous approval of the recommended assignment. In addition it provides the district the opportunity to make the necessary changes to accommodate the services provided in the *Gifted Individualized Education Plan*. This includes schedule changes, notification of teachers about responsibilities outlined in the *Gifted Individualized Education Plan*, and coordination of support services. A waiver of this process is not contemplated by Chapter 16.

39. Since the *Gifted Individualized Education Plan* does not need signatures there is no way to indicate who actually attended the meeting.

The regulations do not require a signature on the *Gifted Individualized Education Plan*, but the names and positions of the *Gifted Individualized Education Plan* team participants must be on the document. It should be noted beside the name whether the person was in attendance at the *Gifted Individualized Education Plan* team meeting or merely provided input.

40. How do parents indicate approval or disapproval of the *Gifted Individualized Education Plan*?

The *Notice of Recommended Assignment* should be provided to the parents with an annual *Gifted Individualized Education Plan* or anytime a significant change is made to the *Gifted Individualized Education Plan* (new Present Levels that significantly change the Goals and Short Term Learning Outcomes). A *Notice of Recommended Assignment* provides the parents with formal opportunity to agree or disagree with the identification, evaluation, educational placement, or the provision of gifted education as written in the *Gifted Individualized Education Plan*.

41. How do we measure achievement if the goals are not measurable?

Achievement may be measured through the short-term learning outcomes. The short-term learning outcomes are written as steps to reach the annual goal and are measurable.

42. Could the *Gifted Individualized Education Plan* team conclude that a child is gifted but does not need specially designed instruction?

No, only a gifted multidisciplinary team (which may have many of the same members as the *Gifted Individualized Education Plan* team) can make that decision after a re-evaluation has occurred. According to Chapter 16 (22 Pa. Code § 16.23(a) (d) a re-evaluation needs to occur when:

- a. Gifted students shall be reevaluated before a change in educational placement is recommended for the student. In addition, gifted students may be reevaluated at any time under recommendation by the *Gifted Individualized Education Plan* team.
- b. Reevaluations shall be developed in accordance with the requirements concerning evaluation in this chapter.
- c. Reevaluations must include a review of the student's *Gifted Individualized Education Plan*, a determination of which instructional activities have been successful, and recommendations for the revision of the *Gifted Individualized Education Plan*.
- d. The reevaluation timeline for gifted students will be 60 calendar days, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term may not be counted.

43. Where does the *Gifted Individualized Education Plan* team indicate that a student is not eligible for services if a *Gifted Individualized Education Plan* is not written?

As referenced in the previous question, a *Gifted Individualized Education Plan* team cannot make the decisions regarding eligibility. Therefore, it is up to the Gifted Multidisciplinary Evaluation Team to determine if a student is gifted and requires specially designed instruction. The *Notice of Recommended Assignment* documents the decision. A student who is not gifted does not receive a *Gifted Individualized Education Plan*. If the *Gifted Individualized Education Plan* team suspects a child may no longer be in need of services, any member of the team can request a re-evaluation.

44. Must a *Gifted Individualized Education Plan* meeting be held for students who will be graduating from high school?

All procedures outlined in Chapter 16 are in place for any student whose *Gifted Individualized Education Plan* anniversary date is prior to 30 days of graduation, therefore a gifted team meeting must be held and a *Notice of Recommended Assignment* issued if the annual review is outside of the last 30 calendar days of school.

45. Should IQ scores be included in a *Gifted Individualized Education Plan*?

No. The results of a psychological evaluation help to determine if there exists the aptitude for advanced learning based on the child's cognitive functioning. Once the results have been used to help make a recommendation, then it is the job of the *Gifted Individualized Education Plan* team to determine how the present levels of educational performance suggest which academic area(s) should be considered for writing an annual goal and whether enrichment, acceleration, or a combination of both are the most appropriate for educational planning.

## Personnel

46. What certification requirements are there for serving as a gifted support case manager? May school counselors act as a gifted support teacher/case manager?

Professional personnel shall consist of certified individuals responsible for identifying gifted students and providing gifted education in accordance with Article XI of The Pennsylvania Public School Code and Chapter 16.

Therefore, public school certification is required, but a specific certificate is not designated to be a gifted support teacher. An Instructional certificate may be used at any grade level for the enrichment services. Any gifted course for which a grade is given would fall under different parameters and require a certificate specific to the content and grade level.

According to the Gifted Guidelines, issued by the PDE, consideration should be given to the following when hiring a teacher of the gifted:

- All personnel working with the gifted should be certified to teach in the area to which they are assigned and should be aware of the unique learning differences and needs of gifted learners at that grade level.
- An Instructional II certificate or other evidence of experience is preferred. It is possible for a beginning teacher to be an excellent teacher of the gifted when he/she possesses most of the characteristics described and has proper gifted education in-service, continuing education or training programs to help understand the needs and characteristics of gifted students and appropriate curricula.
- Teachers of the gifted are encouraged to stay actively involved in professional development in the field of gifted education through a graduate degree program, graduate coursework or informal training such as institutes, Intermediate Unit continuing education, distance learning or district in-service programs.

While the certification policy represents minimum requirements, in order to provide the best service to gifted students, districts can look beyond the instructional certificate to match the teaching qualities described in these guidelines to make the best instructional match possible.

If a school counselor has a current instructional certificate there is nothing that prevents the counselor from serving in this capacity. However, consideration should be given to prorating his/her caseload based on his/her counseling responsibilities.

47. At our upper secondary level, we anticipate for the next school year a caseload of 492 gifted students per four full-time equivalent staff members, or a ratio of 123:1. This is over the maximum caseload ratio of 65:1. However, the question is Chapter 16 requirements related to caseload is a hard and fast limit in situations where teachers do not provide direct instruction to their students, but instead serve as facilitators and mentors for these students as they pursue academic competitions, shadow studies, and a wide variety of other individualized activities? Additionally, 98% of these students are participating in Honors and Advanced Placement courses at the secondary level that play a significant part in meeting their needs as gifted students.

Chapter 16 is a regulation adopted by the State Board of Education under the authority of the Pennsylvania Public School Code (see 24 P.S. §§13-1371, 26-2601-B and 26-2602-B), and is law. Chapter 16 limits the total number of gifted students which can be on an individual gifted teacher's caseload to a maximum of 65 students and limits the total number of gifted students that can be on an individual gifted teacher's class roster to a maximum of 20 students. Caseload and class size maximums do not quantify the level of service; therefore, it does not prorate case limits based on the amount of service provided. Chapter 16 does not allow for "monitoring only" *Gifted Individualized Education Plans* since each plan requires a goal that is broken down into short term learning outcomes and supported through specially designed instruction. It is important to note that an Honors or Advanced Placement course alone does not constitute specially designed instruction unless it is offered to a student who would not normally qualify according to the district's criteria or there are additional supports offered within the course that are beyond the scope of the general education curriculum. In either instance, the course goals should be included in the *Gifted Individualized Education Plan* document with all supporting data to complete the process.

48. How does the caseload requirement apply to gifted support teachers who serve as both caseload managers and teachers of record for courses offered in compliance with Chapter 4 or in some other capacity (school counselors)? Are the total number of students permitted on a teacher's caseload prorated based on other teaching duties?

The caseload is calculated using the Full-Time Equivalency of 1.0 = 1 gifted support professional. School entities should prorate the caseload based on other teaching responsibilities as defined in their contract. One teacher may be reported as the teacher of record for .60 Full-Time Equivalency or  $\frac{3}{5}$  of an assignment teaching general education courses with 22 Pa. Code Chapter 4 guidelines and .40 Full-Time Equivalency as gifted support case manager. The permitted number of students on the gifted support teacher's caseload for this example would be 26.

49. How should the district classify a course taught by a gifted support teacher where all students are identified gifted?

If the course in question is considered appropriate based on the *Gifted Individualized Education Plan* of each student, then it is part of the caseload responsibilities. It is important to note, that if this course is in a particular content area for which a grade is given, the teacher of record must have the proper certification for the course. If the course in question is part of the general education offering and students other than those identified gifted are enrolled or the course is not unique to the specially designed instruction outlined in the *Gifted Individualized Education Plan* (and therefore a general education course) it should be considered separate from the caseload responsibilities.

50. Our school district's special education program is being monitored this year. Will the Bureau of Special Education's monitoring include Gifted Special Education?

Not necessarily. The compliance monitoring for students with disabilities is a federal law requirement (IDEA '97) that must include specific responsibilities by the State Education Agency to receive federal funds. The federal law does not include gifted in the compliance monitoring process. However, the list of schools being monitored for gifted education will be randomly chosen from the same list of schools being monitored for IDEA. It is the intent of PDE to monitor a minimum of ten districts a year for compliance with gifted education

regulations. There may be targeted monitoring if a school district is repeatedly reported to be out of compliance with Chapter 16. The decision to conduct a targeted monitoring is up to the discretion of PDE.

51. Could a teacher/school counselor function as the district representative?

Yes. The person serving as the district representative must meet all three requirements of 22 Pa. Code §16.32(b) (3) which says: "A representative of the district, who will serve as the chairperson of the *Gifted Individualized Education Plan* team, who is knowledgeable of resources of the district, AND who is authorized by the district to commit those resources." If a teacher/school counselor does not have authorization to commit district resources, then he/she cannot be the district representative.

### **Dual Exceptionality**

52. Which is "primary"-- Gifted or Learning Disabled? How do you mesh the special instruction, the acceleration and graduation requirements.

Chapter 16 requires that a dually diagnosed student must have their gifted needs and strengths addressed as part of the individualized education plan. Information on both exceptionalities may be used to mesh the special instruction, acceleration, and/or graduation requirements.

53. If a student is both Emotionally Disturbed and Gifted, does that mean the *Gifted Individualized Education Plan* must be written with "measurable goals/objectives" since Chapter 14 takes precedence?

Yes. For students identified with dual exceptionalities, the needs established under gifted status in Chapter 16 must also satisfy the procedures required in Chapter 14.

54. When there is an individualized education program for a student with Emotional Disturbance and Gifted and it comes time to do a re-evaluation (Multi-Disciplinary Team) do you need to do a re-evaluation of the gifted portion as well as the special education portion?

No. There is no specific requirement for gifted re-evaluation.

55. Do you have to include the dual diagnosis (Gifted/Learning Disabled) in the *Notice of Intent to Reevaluate*?

The evaluation or re-evaluation is of the child, not the exceptionality. The notice is to inform the parent of the types of assessments being conducted; therefore, school districts should include the types of assessments on the notice.

56. Which procedures are followed regarding disciplinary exclusion and provision of services for gifted students?

The school district must follow the provisions of Chapter 12 when disciplining a mentally gifted student. Under certain circumstances, a student of compulsory school age may require some form of educational experience.

### **Conflict Resolution**

57. May parents represent themselves at a hearing?

Parents may represent themselves at a hearing, but 22 Pa. Code §16.63(h) provides that parents may be represented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to students who are gifted.

58. Is there any provision for independent evaluation at the district expense?

No. Independent evaluations are at the parents' expense.

59. Does Chapter 16 provide for recovery of attorney's fees in proceedings to resolve disputes regarding gifted education?

No. Recovery of attorney fees may only be pursued in cases involving students with disabilities under federal law.

60. May affiliate groups and/or attorneys file requests for assistance with the PDE on behalf of parents as many parents are reluctant to file requests for assistance for fear of repercussions on their children by the school district and teachers?

Yes, affiliate groups and/or attorneys can file requests for assistance with PDE. However, requests for assistance concerning the *Gifted Individualized Education Plan* of a specific child must name that child.

61. Define what is meant by "administrative proceeding" under section 22 Pa. Code §16.61(b),

An administrative proceeding would be a pre-hearing conference, mediation, or due process hearing.

62. Who can represent parents in an impartial due process hearing?

In 22 Pa. Code §16.63 (h) it states that parents may be represented by legal counsel and accompanied and advised by individuals with special knowledge or training with respect to students who are gifted.

63. In 22 Pa. Code §16.63(i) what is the time limit for access to educational records?

According to the Family Education Rights and Privacy Act, the educational agency must comply with a written request to access records within a reasonable period of time but not more than 45 days after it has received the request.

64. May districts wait until five days prior to the hearing to make these records available to the parents and/or legal counsel?

Yes, a school district or parent could wait until five days before the hearing to make records available. If the information is not disclosed by that time, that information cannot be used as evidence.

65. In 22 Pa. Code §16.63(m) (2) what does "without delay" mean? What is clarified as a reasonable time period?

There should be no purposeful delay in meeting the request. However, factors like holidays or weekends might prevent an immediate response.

66. Will court summaries from the Office of Dispute Resolution be made public to review current decisions and be used to guide districts for further actions?

No, the Office of Dispute Resolution will not be summarizing current decisions. Resolved cases will be made public with all identifying information redacted only with parent consent.

67. Other than Due Process Hearings, are there other options for parents or districts when disagreement on identification or *Gifted Individualized Education Plan* planning occurs?

During the evaluation and/or annual planning process, the parents receive the Notice of Parental Rights for Gifted Children. If a disagreement exists between the parents and the district, the parents must note their disagreement on the *Notice of Recommended Assignment* and request either Mediation or Due Process, as outlined in the *Notice of Parental Rights for Gifted Students*. If, after Mediation, the conflict is still not resolved, or if the school district refuses to accede to a request to mediate the dispute, it may be forwarded to a Due Process hearing.

68. May advocates act as participants at the mediation conference? (See definition of participant under 22 Pa. Code §16.64(b),

Yes, participants are defined in Chapter 16 as "other persons appearing at the mediation conference on behalf of either party, such as family members and specialists."

### **District Permissions**

69. May the five pages of the *Notice of Parental Rights for Gifted Students* be compacted by copying them back to back or by shrinking them to fit standard size envelopes, much like what has already been done with the Individuals with Disabilities Education Act rights?

Yes, the print setup may be altered to compact the document and two sided copies may be made. If the school district chooses to shrink the *Notice of Parental Rights for Gifted Students*, care should be taken to be sure the print is readable.

70. Can high school credit be given for high school courses taken in middle school?

Yes, however it is the final decision of the school district to determine if high school graduation credit should be awarded for high school courses taken in the middle school.

### **Other**

71. Can the forms on the PDE website be housed on the Standards Aligned System website? Can they all be loaded as Word and PDF files?

While it would be most convenient to house all of the items in one place, it is important to recognize that any items pertaining to specific regulatory issues are housed on the PDE website.

The Department will make every attempt to organize the information in a coherent matter and publish all necessary documentation in the most appropriate place to allow for easiest access.

72. According to 22 Pa. Code §16.2(c) the Department is to disseminate information about and promote the use of promising practices and innovative programs to meet the needs of gifted students. How is that accomplished and how is it evaluated?

PDE continuously evaluates the gifted resources posted on its website, and updates forms and policies as necessary to ensure the dissemination of current and accurate information. Also, as the Standards Aligned System Portal is continuously developed and updated, learning enrichment resources available for gifted and advanced students are included. Lesson plan extensions are currently being developed in the core content areas for use by students who have already mastered the academic standards and are ready for more challenging work.

In addition, a gifted liaison appointed at each intermediate unit fulfills the following responsibilities:

- Attends the PAIU Gifted Liaison Network Meetings held quarterly;
- Develops local gifted education networks to establish communication links between school districts, IUs and PDE;
- Assists in the development of materials for and participate in local, regional and statewide gifted education trainings;
- Works with other Gifted Liaisons to develop and conduct regional training;
- Participates in train-the-trainer sessions;
- Conducts professional development within districts; and
- Attends at least one professional development training in gifted education per year.

73. Are there forms available in other languages? Where do I access them?

At the current time, some forms are available in Arabic, Chinese, Russian, Spanish, and Vietnamese on the [www.transact.com](http://www.transact.com) . District personnel may create an account within this site, then access the EduPortal app. The forms are in the Chester County folder.