

§ 39.118

(c) The school must develop a specific education plan that contains:

- (1) The date of placement;
- (2) The date services will begin;
- (3) The criterion from § 39.114 for which the student is receiving services and the student's performance level;
- (4) Measurable goals and objectives; and
- (5) A list of staff responsible for each service that the school is providing.

§ 39.118 How does a student receive gifted and talented services in subsequent years?

For each student receiving gifted and talented services, the school must conduct a yearly evaluation of progress, file timely progress reports, and update the specific education plan.

(a) If a school identifies a student as gifted and talented based on § 39.114 (a), (b), or (c), then the student does not need to reapply for the gifted and talented program. However, the student must be reevaluated at least every 3 years through the 10th grade to verify eligibility for funding.

(b) If a school identifies a student as gifted and talented based on § 39.114 (d) or (e), the student must be reevaluated annually for the gifted and talented program.

§ 39.119 When must a student leave a gifted and talented program?

A student must leave the gifted and talented program when either:

- (a) The student has received all of the available services that can meet the student's needs;
- (b) The student no longer meets the criteria that have qualified him or her for the program; or
- (c) The parent or guardian removes the student from the program.

§ 39.120 How are gifted and talented services provided?

In providing services under this section, the school must:

- (a) Provide a variety of programming services to meet the needs of the students;
- (b) Provide the type and duration of services identified in the Individual Education Plan established for each student; and

25 CFR Ch. I (4–1–10 Edition)

(c) Maintain individual student files to provide documentation of process and services; and

(d) Maintain confidentiality of student records under the Family Educational Rights and Privacy Act (FERPA).

§ 39.121 What is the WSU for gifted and talented students?

The WSU for a gifted and talented student is the base academic weight (see § 39.103) subtracted from 2.0. The following table shows the gifted and talented weights obtained using this procedure.

Grade level	Gifted and talented WSU
Kindergarten	0.85
Grades 1 to 3	0.62
Grades 4 to 6	0.85
Grades 7 to 8	0.62
Grades 9 to 12	0.50

LANGUAGE DEVELOPMENT PROGRAMS

§ 39.130 Can ISEF funds be used for Language Development Programs?

Yes, schools can use ISEF funds to implement Language Development programs that demonstrate the positive effects of Native language programs on students' academic success and English proficiency. Funds can be distributed to a total aggregate instructional weight of 0.13 for each eligible student.

§ 39.131 What is a Language Development Program?

A Language Development program is one that serves students who either:

- (a) Are not proficient in spoken or written English;
- (b) Are not proficient in any language;
- (c) Are learning their Native language for the purpose of maintenance or language restoration and enhancement;
- (d) Are being instructed in their Native language; or
- (e) Are learning non-language subjects in their Native language.

§ 39.132 Can a school integrate Language Development programs into its regular instructional program?

A school may offer Language Development programs to students as part of