

Bureau of Indian Affairs, Interior

§ 39.116

§ 39.113 What are the special accountability requirements for the gifted and talented program?

If a school identifies more than 13 percent of its student population as gifted and talented the Bureau will immediately audit the school's gifted and talented program to ensure that all identified students:

- (a) Meet the gifted and talented requirement in the regulations; and
- (b) Are receiving gifted and talented services.

§ 39.114 What characteristics may qualify a student as gifted and talented for purposes of supplemental funding?

To be funded as gifted and talented under this part, a student must be identified as gifted and talented in at least one of the following areas.

(a) *Intellectual Ability* means scoring in the top 5 percent on a statistically valid and reliable measurement tool of intellectual ability.

(b) *Creativity/Divergent Thinking* means scoring in the top 5 percent of performance on a statistically valid and reliable measurement tool of creativity/divergent thinking.

(c) *Academic Aptitude/Achievement* means scoring in the top 15 percent of academic performance in a total subject area score on a statistically valid and reliable measurement tool of academic achievement/aptitude, or a standardized assessment, such as an NRT or CRT.

(d) *Leadership* means the student is recognized as possessing the ability to lead, guide, or influence the actions of others as measured by objective standards that a reasonable person of the community would believe demonstrates that the student possess leadership skills. These standards include evidence from surveys, supportive documentation portfolios, elected or appointed positions in school, community, clubs and organization, awards documenting leadership capabilities. No school can identify more than 15 percent of its student population as gifted and talented through the leadership category.

(e) *Visual and Performing Arts* means outstanding ability to excel in any imaginative art form; including, but

not limited to, drawing, printing, sculpture, jewelry making, music, dance, speech, debate, or drama as documented from surveys, supportive documentation portfolios, awards from judged or juried competitions. No school can identify more than 15 percent of its student population as gifted and talented through the visual and performing arts category.

§ 39.115 How are eligible gifted and talented students identified and nominated?

(a) Screening can be completed annually to identify potentially eligible students. A student may be nominated for gifted and talented designation using the criteria in § 39.114 by any of the following:

- (1) A teacher or other school staff;
- (2) Another student;
- (3) A community member;
- (4) A parent or legal guardian; or
- (5) The student himself or herself.

(b) Students can be nominated based on information regarding the student's abilities from any of the following sources:

- (1) Collections of work;
- (2) Audio/visual tapes;
- (3) School grades;
- (4) Judgment of work by qualified individuals knowledgeable about the student's performances (*e.g.*, artists, musicians, poets, historians, etc.);
- (5) Interviews or observations; or
- (6) Information from other sources.

(c) The school must have written parental consent to collect documentation of gifts and talents under paragraph (b) of this section.

§ 39.116 How does a school determine who receives gifted and talented services?

(a) To determine who receives gifted and talented funding, the school must use qualified professionals to perform a multi-disciplinary assessment. The assessment may include the examination of work samples or performance appropriate to the area under consideration. The school must have the parent or guardian's written permission to conduct individual assessments or evaluations. Assessments under this section must meet the following standards:

- (1) The assessment must use assessment instruments specified in § 39.114

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for each of the five criteria for which the student is nominated;

(2) If the assessment uses a multi-criteria evaluation, that evaluation must be an unbiased evaluation based on student needs and abilities;

(3) Indicators for visual and performing arts and leadership may be determined based on national, regional, or local criteria; and

(4) The assessment may use student portfolios.

(b) A multi-disciplinary team will review the assessment results to determine eligibility for gifted and talented services. The purpose of the team is to determine eligibility and placement to receive gifted and talented services.

(1) Team members may include nominator, classroom teacher, qualified professional who conducted the assessment, local experts as needed, and other appropriate personnel such as the principal and/or a counselor.

(2) A minimum of three team members is required to determine eligibility.

(3) The team will design a specific education plan to provide gifted and talented services related in the areas identified.

§ 39.117 How does a school provide gifted and talented services for a student?

Gifted and talented services are provided through or under the supervision of highly qualified professional teachers. To provide gifted and talented services for a student, a school must take the steps in this section.

(a) The multi-disciplinary team formed under § 39.116(b) will sign a statement of agreement for placement of services based on documentation reviewed.

(b) The student's parent or guardian must give written permission for the student to participate.

(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

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(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

(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).