

**Rule Summary and Fiscal Analysis (Part A)****Department of Education**

Agency Name

Division

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**3301-51-15**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Identification and services for children who are gifted.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3301.07, 3324.02, 3324.07**

5. Statute(s) the rule, as filed, amplifies or implements: **3324.01 - 3324.07, and 3324.10**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rule is being amended pursuant to the requirements of five-year review.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule establishes the operating standards for identifying and serving gifted students. Changes to the rule are substantial in number and content and include the following: incorporates references to forms of academic acceleration identified in

Section 3324.10 of the Revised Code; clarifies that individually administered tests for gifted identification may be administered by licensed school psychologists, certified school psychologists, and licensed psychologists; adds a requirement that criteria used by school districts for placing students in gifted services be provided in writing to parents, educators, and the department of education; adds specificity to requirements regarding when differentiated instruction provided in general education settings may be considered a form of gifted service; changes language regarding Written Education Plans (WEPs) specifying that learning goals be included in WEPs, that parents of children receiving gifted services receive a copy of their children's WEPs, and that educators responsible for implementing services specified on a WEP receive a copy of the WEP; changes language regarding "Advanced Placement" courses to clarify that this phrase refers to Advanced Placement courses offered under authorization of the College Board, which holds a trademark on this phrase in relation to the provision of college level courses to secondary school students; changes language regarding "guidance services" to specify that guidance reported as a service for gifted students specifically address social, emotional, and academic issues specific to gifted students; adds minimum student contact time requirements for some forms of gifted services provided by gifted intervention specialists; changes the maximum allowable class size for courses taught by gifted intervention specialists above grade five from 20 to 25; changes the maximum gifted intervention specialist student caseload requirements from 60 to 80 in some settings at grades kindergarten through five and 125 at grades six through twelve; adds a maximum student caseload requirement of 125 students for gifted intervention specialists providing gifted services via distance learning; adds a waiver provision to allow the department of education to grant temporary waivers of contact time, class size, and gifted intervention specialist caseload requirements; adds language clarifying that gifted education coordinators may supervise mentorship, internship, distance learning, and educational options experiences for gifted students; adds language clarifying that trained arts teachers may provide arts-focused gifted services to students identified as gifted in the visual and performing arts and who have arts-focused services specified on their WEPs; changes the average daily membership (ADM) required for determining eligibility from 5000:1 for gifted coordinator units to 2500:1 and from 2000:1 for gifted intervention specialist units to 1000:1; adds language clarifying that gifted intervention specialists may teach courses delivered to gifted students via distance learning; adds a guarantee that the department of education would not reduce the number of units allocated to a district except as a result of noncompliance with the rule, voluntary surrender of units on the part of the district, decline in district ADM used for calculating funding eligibility, or a reduction in the total number of units authorized statewide; adds language specifying that the department of education may audit district gifted service data; and updates language specifying that no district may be exempted from requirements related to gifted identification pursuant to rule 3301-51-02.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

*Not Applicable.*

12. 119.032 Rule Review Date: **1/2/2008**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase /**

**decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0

The proposed changes to the rule would have a negligible impact on the agency's budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF 200-521 (Gifted pupil program)

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

With the exception of school districts (see RSFA Part B), it is not expected that the proposed changes will impact any directly affected persons or groups.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	No	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

**Possible cost of employing gifted education staff** - Some districts that currently provide gifted education services primarily through pull-out or resource room programs to gifted students for less than 240 minutes per week may incur additional staffing costs if they continue to provide services based on the model established by the rule. The amount of the possible increase would vary from district to district based on local teacher salary schedules, the number of gifted students eligible for services, and the level of service currently provided. The average teacher salary during the 2006-2007 school year was \$53,536. However, districts could avoid incurring additional costs under the proposed rule by modifying their gifted service models such that the majority of the gifted intervention specialists they employ teach advanced courses to gifted students in specific academic areas as teachers of record, an arrangement recommended for its academic outcomes and cost effectiveness in a study of gifted services in Ohio conducted by the Center for Gifted Education at the College of William and Mary. Additionally, as the proposed rules allow districts greater flexibility in the total caseload of students served by a gifted intervention specialist, the cost of providing services to gifted students, calculated on a per student basis using the average state teacher salary, would result in an average savings to districts of approximately \$222.80 per student served.

**Possible cost of implementing revised Written Education Plan (WEP) requirements** - Most districts already have procedures related to the development, dissemination, and evaluation of WEPs that would make them partly or wholly compliant with the proposed requirements. However, some districts may incur modest additional costs for photocopying WEPs and/or for mailing WEPs and related documents to parents. Document production and copying costs run approximately \$.05-\$.10 per copy. Postage should not amount to more than \$1.00 per year per student. Some districts have already transitioned from paper-based WEP processes to electronic WEP processes which eliminate most costs related to photocopying and mailing.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**
4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

(a) Personnel Costs

See response to question two.

(b) New Equipment or Other Capital Costs

None expected.

(c) Operating Costs

As indicated above, the proposed changes to the rule may have a slight impact on districts. Document production and copying charges are approximately \$.05 - \$.10 per copy.

(d) Any Indirect Central Service Costs

None expected.

(e) Other Costs

None expected.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

There will be no significant fiscal impact on the department of education. Districts receive gifted identification supplementary funds (GRF), and districts that choose to provide gifted education services receive gifted unit funding (GRF) in addition to local funds (locally generated.)

7. Please provide a statement on the proposed rule's impact on economic development.

None expected.