

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

Agency Name

Division

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3301-51-15

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Operating standards for identifying and serving students who are gifted.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**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, 3324.02, 3324.03, 3324.04, 3324.05, 3324.06, 3324.07, 3324.09, 3324.10**

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

Five-year rule review requirement. Replaces a previous rule that is being rescinded.

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 modifies requirements regarding the manner in which assessment instruments must be administered including adding that such instruments must: measure specific area(s) of gifted ability; be administered in a student's native language or other mode of communication; use accommodations in a student's Individualized Education Program or 504 Plan or, a comparable approved assessment instrument.

The rule adds the requirement that parents be provided a detailed list of services likely to be provided to a student based on the nature of the student's identification, including services currently available in the school district.

The rule clarifies the provision of services, including clarifying that instructional time, class size, and caseload ratios for service settings must be equivalent to districtwide instructional time, class size, and caseload ratios for corresponding subjects, grade level, and setting. However, the rule includes exceptions, such as for a full-time self-contained classroom with all gifted students, a resource room/pull-out, co-teaching and cluster grouping.

The rule clarifies qualification requirements for both coordinators of gifted education and gifted intervention specialists including that they can hold either licensure or endorsement in gifted education. The rule adds requirements for a general education teacher who is designated as a provider of gifted services to receive specialized training in gifted education.

The rule requires that written education plans be developed in collaboration with an educator who holds a license or endorsement in gifted education. Also, the rule requires school districts to make a reasonable attempt to obtain the signature of the student's parent or guardian on the written education plan.

The rule requires that the Superintendent of Public Instruction establish a gifted advisory council. The rule requires that this council serve as advisors in establishing criteria for the review of proposals to implement innovative gifted services and establish criteria for identifying and recognizing schools, districts, and other educational providers that demonstrate an exemplary ability to serve students who are gifted.

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:

Ohio Revised Code: Chapter 3317, 3324.03, 3324.04, 3324.10

Ohio Administrative Code: Chapter 3301-35, 3301-35-01, 3301-35-06

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:

Pursuant to R.C. 121.76 [Exceptions], requirements in R.C. 121.71 to 121.75 do not apply to the incorporation by reference of a section of the Revised Code or a rule in the Administrative Code. Thus, the requirement in 121.73 to file material incorporated by reference electronically does not apply.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(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

NA

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

NA

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:

To address compliance for gifted identification, the state biennium budget provides general revenue funds to school districts estimated in the amount of \$8,467,319.60. This figure represents an estimate based on the amount budgeted in fiscal year (FY) 17 to all districts to identify students as gifted, as needed.

To address compliance for gifted units to Educational Service Centers (ESCs), the state biennium budget provides general revenue funds to ESCs estimated in the amount of \$3,800,000.00. This figure represents an estimate based on the amount budgeted in FY 17 to all ESCs.

To address compliance with potential school district cost to provide the 30 hours per year of training for the first two years that a general education teacher will need, should a district designate a general education teacher as a provider of gifted services under the rule, the following examples describe available options:

1. A Gifted Intervention Specialist (GIS) providing an hour per week of training to a general education teacher within a teacher's plan or conference time:

a. If the GIS works one-on-one with a teacher, assuming the median GIS salary for Ohio, but not including the cost of GIS benefits: \$1,350.

b. If the GIS works with more than one teacher at a time, the cost is divided by whatever number of teachers are present. In general, this model works well up to about 5 teachers, making the cost \$270 per teacher.

The above example assumes that the teachers themselves are within their contracted day and did not include their hourly rate as they are usually required by contract to attend professional development of some kind.

2. A teacher taking one credit hour at a university, either through seminars, workshops, or actual classes. The range of cost per credit hour at universities in Ohio that provide training for in-service teachers is between \$508.00 - \$776.00

3. Ashland University offers a qualifying course in conjunction with The Ohio Association for Gifted Children Fall Conference in which teachers attend the conference, along with additional meeting time and complete related assignments. The cost for this course is \$270.00.

To summarize, school districts may choose whether or not to implement gifted services and the manner in which they implement within the requirements of the rule. Thus, the cost for gifted services could range from \$0.00, for those districts not providing such service, to between \$270- \$1,350 per teacher depending on how a district chooses to meet the rule requirements. This is a per year cost projection for a general education teacher that will need 2 years to meet the new qualification requirements in the rule, should a district designate the teacher as a provider of gifted services. A district is under no obligation to do this though.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

School districts are subject to audit based on risk assessment criteria as determined by the Department. Districts may be selected for audit more frequently based on complaints or suspicion of non-compliance. Results of the audit may require corrective action or implementing a district improvement plan.

C.) Does this rule require specific expenditures or the report of information as a

condition of compliance? **Yes**

School districts must report the amount of funds spent on gifted education using guidelines prescribed by the Department, and the Department no later than October 30 each year must publish on its website the district expenditures.

Each year districts must submit data to the Department specifying: the number of students screened, the number assessed, and the number identified as gifted; and the number of students receiving gifted services in conformance with the rule.

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.

Gifted Identification: \$8,467,319.60 for all school districts per fiscal year. This figure represents an estimate based on the amount budgeted in FY 17 to all districts to identify students as gifted.

Gifted Units to ESCs: \$3,800,000.00 for all ESCs per fiscal year. This figure represents an estimate based on the amount budgeted in FY 17 to all ESCs.

General Education Teacher professional development: \$0.00 for those school districts choosing not to provide gifted service, to between \$270- \$1,350 per teacher, should a district designate a general education teacher as a provider of gifted service. This is a per year cost projection for a general education teacher that will need 2 years to meet the qualification requirement to provide gifted service under the rule.

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.

See below

(a) Personnel Costs

NA

(b) New Equipment or Other Capital Costs

NA

(c) Operating Costs

Gifted Identification: \$8,467,319.60 for all school districts per fiscal year. This figure represents an estimate based on the amount budgeted in FY 17 to all districts to identify students as gifted.

Gifted Units to ESCs: \$3,800,000.00 for all ESCs per fiscal year. This figure represents an estimate based on the amount budgeted in FY 17 to all ESCs.

General Education Teacher professional development: \$0.00 for those school districts choosing not to provide gifted service, to between \$270- \$1,350 per teacher, should a district designate a general education teacher as a provider of gifted service. This is a per year cost projection for a general education teacher that will need 2 years to meet the qualification requirement to provide gifted service under the rule.

(d) Any Indirect Central Service Costs

NA

(e) Other Costs

NA

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.

School districts use state-weighted education funds (general revenue funds) or local funds (locally generated) in serving students identified as gifted.

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

None anticipated.