



Advocacy for Gifted and Talented in New York

What are your Rights as a Parent of Gifted Child?

Since New York State does not have a mandate requiring districts to provide programs specifically designed for gifted pupils, it is imperative that parents be familiar with the laws that affect gifted children. The references cited refer to state education laws.

Chapter 740 of the Laws of 1982

Under this law, if a district accepts State funds for gifted programs, it must provide services to gifted pupils. These services shall include identification, instructional programs, planning, in-service education and program evaluation. Band, Odyssey of the Mind competitions, and the like do not qualify. (Article 90, Section 4452.c of Education Law.)

Many districts provide services under this definition. However, in some cases these services are provided at only a few grade levels and/or in only a few areas of learning, or in other limited ways. Because **there is no requirement that every student who has been identified as gifted must be served** with specially designed program, some identified gifted students may not be provided with such programming.

What other provisions affecting gifted students and their parents does chapter 740 contain?

******When a pupil is referred for consideration for a gifted program, the school district must inform the parent or guardian and seek approval to carry out an assessment to see if the pupil meets the district's identification criteria for the program. If the parent does not give approval, the pupil may not be tested or assessed in other ways for the program. (Article 90, Section 4452.e.)

******If a pupil is placed in a gifted program, the school must inform his or her parent. (Article 90, Section 4452.f.)

******A pupil attending a private school has a right to participate in the gifted program in the public school district in which the private school is located. The pupil must meet the school district's eligibility requirements for the gifted program. The school district must provide transportation between schools. If the pupil lives in another school district, the parent should apply to that school board, which will relay the request to the school board of the district in which the private school is located. The application must be made by June 1 for the next school year. (Article 73, Section 3602-c of Education Law.)

There are some limitations on these rights, including the following:

- If the gifted program in the public school enrolls pupils full time, obviously a pupil cannot participate and still be enrolled in a private school;
- Services to private school gifted pupils must be provided in the same way and in the same setting as services provided to public school gifted pupils.

What does the law say about screening?

Screening Under Chapter 53 of the Laws of 1980

Pupils who are entering a public school in New York State for the first time must be screened for potential giftedness. Entering kindergarten students as well as students transferring in from other states, private schools or home schools, regardless of the grade level, must be screened. (Section 117 of the Regulations of the Commissioner of Education.)

****For pupils enrolling in the fall of the school year, screening must take place by December 1. All others must be screened within 15 days of entry. The screening must include an assessment of language development. It must be conducted in the pupil's native language if a language other than English is spoken at home. Kindergarten screening should be more than a test for "readiness" or to rule out handicapping conditions.**

****If the student is found to be possibly gifted, the results of the screening must be reported to the school superintendent *and to the parent or guardian.* (Since this is a preliminary screening, a more in-depth assessment is needed to identify the student as gifted and to determine the most appropriate program for him or her. As stated earlier, the parent must give approval for further testing.) (***Chapter 28 of the Laws of 1993: (Article 65, Section 3208)****

Administrative Options for Serving the Gifted

Among the many options available for serving gifted students, the Regulations of the Commissioner of Education requires that school districts must make two options available:

****Eighth Grade Acceleration** – Public schools **must** make it possible for eighth grade students to take high school courses in Regents mathematics and in at least one of the following areas: English, science, social studies, second language, art, music, or occupational education subjects. While two subjects must be offered, the district certainly **may offer acceleration in more than two.** (Section 100.4 of the Regulation of the Commissioner of Education.)

The school district staff decides whether a student has demonstrated readiness to begin high school courses in the eighth grade. The student will receive high school credit is he or she passes the course.

****Credit Through Examination** – If a student has acquired the knowledge outside a regular course, he or she may receive up to 6.5 credits towards graduation without taking the courses. (section 100.5 of the Regulations of the Commissioner of Education.) The student has this right if:

- The school staff determines that he or she will benefit academically;
- He or she receives a score of at least 85 on a State examination or an exam approved by the State;
- He or she meets other requirements the school may have such as labs, special projects or an oral examination.

The Board of Regents' Bill of Rights for Children

In March of 1989, the NYS Board of Regents included the following statement in its BILL OF RIGHTS FOR CHILDREN. (Although these are not legal rights, they do reflect the policy goals of the Regents.) **"Each child has the right to an education appropriate for his or her individual needs."**

An appropriate program has been defined as one that offers a gifted pupil a trained teacher, classmates with similar characteristics, and a curriculum that is appropriately challenging and adaptable to each pupil's rate and style of learning.

Unfortunately, in a regular classroom, pupils of high ability often spend the majority of their time working on material they already know. Often as much as 60% is not new. When they do encounter new material, they may learn it in much less time than most of their classmates. They may have few classmates with the same interests. Their teachers may have trouble providing learning experiences that stimulate them while also planning for the range of abilities among the rest of the class.

WHAT CAN PARENTS DO?

It is important for you to understand both the rights that you have as well as those that you do not. If you think your school is not complying with the requirements of the State Education Law, refer them (teachers, administrators and school board members) to the specific regulation. Schools are not allowed to ignore these laws.

What about those things which may not be required but which you believe would be desirable and beneficial to students? This is where you need to collect data that supports your position and appeal to your district leaders. If you can gather together other parents who hold the same beliefs, you can approach your district as a group, rather than as an individual. There are many low cost and no cost options that districts can use to address the needs of gifted children including:

- Cluster grouping within the grade or class (putting children of similar abilities together for a particular subject)
- Subject acceleration (allow a child who performs at a higher level to join a class in another grade for that subject)
- Cross-grade grouping (allows children of various grades who perform at the same level in a particular subject to be grouped together for instruction)
- Grade acceleration – if a child is performing at least two grades ahead in all areas, and would like to skip a grade, the research has shown this to be quite beneficial in almost all cases.
- BOCES programs are very cost effective

You know your child best and you may need to act to insure the most appropriate education for your child.