

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1248*

Short Title: Education of Gifted Students.

(Public)

Sponsors: Representatives Grady, Black, Cummings, McMahan, Owens, Preston, Rogers; Thompson and Sexton.

Referred to: Education.

May 20, 1996

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE JOINT
2 LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO IMPROVE THE
3 PROGRAM AND SERVICES FOR GIFTED STUDENTS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 115C-81(b)(1) reads as rewritten:

7 "(1) A core curriculum for all students that takes into account the special
8 needs of children and includes appropriate modifications for the
9 learning disabled, ~~the academically gifted, the gifted students,~~ and the
10 students with discipline and emotional problems;"

11 Sec. 2. G.S. 115C-109 reads as rewritten:

12 **"§ 115C-109. Definition of children with special needs.**

13 The term 'children with special needs' includes, without limitation, all children from
14 age five through age 20 who because of permanent or temporary mental, physical or
15 emotional handicaps need special education, are unable to have all their needs met in a
16 regular class without special education or related services, or are unable to be adequately
17 educated in the public schools. It includes those who are mentally retarded, epileptic,
18 learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically

1 impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired,
2 blind or visually impaired, and other health impaired, and academically gifted-impaired."

3 Sec. 3. G.S. 115C-110(d) reads as rewritten:

4 "(d) The Board shall adopt rules or regulations covering:

5 (1) The qualifications of and standards for certification of teachers, teacher
6 assistants, speech clinicians, school psychologists, and others involved
7 in the education and training of children with special needs;

8 (2) Minimum standards for the individualized educational program for all
9 children with special needs other than for ~~the academically gifted and the~~
10 ~~pregnant children, and for the group educational program for the~~
11 ~~academically gifted children and the educational program for the pregnant~~
12 ~~children, who receive special education and related services; and~~

13 (3) Such other rules or regulations as may be necessary or appropriate for
14 carrying out the purposes of this Article. Representatives from the
15 Departments of Human Resources and Correction shall be involved in
16 the development of the standards outlined under this subsection."

17 Sec. 4. G.S. 115C-110(k) reads as rewritten:

18 "(k) The Department shall monitor the effectiveness of individualized education
19 programs in meeting the educational needs of all children with special needs other than
20 ~~the academically gifted and pregnant children, and of group educational programs in meeting~~
21 ~~the educational needs of the academically gifted children, and of educational programs in~~
22 meeting the educational needs of the pregnant children."

23 Sec. 5. G.S. 115C-113 reads as rewritten:

24 "**§ 115C-113. Diagnosis and evaluation; individualized education program.**

25 (a) Before taking any action described in subsection (b), below, each local
26 educational agency shall cause a multi-disciplinary diagnosis and evaluation to be made
27 of the child. The State Board of Education shall establish special, simplified procedures
28 for the diagnosis and evaluation of the pregnant child, which procedures shall focus on
29 the particular needs of the pregnant child and shall exclude those procedures which are
30 not pertinent to the pregnant. The local educational agency shall use the diagnosis and
31 evaluation to determine if the child has special needs, diagnose and evaluate those needs,
32 propose special education programs to meet those needs, and provide or arrange to
33 provide such programs. A multi-disciplinary diagnosis and evaluation is one which
34 includes, without limitation, medical (if necessary), psychological (if necessary) and
35 educational assessments and recommendations; such an evaluation may include any other
36 assessments as the Board may, by rule or regulation, require.

37 All testing and evaluation materials and procedures utilized for the purposes of
38 evaluation and placement of children with special needs will be selected and administered
39 so as not to be racially or culturally discriminatory. Such materials or procedures shall be
40 provided and administered in the child's native language or mode of communication,
41 unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion
42 for determining an appropriate educational program for a child.

1 (b) An initial multi-disciplinary diagnosis and evaluation based on rules developed
2 by the Board shall be made before any such child is placed in a special education
3 program, removed from such a program and placed in a regular school program,
4 transferred from one type of special education program to another, removed from a
5 school program for placement in a nonschool program, or otherwise tracked, classified,
6 or treated as a child with special needs.

7 (c) Referral of any child shall be in writing, signed by the person requesting
8 diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or
9 delivered to one of the following: the child's teacher, the principal of the school to which
10 the child is, has been or will be assigned, or the superintendent of the affected local
11 educational agency or his designee. The local educational agency shall send a written
12 notice to the parent or guardian describing the evaluation procedure to be followed and
13 requesting consent for the evaluation. If the parents or guardian consent, the diagnosis
14 and evaluation may be undertaken; if they do not, the local educational agency may
15 obtain a due process hearing pursuant to G.S. 115C-116 on the failure of the parent or
16 guardian to consent.

17 The local educational agency shall provide or cause to be provided, as soon as
18 possible after receiving consent for evaluation, a diagnosis and evaluation appropriate to
19 the needs of the child unless the parents or guardian have objected to such evaluation. If
20 at the conclusion of the evaluation, the child is determined to be a child with special
21 needs, the local educational agency shall within 30 calendar days convene an
22 individualized education program committee. The purpose of the meeting shall be to
23 propose the special education and related services for the child. An interpretation of the
24 multi-disciplinary diagnosis and evaluation will be made to the parent or guardian during
25 the meeting. The proposal shall set forth the specific benefits expected from such a
26 program, a method for monitoring the benefits, and a statement regarding conditions
27 which will be considered indicative of the child's readiness for participation in regular
28 classes.

29 After an initial referral is made, the provision of special education and related services
30 shall be implemented within 90 calendar days to eligible students, unless the parents or
31 guardian refuse to consent to evaluation or placement or the parent or local educational
32 agency requests a due process hearing.

33 Within 12 months after placement in a special education program, and at least
34 annually thereafter, those people responsible for developing the child's individualized
35 education program, ~~group educational program for the academically gifted,~~ or educational
36 program for the pregnant, shall review the child's progress and, on the basis of previously
37 stated expected benefits, decide whether to continue or discontinue the placement or
38 program. If the review indicates that the placement or program does not benefit the child,
39 the appropriate reassignment or change in the prescribed program shall be recommended
40 to the parents or guardian.

41 The local educational agency shall keep a complete written record of all diagnostic
42 and evaluation procedures attempted, their results, the conclusions reached, and the
43 proposals made.

1 (d) The local educational agency shall furnish the results, findings, and proposals,
2 as described in the individualized education program ~~or group educational program~~ based
3 on the diagnosis and evaluation to the parents or guardian in writing in the parents' or
4 guardian's native language or by their dominant mode of communication, prior to the
5 parent or guardian giving consent for initial placement in special education and related
6 services. Prior notice will be given to the parents or guardian by the local educational
7 agency before any change in placement.

8 A reevaluation must be completed at least every three years to determine the
9 appropriateness of the child's continuing to receive special education and related ~~services:~~
10 ~~Provided, that a reevaluation for an academically gifted child shall be completed within three~~
11 ~~years of initial evaluation for a child who has been identified as academically gifted prior to the~~
12 ~~second semester of the third grade. For a child who is identified as academically gifted during~~
13 ~~the second semester of the third grade or thereafter, no reevaluation is required.~~ services.

14 (e) Each local educational agency shall make and keep current a list of all children
15 evaluated and diagnosed pursuant to this section who are found to have special needs and
16 of all children who are receiving home, hospital, institutional or other special education
17 services, including those being educated within the regular classroom setting or in other
18 special education programs.

19 (f) Each local educational agency shall prepare individualized educational
20 programs for all children found to be children with special needs other than the
21 ~~academically gifted and pregnant children, and group educational programs prescribed in~~
22 ~~subsection (g) of this section for the academically gifted children, and educational programs~~
23 prescribed in subsection (h) of this section for the pregnant children. The individualized
24 educational program shall be developed in conformity with Public Law 94-142 and the
25 implementing regulations issued by the United States Department of Education and shall
26 be implemented in conformity with timeliness set by that Department. The term
27 'individualized educational program' means a written statement for each such child
28 developed in any meeting by a representative of the local educational agency who shall
29 be qualified to provide, or supervise the provision of, specially designed instruction to
30 meet the unique needs of such children, the teacher, the parents or guardian of such child,
31 and, whenever appropriate, such child, which statement shall be based on rules developed
32 by the Board. Each local educational agency shall establish, or revise, whichever is
33 appropriate, the individualized educational program of each child with special needs each
34 school year and will then review and, if appropriate revise, its provisions periodically, but
35 not less than annually. In the facilities and programs of the Department of Human
36 Resources, the individualized educational program shall be planned in collaboration with
37 those other individuals responsible for the design of the total treatment or habilitation
38 plan or both; the resulting educational, treatment, and habilitation plans shall be
39 coordinated, integrated, and internally consistent.

40 ~~(g) Each local educational agency shall prepare group educational programs for~~
41 ~~the academically gifted children. The State Board of Education shall promulgate rules~~
42 ~~and regulations specifically to address the preparation of these group educational~~
43 ~~programs, which rules and regulations shall include specific grouping standards and~~

1 ~~specific program standards, and shall also include standards for ensuring that the~~
2 ~~individual educational needs of each child within the group are addressed.~~

3 (h) Each local educational agency shall prepare educational programs for the
4 pregnant children. The State Board of Education shall promulgate rules and regulations
5 specifically to address the preparation of these educational programs, which rules and
6 regulations shall include specific standards for ensuring that the individual educational
7 needs of each child are addressed."

8 Sec. 6. Chapter 115C is amended by adding a new Article 9B to read:

9 **"ARTICLE 9B.**

10 **"GIFTED STUDENTS.**

11 **"§ 115C-150.5. Gifted students.**

12 The General Assembly believes the public schools should challenge all students to
13 aim for academic excellence and that gifted students perform or show the potential to
14 perform at substantially high levels of accomplishment when compared with others of
15 their age, experience, or environment. Gifted students exhibit high performance
16 capability in intellectual areas, specific academic fields, or in both intellectual areas and
17 specific academic fields. Gifted students require differentiated educational services
18 beyond those ordinarily provided by the regular educational program. Outstanding
19 abilities are present in students from all cultural groups, across all economic strata, and in
20 all areas of human endeavor.

21 **"§ 115C-150.6. State Board of Education responsibilities.**

22 In order to implement this Article, the State Board of Education shall:

- 23 (1) Develop and disseminate guidelines for developing local plans under
24 G.S. 115C-150.7(a). These guidelines should address identification
25 procedures, differentiated curriculum, integrated services, staff
26 development, program evaluation methods, and any other information
27 the State Board considers necessary or appropriate.
28 (2) Provide ongoing technical assistance to the local school administrative
29 units in the development, implementation, and evaluation of their local
30 plans under G.S. 115C-150.7.

31 **"§ 115C-150.7. Local plans.**

32 (a) Each local board of education shall develop a local plan designed to identify
33 and establish a procedure for providing appropriate educational services to each gifted
34 student. The board shall include parents, the school community, representatives of the
35 community, and others in the development of this plan. The plan may be developed by or
36 in conjunction with other committees.

37 (b) Each plan shall include the following components:

- 38 (1) Screening, identification, and placement procedures that allow for the
39 identification of specific educational needs and for the assignment of
40 gifted students to appropriate services.
41 (2) A clear statement of the program to be offered that includes different
42 types of services provided in a variety of settings to meet the diversity
43 of identified gifted students.

- 1 (3) Measurable objectives for the various services that align with core
2 curriculum and a method to evaluate the plan and the services offered.
3 The evaluation shall focus on improved student performance.
4 (4) Professional development clearly matched to the goals and objectives of
5 the plan, the needs of the staff providing services to gifted students, the
6 services offered, and the curricular modifications.
7 (5) A plan to involve the school community, parents, and representatives of
8 the local community in the ongoing implementation of the local plan,
9 monitoring of the local plan, and integration of educational services for
10 gifted students into the total school program. This should include a
11 public information component.
12 (6) The name and role description of the person responsible for
13 implementation of the plan.
14 (7) A procedure to resolve disagreements between parents and the school
15 when a child is not identified as a gifted student or concerning the
16 appropriateness of services offered to the gifted student.
17 (8) Any other information the local board considers necessary or
18 appropriate to implement this Article or to improve the educational
19 performance of gifted students.

20 (c) Upon its approval of the plan developed under this section, the local board
21 shall submit the plan to the State Board of Education for its review and comments. The
22 local board shall consider the comments it receives from the State Board before it
23 implements the plan.

24 (d) A plan shall remain in effect for no more than three years; however, the local
25 board may amend the plan as often as it considers necessary or appropriate. Any changes
26 to a plan shall be submitted to the State Board of Education for its review and comments.
27 The local board shall consider the State Board's comments before it implements the
28 changes."

29 Sec. 7. Effective July 1, 1996, funding allotments in the Public School Fund
30 shall be allocated as follows:

31 **Existing Funding Allotment**

32 Exceptional Children.

31 **New Funding Allotments**

32 (1) Children with Special
33 Needs.

34 (2) Gifted Students.

35 Sec. 8. G.S. 115C-238.2(b) is amended by adding a new subdivision to read:

36 "(5c) In accordance with a building-level plan, may use funds from the
37 funding allotment for gifted students for any purpose so long as that
38 school demonstrates it is providing appropriate services to gifted
39 students assigned to that school."

40 Sec. 9. G.S. 115C-238.3(b1) reads as rewritten:

41 "(b1) Development by each school of strategies for attaining local school and student
42 performance goals. – The principal of each school, representatives of the assistant
43 principals, instructional personnel, instructional support personnel, and teacher assistants

1 assigned to the school building, and parents of children enrolled in the school shall
2 constitute a school improvement team to develop a building-level plan to address school
3 and student performance goals appropriate to that school from those established by the
4 local board of education. Parents serving on school improvement teams shall reflect the
5 racial and socioeconomic composition of the students enrolled in that school and shall not
6 be members of the building-level staff. Parental involvement is a critical component of
7 school success and positive student outcomes; therefore, it is the intent of the General
8 Assembly that parents, along with teachers, have a substantial role in developing school
9 and student performance goals at the building level. To this end, school improvement
10 team meetings shall be held at a convenient time to assure substantial parent
11 participation. The strategies for attaining local school and student performance goals shall
12 include a plan for the use of staff development funds that may be made available to the
13 school by the local board of education to implement the building-level plan. The
14 strategies may include a decision to use State funds allocated for teacher assistants to
15 reduce class size or the student-teacher ratio in kindergarten through the third grade in
16 accordance with G.S. 115C-238.2(b)(5a) or to use State funds in accordance with ~~G.S.~~
17 ~~115C-238.2(b)(5b)~~ G.S. 115C-238.2(b)(5b) or G.S. 115C-238.2(b)(5c). The strategies may
18 also include requests for waivers of State laws, regulations, or policies for that school. A
19 request for a waiver shall (i) identify the State laws, regulations, or policies that inhibit
20 the local unit's ability to reach its local accountability goals, (ii) set out with specificity
21 the circumstances under which the waiver may be used, and (iii) explain how a waiver of
22 those laws, regulations, or policies will permit the local unit to reach its local goals.

23 Support among affected staff members is essential to successful implementation of a
24 building-level plan to address school and student performance goals appropriate to a
25 school; therefore, the principal of the school shall present the proposed building-level
26 plan to all of the principals, assistant principals, instructional personnel, instructional
27 support personnel, and teacher assistants assigned to the school building for their review
28 and vote. The vote shall be by secret ballot. The principal may submit the building-level
29 plan to the local board of education for inclusion in the systemwide plan only if the
30 proposed building-level plan has the approval of a majority of the staff who voted on the
31 plan.

32 The local board of education shall accept or reject the building-level plan. The local
33 board shall not make any substantive changes in any building-level plan that it accepts;
34 the local board shall set out any building-level plan that it accepts in the systemwide plan.
35 If the local board rejects a building-level plan, the local board shall state with specificity
36 its reasons for rejecting the plan; the school improvement team may then prepare another
37 plan, present it to the principals, assistant principals, instructional personnel, instructional
38 support personnel, and teacher assistants assigned to the school building for a vote, and
39 submit it to the local board for inclusion in the systemwide plan. If no building-level plan
40 is accepted for a school before March 15 of the fiscal year preceding the fiscal year in
41 which participation is sought, the local board may develop a plan for the school for
42 inclusion in the systemwide plan; the General Assembly urges the local board to utilize

1 the proposed building-level plan to the maximum extent possible when developing such a
2 plan."

3 Sec. 10. The State Board of Education shall report to the Joint Legislative
4 Education Oversight Committee by December 15, 1996, and by December 15, 1997, on
5 the implementation of this act.

6 Sec. 11. This act is effective upon ratification, and shall apply to all students
7 on either the expiration date of a group educational program currently in effect or the
8 effective date for a local plan developed and adopted under this act, whichever occurs
9 first.