

HOUSE BILL 130

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC SCHOOLS; IMPOSING REQUIREMENTS ON SCHOOL
DISTRICTS OFFERING GIFTED EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-13-6.1 NMSA 1978 (being Laws 1994,
Chapter 25, Section 2, as amended) is amended to read:

"22-13-6.1. GIFTED ~~[CHILDREN]~~ STUDENTS--DETERMINATION AND
SERVICES.--

A. The department shall adopt standards pertaining
to child find, universal screening and the determination of who
is a gifted ~~[child]~~ student and shall publish those standards
as part of the educational standards for New Mexico schools.
The department shall establish standards for equity and
excellence in gifted education based on national association
for gifted children pre-kindergarten through twelfth grade

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1 programming standards and shall publish those standards as part
2 of the educational standards for New Mexico public schools.
3 The department shall triannually evaluate the effectiveness of
4 each school district's gifted education programming and
5 annually evaluate the equity of identification statewide in
6 each school district and charter school. The department shall
7 create a funding code to track funds spent on gifted education
8 and periodically audit public school and school district use of
9 funds generated by the state equalization guarantee for gifted
10 education. The department shall include equity of racial,
11 ethnic, socioeconomic, language and disability group
12 participation of gifted education and advanced performance in
13 state accountability reporting.

14 B. In adopting standards to determine who is a
15 gifted ~~[child]~~ student, the department shall provide for
16 universal screening and the evaluation of selected school-age
17 ~~[children]~~ students by multidisciplinary teams from each
18 ~~[child's]~~ student's school district. That team shall be vested
19 with the authority to designate a ~~[child]~~ student as gifted.
20 The team shall consider information regarding a ~~[child's]~~
21 student's cultural and linguistic background and socioeconomic
22 background in the identification, referral and evaluation
23 process. The team also shall consider any disabling condition
24 in the identification, referral and evaluation process. No
25 single test, criterion or gatekeeping procedure, such as

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1 intelligence quotient or teacher referral, shall be permitted
2 to disallow a student from identification.

3 C. Each school district [~~offering a gifted~~
4 ~~education program~~] shall develop policies and procedures for
5 universal screening and child find. The school district shall
6 develop policies and procedures to allow any student who may
7 benefit to receive academic acceleration and enrichment in a
8 timely manner. The school district shall annually evaluate the
9 equity and effectiveness of gifted identification and services
10 compared to state standards for excellence and report to the
11 school district's gifted education advisory committee. The
12 school district shall create one or more gifted education
13 advisory committees of parents, community members, students and
14 school staff members. The school district may create as many
15 advisory committees as there are high schools in the district
16 or may create a single districtwide advisory committee. The
17 membership of each advisory committee shall reflect the
18 cultural diversity of the enrollment of the school district or
19 the schools the committee advises. The advisory committee
20 shall regularly review the goals and priorities of the gifted
21 [~~program~~] education services, including the operational plans
22 for student identification, evaluation, placement and service
23 delivery, and shall demonstrate support for the gifted
24 [~~program~~] education services.

25 D. In determining whether a [~~child~~] student is

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1 gifted, the multidisciplinary team shall consider diagnostic or
2 other evidence of the ~~[child's]~~ student's:

- 3 (1) creativity or divergent-thinking ability;
- 4 (2) critical-thinking or problem-solving
5 ability;
- 6 (3) intelligence; ~~[and]~~
- 7 (4) achievement;
- 8 (5) artistry;
- 9 (6) leadership; and
- 10 (7) aptitude in specific academic areas.

11 E. School districts offering gifted education
12 services shall:

13 (1) consider the potential need for social
14 work services, transportation costs and occupational therapy
15 for students identified as gifted pursuant to this section with
16 another qualifying condition pursuant to Section 504 of the
17 federal Rehabilitation Act of 1973 or the federal Individuals
18 with Disabilities Education Act;

19 (2) adopt an academic acceleration and
20 enrichment policy that allows all of the following:

21 (a) a range of options such as: 1)
22 skipping grades; 2) advancement by one or more grade levels in
23 a single subject; 3) enrollment in concurrent high school and
24 college credit courses; 4) credit for demonstrated mastery of
25 subject matter; and 5) other research-based interventions for

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1 gifted and high-ability students such as school-wide
2 enrichment;

3 (b) specified nondiscrimination and
4 inclusiveness of all students, including those with
5 disabilities, language differences and socioeconomic
6 differences;

7 (c) provisions that the individualized
8 education program team may make acceleration and enrichment
9 decisions for students identified as gifted and that the
10 student assistance team or district gifted education
11 coordinator may make acceleration and enrichment decisions for
12 other advanced students not identified as gifted; and

13 (d) inclusion of procedures for: 1)
14 appeal and due process; and 2) safe reversion of placement
15 within a reasonable time frame if the acceleration is
16 ineffective;

17 (3) uphold the student's right to accelerate
18 through a dual-credit or concurrent credit course in the event
19 that the student's home school offers the course that would
20 allow the student to earn credit toward graduation;

21 (4) provide special supports for disadvantaged
22 and disabled students who are also identified as gifted
23 pursuant to this section to participate in acceleration and
24 enrichment; and

25 (5) accept accelerated credit or college

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1 credit earned at accredited schools toward graduation from the
2 student's home high school.

3 F. A twice-exceptional student shall continue to be
4 eligible for special education and related services even though
5 the person achieves a high score on an achievement test.

6 G. As used in this section, "twice-exceptional"
7 means a student who qualifies as a gifted student and meets the
8 criteria for a disability under federal law."