

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1207*

Education/Higher Education Committee Substitute Adopted 5/30/96

Short Title: Education of Gifted Students.

(Public)

Sponsors:

Referred to:

May 16, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO IMPROVE THE PROGRAM AND SERVICES FOR ACADEMICALLY OR INTELLECTUALLY GIFTED STUDENTS.

The General Assembly of North Carolina enacts:

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

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

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

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

The term 'children with special needs' includes, without limitation, all children from age five through age 20 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, 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 **"ACADEMICALLY OR INTELLECTUALLY GIFTED STUDENTS.**

11 **"§ 115C-150.5. Academically or intellectually gifted students.**

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

22 **"§ 115C-150.6. State Board of Education responsibilities.**

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

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

32 **"§ 115C-150.7. Local plans.**

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

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

- 39 (1) Screening, identification, and placement procedures that allow for the
40 identification of specific educational needs and for the assignment of
41 academically or intellectually gifted students to appropriate services.

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

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

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

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

36 **Existing Funding Allotment**

37 Exceptional Children.

36 **New Funding Allotments**

37 (1) Children With Special
 38 Needs.

39 (2) Academically or Intellectually
 40 Gifted Students.

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

42 "(5c) May use funds from the funding allotment for academically or
 43 intellectually gifted students only (i) for academically or intellectually

1 gifted students; (ii) to implement the plan developed under G.S. 115C-
2 150.7; or (iii) in accordance with a building-level plan, for any purpose
3 so long as that school demonstrates it is providing appropriate services
4 to academically or intellectually gifted students assigned to that school
5 in accordance with the local plan developed under G.S. 115C-150.7."

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

7 "(b1) Development by each school of strategies for attaining local school and student
8 performance goals. – The principal of each school, representatives of the assistant
9 principals, instructional personnel, instructional support personnel, and teacher assistants
10 assigned to the school building, and parents of children enrolled in the school shall
11 constitute a school improvement team to develop a building-level plan to address school
12 and student performance goals appropriate to that school from those established by the
13 local board of education. Parents serving on school improvement teams shall reflect the
14 racial and socioeconomic composition of the students enrolled in that school and shall not
15 be members of the building-level staff. Parental involvement is a critical component of
16 school success and positive student outcomes; therefore, it is the intent of the General
17 Assembly that parents, along with teachers, have a substantial role in developing school
18 and student performance goals at the building level. To this end, school improvement
19 team meetings shall be held at a convenient time to assure substantial parent
20 participation. The strategies for attaining local school and student performance goals shall
21 include a plan for the use of staff development funds that may be made available to the
22 school by the local board of education to implement the building-level plan. The
23 strategies may include a decision to use State funds allocated for teacher assistants to
24 reduce class size or the student-teacher ratio in kindergarten through the third grade in
25 accordance with G.S. 115C-238.2(b)(5a) or to use State funds in accordance with ~~G.S.~~
26 ~~115C-238.2(b)(5b)~~ G.S. 115C-238.2(b)(5b) or G.S. 115C-238.2(b)(5c). The strategies
27 may also include requests for waivers of State laws, regulations, or policies for that
28 school. A request for a waiver shall (i) identify the State laws, regulations, or policies that
29 inhibit the local unit's ability to reach its local accountability goals, (ii) set out with
30 specificity the circumstances under which the waiver may be used, and (iii) explain how
31 a waiver of those laws, regulations, or policies will permit the local unit to reach its local
32 goals.

33 Support among affected staff members is essential to successful implementation of a
34 building-level plan to address school and student performance goals appropriate to a
35 school; therefore, the principal of the school shall present the proposed building-level
36 plan to all of the principals, assistant principals, instructional personnel, instructional
37 support personnel, and teacher assistants assigned to the school building for their review
38 and vote. The vote shall be by secret ballot. The principal may submit the building-level
39 plan to the local board of education for inclusion in the systemwide plan only if the
40 proposed building-level plan has the approval of a majority of the staff who voted on the
41 plan.

42 The local board of education shall accept or reject the building-level plan. The local
43 board shall not make any substantive changes in any building-level plan that it accepts;

1 the local board shall set out any building-level plan that it accepts in the systemwide plan.
2 If the local board rejects a building-level plan, the local board shall state with specificity
3 its reasons for rejecting the plan; the school improvement team may then prepare another
4 plan, present it to the principals, assistant principals, instructional personnel, instructional
5 support personnel, and teacher assistants assigned to the school building for a vote, and
6 submit it to the local board for inclusion in the systemwide plan. If no building-level plan
7 is accepted for a school before March 15 of the fiscal year preceding the fiscal year in
8 which participation is sought, the local board may develop a plan for the school for
9 inclusion in the systemwide plan; the General Assembly urges the local board to utilize
10 the proposed building-level plan to the maximum extent possible when developing such a
11 plan."

12 Sec. 10. The State Board of Education shall establish deadlines for local
13 school administrative units to implement the local plans developed under G.S. 115C-
14 150.7. All local school administrative units shall begin implementation of their local
15 plans by the beginning of the 1998-99 school year.

16 Sec. 11. The State Board of Education shall report to the Joint Legislative
17 Education Oversight Committee by December 15, 1996, and by March 15, 1998, on the
18 implementation of this act.

19 Sec. 12. This act is effective upon ratification.