

## CHAPTER 210

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 08-1021**

BY REPRESENTATIVE(S) Peniston, Borodkin, Buescher, Carroll M., Carroll T., Green, Kerr A., Labuda, Madden, Marostica, Massey, McGihon, Merrifield, Primavera, Romanoff, Solano, Stafford, Summers, Todd, Garza-Hicks, Roberts, Rose, and Stephens;  
also SENATOR(S) Spence, Boyd, Gibbs, Groff, Keller, Sandoval, Shaffer, Tochtrop, and Williams.

**AN ACT**

**CONCERNING EARLY ACCESS TO EDUCATIONAL SERVICES FOR GIFTED CHILDREN WHO ARE LESS THAN SIX YEARS OF AGE, AND MAKING AN APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 22-20-103 (12) (b) and (13), Colorado Revised Statutes, are amended, and the said 22-20-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-20-103. Definitions.** As used in this article, unless the context otherwise requires:

(12) "Exceptional children" means:

(b) Those children defined in subsection (13) of this section as gifted children. Pursuant to section 22-20-104.5 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve gifted children WHO ARE AT LEAST FIVE YEARS OF AGE.

(13) "Gifted children" means those persons from ~~five~~ FOUR to twenty-one years of age whose abilities, talents, and potential for accomplishments are so outstanding that they require special provisions to meet their educational needs.

(13.5) "HIGHLY ADVANCED GIFTED CHILD" MEANS A GIFTED CHILD WHO HAS BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT, USING CRITERIA AND A PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION 22-20-104.5 (5), TO BE A HIGHLY ADVANCED GIFTED CHILD.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 2.** 22-20-104.5 (1), Colorado Revised Statutes, is amended, and the said 22-20-104.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**22-20-104.5. Plan for academic excellence - inclusion of gifted children - cooperation - rules.** (1) Each administrative unit shall adopt and implement a program plan to identify and serve gifted children WHO ARE AT LEAST FIVE YEARS OF AGE. Any program plan developed and implemented pursuant to the provisions of this section shall satisfy any criteria for accreditation which have been established by the state board and any criteria established by rules promulgated by the state board for the implementation of this article. A program plan adopted by an administrative unit pursuant to this section shall be consistent with the advanced learning plans of the gifted children who are identified by the administrative unit, and the program plan shall be implemented to the extent that funds are provided for such implementation. Nothing in this article shall be construed to require an administrative unit to implement a program plan in the event that sufficient moneys are not provided for such implementation.

(1.5) (a) IN ADOPTING AND IMPLEMENTING A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED CHILDREN PURSUANT TO SUBSECTION (1) OF THIS SECTION, EACH ADMINISTRATIVE UNIT MAY INCLUDE IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN WHO ARE:

(I) FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO KINDERGARTEN IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT; AND

(II) FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST GRADE IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT.

(b) IN MAKING DETERMINATIONS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5), AN ADMINISTRATIVE UNIT SHALL APPLY THE CRITERIA AND PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(c) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5), THE ADMINISTRATIVE UNIT SHALL MAKE AVAILABLE UPON REQUEST TO ANY PERSON THE ADMINISTRATIVE UNIT'S CRITERIA AND PROCESS FOR IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED APPROPRIATE, INCLUDING TIME FRAMES, DEADLINES, AND ANY SPECIFIC TESTS AND THRESHOLD SCORES USED BY THE ADMINISTRATIVE UNIT IN IDENTIFYING AND MAKING A FINAL DETERMINATION CONCERNING SUCH A STUDENT.

(d) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5), THE ADMINISTRATIVE UNIT MAY CHARGE A FEE FOR ANY ASSESSMENTS OR OTHER PROCEDURES THAT THE ADMINISTRATIVE UNIT PERFORMS FOR THE PURPOSE OF IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED

APPROPRIATE; EXCEPT THAT AN ADMINISTRATIVE UNIT SHALL NOT CHARGE SUCH A FEE FOR ANY SUCH ASSESSMENTS OR OTHER PROCEDURES IF THE CHILD WHO IS THE SUBJECT OF SUCH ASSESSMENTS OR OTHER PROCEDURES IS ELIGIBLE FOR A REDUCED-COST MEAL OR FREE MEAL PURSUANT TO THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

(e) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN WHO ARE FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO KINDERGARTEN IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT OR WHO ARE FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST GRADE IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT, ARE IMPORTANT ELEMENTS OF ACCOUNTABLE EDUCATION REFORM AND EXPANDING THE AVAILABILITY OF PRESCHOOL AND KINDERGARTEN PROGRAMS AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(5) (a) ON OR BEFORE JULY 1, 2008, THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH CRITERIA AND A PROCESS THAT AN ADMINISTRATIVE UNIT SHALL USE, PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1.5) OF THIS SECTION, TO MAKE DETERMINATIONS REGARDING THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS SECTION.

(b) THE CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL INCLUDE CONSIDERATION OF A CHILD'S:

- (I) APTITUDE;
- (II) ACHIEVEMENT;
- (III) PERFORMANCE;
- (IV) READINESS FOR ADVANCED PLACEMENT;
- (V) OBSERVABLE SOCIAL BEHAVIOR;
- (VI) MOTIVATION TO LEARN; AND
- (VII) SUPPORT FROM PARENTS, TEACHERS, AND SCHOOL ADMINISTRATORS.

(c) THE PROCESS ESTABLISHED BY RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL INCLUDE:

- (I) A TIME LINE ACCORDING TO WHICH A CHILD'S PARENTS MAY APPLY FOR ADVANCED PLACEMENT FOR THE CHILD;
- (II) A DESCRIPTION OF ADMINISTRATIVE UNIT PERSONNEL WHO SHALL BE INVOLVED IN THE PROCESS OF IDENTIFYING HIGHLY ADVANCED GIFTED CHILDREN FOR WHOM ADVANCED PLACEMENT IS APPROPRIATE;

(III) A DESCRIPTION OF HOW EACH CHILD FOR WHOM THE CHILD'S PARENTS ARE SEEKING ADVANCED PLACEMENT SHALL BE EVALUATED;

(IV) A DESCRIPTION OF THE ENTIRE BODY OF EVIDENCE THAT SHALL BE USED TO EVALUATE EACH CHILD FOR WHOM THE CHILD'S PARENTS ARE SEEKING ADVANCED PLACEMENT;

(V) A DESCRIPTION OF HOW DECISIONS CONCERNING THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN SHALL BE MADE COLLABORATIVELY BY ADMINISTRATIVE UNIT PERSONNEL; AND

(VI) A DESCRIPTION OF HOW AN ADMINISTRATIVE UNIT SHALL MONITOR THE PERFORMANCE OF A CHILD WHO HAS RECEIVED AN ADVANCED PLACEMENT PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

**SECTION 3.** 22-54-103 (10) (a) (IV) (B) and (10) (b) (I), Colorado Revised Statutes, are amended to read:

**22-54-103. Definitions.** As used in this article, unless the context otherwise requires:

(10) (a) (IV) (B) For purposes of determining pupil enrollment in first grade for the 2007-08 budget year and each budget year thereafter, in addition to the pupils counted pursuant to sub-subparagraph (A) of this subparagraph (IV), a district may count and receive funding for a pupil who is enrolled in first grade who is at least five years old on or before October 1 of the applicable budget year if the pupil attended at least one hundred twenty days of kindergarten in a state other than Colorado. A DISTRICT MAY ALSO RECEIVE FUNDING FOR A PUPIL WHO IS FIVE YEARS OLD AND WHO HAS BEEN IDENTIFIED BY THE DISTRICT OR AN ADMINISTRATIVE UNIT AS A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO FIRST GRADE IS APPROPRIATE, AS PROVIDED IN SECTION 22-20-104.5 (1.5).

(10) (b) (I) A pupil enrolled in a kindergarten educational program pursuant to section 22-32-119 (1) shall be counted as not more than a half-day pupil. For the 2005-06 budget year and each budget year thereafter, a district shall count and receive funding only for pupils enrolled in a kindergarten educational program who are:

(A) Five years old as of October 1 of the applicable budget year; OR

(B) FOUR YEARS OLD AS OF OCTOBER 1 OF THE APPLICABLE BUDGET YEAR AND WHO HAVE BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT TO BE HIGHLY ADVANCED GIFTED CHILDREN FOR WHOM EARLY ACCESS TO KINDERGARTEN IS APPROPRIATE, AS PROVIDED IN SECTION 22-20-104.5 (1.5).

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state education fund created in section 17 (4) of article IX of the state constitution not otherwise appropriated, to the department of education, for assistance to public schools, public school finance, state share of districts' total program funding, for the fiscal year beginning July 1, 2008, the sum of two hundred fifty-two thousand seven hundred ninety-nine dollars

(\$252,799), or so much thereof as may be necessary, for the implementation of this act.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 14, 2008