

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION

CHAPTER 3 - REGULATIONS GOVERNING **LEARNERS WITH HIGH ABILITY** LEARNERS

001 GENERAL PROVISIONS

001.01: Statutory Authority

This Chapter is adopted pursuant to **Neb. Rev. Stat. 79-318 and 79-1105 through 79-1108.03**. power and duty vested in the State Board of Education in the following Revised Statutes of Nebraska (R.R.S.):—

~~001.01A. Section 79-318, which reads:—~~

~~"The State Board of Education shall:—~~

~~. . . (5) (i) approve general plans and adopt educational policies, standards, rules, and regulations for carrying out the board's responsibilities and those assigned to the State Department of Education by the Legislature. . . ;—~~

~~001.01B. Section 79-1105, which reads in part:—~~

~~"The State Department of Education has authority to employ a full-time consultant trained and experienced in the field of education of learners with high ability. Such consultant shall encourage, advise, and consult with each school of the state in the development and implementation of plans for education of learners with high ability. . . —~~

~~001.01C. Section 79-1107(3) which reads:—~~

~~—Learner with high ability means a student who gives evidence of high performance capability in such areas as intellectual, creative, or artistic capacity or in specific academic fields and who requires accelerated or differentiated curriculum programs in order to develop those capabilities fully.—~~

~~001.01D. Section 79-1108, which reads:—~~

~~"For school year 1997-98 and each school year thereafter, each school district shall identify learners with high ability and may provide accelerated or differentiated curriculum programs that will address the educational needs of the identified students at levels~~

~~appropriate for the abilities of those students. The accelerated or differentiated curriculum programs shall meet the standards of quality established by the department. Educational service units may identify learners with high ability and provide accelerated or differentiated curriculum programs for school districts. Any school district or educational service unit shall be eligible to apply for funds from the Education Innovation Fund to be used for development and improvement of the approved accelerated or differentiated curriculum programs of the district or educational service unit."~~

001.02: Scope and Delimitations

This Chapter is adopted for the purpose of specifying consistent methods for the identification of learners with high ability, defining and providing for the standards of quality for a continuum of high ability services accelerated or differentiated curriculum programs for the education of high ability learners, distributing and for the purposes of the distribution of funds to eligible school districts and combinations of school districts, local systems and establishing approval requirements for measuring the academic progress of students receiving high ability services in accelerated or differentiated curriculum programs. The State Board of Education, through the provisions of this Chapter, intends to encourage schools of the state to develop and implement plans for the appropriate education of learners with high ability abilities. Changes to this chapter become operative beginning with the first school year that starts after the effective date of such changes.

001.03. Mission and Belief Statement

~~001.03A. Statement of Purpose. All Nebraska school districts should provide for individual student needs and the development of extraordinary ability and potential.~~

~~001.03B. Belief Statements. Educational programs for high ability learners are based on the beliefs that:~~

~~001.03B1. High ability learner capabilities are evidenced in all races, creeds, national origins, genders, physical abilities, and economic strata.~~

~~001.03B2. All learners with high ability should have an education free from economic and cultural bias.~~

~~001.03B3. Individuals with high abilities have unique learning~~

needs.—

~~001.03B4. Learners with high ability come from diverse economic and cultural settings and must be identified. Services should be provided to address their educational needs.—~~

~~001.03B5. Educators have a responsibility to be adequately trained to meet the needs of learners with high ability.—~~

~~001.03B6. Community understanding and involvement is critical in the education of learners with high ability.—~~

~~001.03B7. Parents are valued partners in the education of learners with high ability.—~~

~~001.03B8. Learners with high ability require a variety of challenging experiences that will enable them to demonstrate their potential.—~~

~~001.03B9. Educational excellence for learners with high ability requires a commitment of financial and human resources.—~~

002 DEFINITIONS

~~002.01. Approved Accelerated or Differentiated Curriculum Programs means academic programs that serve the educational needs of learners with high ability developed and approved under Section 79-1108 R.R.S.—~~

002.01 Appeals Process means a procedure for a student or a parent, or guardian to request a review of an identification, placement, or service decision on which there is a disagreement.

002.02 Assessment Tool means a measure used to ascertain evidence of potential and/or demonstrated ability. Tools should include varying measurements aligned with the operational definition of High Ability Learner.

002.03 Combination of school districts means two or more school districts acting together or an educational service unit acting on behalf of two or more school districts.

002.04 002.02. Department means shall mean the Nebraska Department of Education.

002.05 Exit Procedure means a systematic process used to determine

whether a student is no longer benefitting from high ability eligibility and should be released from the identification.

002.06 High Ability Services means a continuum of academic and affective instructional approaches, settings, and staffing selected for the delivery of appropriate services to support the needs of individual learners with high ability.

~~002.03. Evaluation. A process of using information about programming to guide decision-making in present and future efforts. Its purposes include: guiding planning for maintaining or improving programming; comparing and selecting among several options or alternatives, and judging whether stated goals and objectives have been attained.~~

~~002.07.~~002.04. Learner with High Ability :-"Learner with high ability means a student who gives evidence of high performance capability in such areas as intellectual, creative, or artistic capacity or in specific academic fields and who requires accelerated or differentiated curriculum programs in order to develop those capabilities fully." [as defined in Nebraska Revised Statute Sec. 79-1107(3)] has the same meaning as in Neb. Rev. Stat. 79-1107.

002.08 Local Norms means comparing student performance on standardized assessments with grade-level peers in the same local context (i.e. school building, district, etc.).

002.09 Matching Funds means funds a school district or a combination of school districts uses to fund an approved accelerated or differentiated curriculum program from sources other than the appropriation distributed pursuant to the provisions of section 006 of this chapter.

002.10 Multiple Criteria means the use of three (3) or more varied assessment tools in the identification of learners with high ability.

002.11 National Norms means the use of standardized tests to compare the scores of students with a common national standard defined by the performance of a representative national sample of students of the same age or in the same grade.

002.12 State Norms means comparing student performance on standardized assessments with a common state standard defined by the performance of a representative state sample of students of the same age or in the same grade.

002.13 Portability means that an identification as a learner with high ability by

a Nebraska school district is a part of a student's permanent record, and such identification makes the student eligible for high ability services in all Nebraska school districts regardless of transfers or relocations.

002.14 Regular Curriculum means a standards-based sequence of planned learning that enables a student to master the knowledge and skills of the student's current grade level.

002.15 School District means a local system as defined in Neb. Rev. Stat. 79-1003.

~~002.16~~**002.05. School Fiscal Year** means the fiscal year of a school district as defined in Neb. Rev. Stat. 79-1091. ~~shall mean the fiscal year of each school district which commences on September 1 of each year and ends on August 31 of each year pursuant to 79-1091 R.R.S.~~

002.17 Twice Exceptional means a student who is:

002.17(A) Identified as a learner with high ability pursuant to this Rule; and

002.17(B) A child with a disability pursuant to Neb. Rev. Stat. 79-1117 or a qualified student with a disability pursuant to section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. 794, or Title II of the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12131 to 12165.

~~002.06 Special Populations. Those students who, in order to meet their learning needs, may require different and/or special strategies. 002.07. Start-Up Costs. Eligible start-up costs mean costs identified in Section 007.02 associated with: a) conducting local needs assessments for programs for learners with high ability; b) staff development activities for certified staff and specialized teachers of high ability learners under Sections 004 (Identification Procedures) and 005 (Continuum of Programming Services Options, and Strategies and Affective or Guidance Needs); c) enhancement of testing procedures for 004 (Identification Procedures); and, d) materials, software and/or distance learning fees for use with high ability learners. Applicants must affirm that they have not, as of the date of the application, provided students identified as high ability learners with accelerated or differentiated programs or services for the education of learners with high ability.~~

~~002.08. Compacted Curriculum. A process for reducing the amount of the curriculum material allowing the student to show mastery of the content by doing less volume of work, eliminating that which has been mastered prior to normal presentation or teaching clusters of needed~~

skills in reduced time frame, and providing time for enrichment and/or acceleration activities appropriate to high ability learners while ensuring mastery of basic skills.

003 DEVELOPMENT OF AN APPROVABLE DISTRICT PLAN FOR THE DELIVERY OF ACCELERATED OR DIFFERENTIATED CURRICULUM PROGRAMS TO HIGH ABILITY SERVICES LEARNERS

003.01: To qualify as an approved program and receive state funding for high ability learning, a school district or combination of school districts must submit a High Ability Learning Plan to the department annually. The department will approve a plan that meets the standards of quality described in this section. For a program to be approved, the plan must In order to be an approved program, each school district shall identify learners with high ability. Educational Service Units (ESUs) may identify learners with high ability and/or provide accelerated or differentiated curriculum programs for school districts. Each approved plan for a school district, whether provided by the district or for the district by an ESU, shall include the following standards of quality elements: 003.01A. The district's philosophy on educational service to learners with high ability.

003.01(A)003.01B: A The district's operational definition of learner with high ability that operationalizes the elements of the definition in Neb. Rev. Stat. 79-1107; learner.

003.01(B)003.01C: The goals and objectives of the local program for learners with high ability;

003.01(C)003.01D: Procedures for identification of Identification procedures for learners with high ability as described in section 004 of this chapter; Identification Procedures.

003.01(D)003.01E: A description of the continuum of high ability program services, options, and strategies as described in section 005 of this chapter; Accelerated and Differentiated Curriculum Program Options and Affective or Guidance.

003.01(E)003.01F: The Overall program evaluation process as described in section 007 of this chapter;008, Evaluation and Future Planning.

003.01(F)003.01G: A staff Staff development training and support plan; and as described in 006.04:

~~003.01(G)003.01H~~. A program management outline, including, but not limited to, personnel roles, the plan for communicating with the district plan to parents and guardians and the public, an appeals process budget, facilities, and an action plan supplies. ~~003.01I~~. Include identified students from Class I districts in the system in the accelerated or differentiated curriculum program.

003.02: The district-wide approved plan may be developed by a representative planning committee including parents and guardians, classroom teachers, administrators, and outside stakeholders other interested parties. Advisory members with experience or expertise in education of learners with high ability are highly encouraged to be a part of the planning committee.

003.03: Each school district or combination of school districts with an approved plan or Educational Service Unit must shall make such the written approved plan available to the citizens of the school district or combination of school districts by posting a copy publicly (ex: on their respective websites, parent and guardian communication platform, etc.). A written copy must also be provided upon request.

004 IDENTIFICATION PROCEDURES

004.01: Each school district, individually or in a combination of school districts, Schools must adopt uniform procedures to identify students as learners with high ability. develop a system to identify learners with high ability as defined in Sec. 79-1107 R.R.S. The procedures may be developed or administered by an individual school district or a combination of school districts. The procedures must This system shall:

004.01(A) Recognize a student's exceptional abilities, potential, interests, and needs by creating a holistic profile. The procedures should focus on identifying areas of strength rather than emphasizing the absence of weakness;

004.01(B) Align with the operational definition of learner with high ability and any continuum of services provided;

004.01(C) Include universal consideration of all students by annually reviewing results from universally administered statewide assessments and/or whole grade norm-referenced assessments using a nationally recognized assessment instrument. This process will create a pool of

potential candidates for identification of learners with high ability. This process must ensure thorough identification within the candidate pool;

004.01(D) Be based on multiple criteria. Criteria should be designed for identification of learners with high ability within the local population;

004.01(D)(i) Include scores from valid and reliable instruments that can identify exceptional abilities and potential;

004.01(D)(ii) Criteria must combine quantitative and qualitative data, including data with direct relevance to the operational definition of a learner with high ability;

004.01(D)(iii) Use local, state and/or national norms;

004.01(D)(iv) Include at least three (3) data points as follows:

004.01(D)(iv)(1) One data point must be from one of the following quantitative assessment tools:

004.01(D)(iv)(1)(a) An individually administered or group-administered, norm-referenced or criterion-referenced aptitude, ability, cognitive, achievement, or individual intelligence assessment;

004.01(D)(iv)(1)(b) A record of academic activity such as grades, grade point average, formative assessments, summative assessments, task performance, and/or student products. Performance data for twice-exceptional students should include accommodations;

004.01(D)(iv)(1)(c) The student's cumulative records, which may include progress reports, evaluations, or, for twice-exceptional learners, Individualized Education Program (IEP) or 504 Plan documentation;

004.01(D)(iv)(1)(d) Student behavior metrics, such as absenteeism, tardiness, suspension, and other documented incidents;

004.01(D)(iv)(1)(e) Results from language acquisition assessments (ex. ELPA) and/or biliteracy and language proficiency tests (ex. AAPPL, Avant STAMP) to identify advanced language development or potential among English

Learners;

004.01(D)(iv)(1)(f) Analysis of variable performance across domains to identify twice-exceptional students; or

004.01(D)(iv)(1)(g) An additional valid and reliable assessment.

004.01(D)(iv)(2) The second data point must be from one of the following qualitative assessment tools:

004.01(D)(iv)(2)(a) Nominations;

004.01(D)(iv)(2)(b) An assessment of student performance, work samples, or a student portfolio;

004.01(D)(iv)(2)(c) Enrollment and evidence of success in accelerated or advanced coursework, enrichment programs, honors classes, or classes for which students are eligible to receive college credit;

004.01(D)(iv)(2)(d) A record of accomplishments, such as awards, honors, extracurricular achievements, or success in external organizations;

004.01(D)(iv)(2)(e) Observation checklists or anecdotal records;

004.01(D)(iv)(2)(f) Rating scales, checklists, or questionnaires;

004.01(D)(iv)(2)(g) An individual interview; or

004.01(D)(iv)(2)(h) Teacher, school personnel, parent or guardian, Community member, peer, or self-input; and

004.01(D)(iv)(3) The third data point and any additional data points may be from the categories in subdivision 004.01(C)(iv)(1) or 004.01(C)(iv)(2) of this section, from an additional valid and reliable measure or procedure, or from teachers, parents or guardians, community members, peers, or self-input; and

~~004.01A. Use multiple assessment measures and appraisals so that schools can identify students in different talent areas and at different ages.~~

~~004.01B. Provide students with equal access to identification opportunities.~~

~~004.01C. Identify talents that are not readily apparent in students, as well as those that are obvious.~~

~~004.02. The identification process shall include multiple criteria in an effort to be inclusive rather than exclusive. This process shall be based on the elements in 004.01A-C, a combination of standardized instruments and non-standardized means and criteria, and a local needs assessment.~~

~~004.01(E)004.03. Include an appeals process~~ The identification process shall include provision for parents, guardians, or other persons exercising legal or actual charge or control over the child to appeal any decision of the school regarding the identification or non-identification of their child as a learner with high ability learner to the school board.

004.02 Within thirty (30) school days following the identification of a learner with high ability, the district must notify a parent or guardian of such identification and provide the procedures under which the student was identified as a learner with high ability and other relevant information.

004.03004.04. Within the first thirty (30) school days following the identification of a learner with high ability, of each school year, starting in 1997-98, the school district administration must provide the classroom teacher with documentation of such identification shall make available to classroom teachers an initial "list" of K-12 students who meet the district criteria for learners of high ability and the areas of high capability of each of those students.

004.04 If a student is identified as a learner with high ability but will not receive high ability services, the school district or combination of school districts must provide written notice to a parent or guardian that no high ability services will be provided.

004.05 Identification as a learner with high ability in Nebraska is portable. Each school district or combination of districts must establish and implement procedures for the statewide portability of an identification as a learner with high ability, including, but not limited to:

004.05(A) Transferring the evidence for any such identification and information about any high ability services received with the student

records if a student leaves the school district prior to graduation;

004.05(B) Reviewing the student records of any student transferring into the school district within thirty (30) school days of enrollment to determine if the student has been identified as a learner with high ability, if the student has received any high ability services, and what, if any, high ability services will be provided to the student;

004.05(C) If under subdivision 004.05(B) of this chapter a student transferring into the school district is found to have been identified as a learner with high ability, communicating with parents and guardians within sixty (60) calendar days of enrollment about any high ability services to be provided to the student; and

004.05(D) If the learner with high ability identification records for any student transferring into the school district are incomplete, consulting with the former school district or a parent or guardian, to obtain the complete record.

004.06 The identification status of a student identified as a learner with high ability may only be terminated by a school district or combination of school districts following an exit procedure established pursuant to this subdivision. Each school district or combination of school districts must develop a formal exit procedure which includes, but is not limited to:

004.06(A) Provision of a written notice to a parent or guardian that the student's identification as a learner with high ability is under review. Such notice must include the reason for undertaking such review. The reason must be based on a legitimate educational concern related to high ability services. Behavioral concerns, academic/achievement performance, or transferring schools alone do not qualify as legitimate educational concerns related to high ability services. Exit decisions must be based on comprehensive evidence that aligns with the operational definition of a high ability learner and the student's demonstrated needs;

004.06(B) An evaluation of student performance. The evaluation must be designed to identify the source of the student's legitimate educational concern related to high ability services and identify the most appropriate intervention. Multiple data points should be considered. No single criterion, such as grades or conduct, is sufficient to remove a student's identification as a student with high ability;

004.06(C) Communication with a parent or guardian and the student to discuss the results of the evaluation;

004.06(D) Development of an action plan addressing the area of concern for a designated period of time. This may include, but is not limited to, behavior intervention, a change in services, or additional evaluation;

004.06(E) A review of the data at the end of the designated period to determine whether the student's high ability identification status should be maintained or formally exited, based on the student's educational needs;

004.06(F) Notification of a parent or guardian in writing of the determination. The determination may be appealed by a parent or guardian pursuant to the appeals process developed pursuant to subdivision 004.01(D) of this chapter; and

004.06(G) Eligibility for a student who is exited from their status as learner with high ability may be reidentified as a learner with high ability in the same manner as any other student is so identified.

004.07 In cases where a student identified as a learner with high ability transfers to a school district that does not offer high ability services or does not offer services in the identified domain (e.g., math, performing arts), the receiving school district must:

004.07(A) Provide written notice to the parent or guardian within thirty (30) school days of the student's enrollment. This notice must clearly state that the school district or combination of school districts does not offer services in the identified area of high ability or does not provide high ability services;

004.07(B) Maintain the student's record of high ability identification, regardless of the availability of services within the school district or combination of school districts, unless the exit procedure outlined in section 004.06 is followed; and

004.07(C) Provide the parent or guardian the opportunity to discuss any alternative educational options that may be provided to support the students' continued growth.

~~004.05. School districts shall annually provide the Department with a copy of their criteria for identifying learners with high ability, the number of students identified according to the criteria, and the number of students participating in an approved accelerated or differentiated curriculum program. School districts shall also have a list of the students identified and how the students compare to the criteria available for inspection by Department personnel.~~

~~004.06. Within the first thirty (30) days of each school year, starting in 1997-98, the school district administration shall notify parents, guardians, or other persons who have legal or actual charge or control of children identified as high ability learners that their child has been so identified and make available to such persons information about how their child has been identified. Information may be provided about possible educational strategies to meet their special needs, which may include the strategies identified in Section 005 and a list of outside resources and programs available to parents and students directly.~~

005 CONTINUUM OF HIGH ABILITY SERVICES PROGRAMMING SERVICES, OPTIONS, AND STRATEGIES AND AFFECTIVE OR GUIDANCE NEEDS

~~005.01:~~ Each school district or combination of school districts Districts serving learners with high ability must learners shall serve identified learners with high ability during the school day. Additional offerings, such as academic competitions, clubs, or optional extracurricular activities may be used supplementally. School districts, or a combination of school districts, learners must serve such students using a continuum of high ability services that may include, by using instructional curriculum patterns that include, but are not limited to, the following:

~~005.01(A):~~ Differentiated Curriculum. The "regular" curriculum must be described at the district level as required before differentiated curriculum can be devised. Differentiated curriculum is shall mean an adjustment of the regular curriculum that provides challenges at appropriate levels according to the strengths of individual students. Differentiated curriculum provides such challenges through modified processes, products, or content, including, but not limited to: program as appropriate for the individual learner in terms of content, process, and/or product.

~~005.01(A)(i)~~ Curriculum Enrichment. Curriculum enrichment is the process of enhancing the regular curriculum by offering additional opportunities, resources, or activities that extend, deepen, or broaden learning experiences for students who have already mastered or can quickly master the standard content;

~~005.01(A)(ii)~~ Curriculum Compacting. Curriculum compacting is the process of assessing student mastery and adjusting curriculum for students who have already mastered the material replacing content students know with new content, enrichment options, or other

activities;

005.01(A)(iii) Project-Based Learning. Project-based learning (PBL) is a learning model that encourages the active participation of learners with high ability and allows such learners to gain knowledge and develop skills as they work to investigate a complex problem, question, or challenge over a sustained amount of time. PBL enhances both academic and social skills and emphasizes the use of technology;

005.01(A)(iv) Independent Study. Independent study is a learning model where a student conducts self-directed research projects that are carefully planned with the teacher and monitored frequently; or

005.01(A)(v) Advanced Academic Courses. Advanced academic courses are designed to offer more challenging learning experiences than the regular curriculum, often at a faster pace and more in-depth. Examples include: courses for which students are eligible for college credit, honors courses, and dual enrollment.

005.01(B): Curriculum Grade-Based Acceleration. Grade-based acceleration occurs when a student enters into or moves through the regular curriculum at a rate faster than typical of the same-aged peers. Curriculum acceleration includes, but is not limited to, an accelerated pace by any combination of the following: skipping a grade level, subject-based acceleration, early entrance into kindergarten or postsecondary education, or earning credit by examination. ~~grade level skipping, content level acceleration, cluster grouping by content, early entrance to school, compacting the curriculum, early graduation, or, course waivers.~~
005.01C: Curriculum Enrichment. The provision of in-depth and/or multi-disciplinary exploration of content or courses and/or experiences beyond those provided in the regular curriculum. ~~005.01D: Compacted Curriculum.~~ A process for assessing the student's mastery of content, eliminating that which has been mastered prior to normal presentation or teaching clusters of needed skills in a reduced time frame, and substituting enrichment activities and/or accelerated studies appropriate to high ability learners.

005.01(C)005.01E: Student Ability or Flexible Grouping. Student ability or flexible grouping is the use of various organizational formats to that meet the academic and affective learning style and specific curricular needs of learners with high ability learners through placement with like-ability peers. Grouping is

flexible and uses data to group and regroup students for learning activities based on their strengths, interests, and readiness. This includes, but is not limited to:

005.01(C)(i) Cluster Grouping A method of grouping in which high ability students at a specific grade level are placed together in one classroom, along with a group of high-achieving and average-ability students. This reduces the span of academic readiness levels the teacher needs to manage, making it easier to provide targeted instruction while ensuring exposure to rigorous content to students who have not yet been identified to help develop their talents;

005.01(C)(ii) Enrichment Clusters Collaborative, choice-based projects, usually scheduled for one or two periods a week and conducted in cycles throughout the year that allow students and teachers to work in areas of interest with others who share the same interest,

005.01(C)(iii) Pull-out Programs Students with advanced potential are pulled from their regular classrooms to work with a staff member who facilitates accelerated and/or enriched learning experiences, or

005.01(C)(iv) Cross-Grade Grouping Students of similar ability are grouped across different grade levels in particular subjects; and

005.01(D) 005.01E: Mentoring/Shadowing. The linking/pairing of a student with a person with an individual with specialized a specific knowledge base in a short-term or in-depth, sharing mentoring relationship designed to provide resulting in a series of meaningful learning experiences. This experience may occur within a school setting or "on-site." at an external location.

005.02:- Learners with high ability need require affective support to foster as well as cognitive growth. Therefore, targeted affective curriculum, skill development and growth and success supports as well as specialized counseling specific to the needs of learners with high ability, must shall be provided by each eligible, approved school district or combination of school districts with an approved plan.

005.02(A):- Affective Skill Development Curriculum refers to the intentional teaching and development of emotional, social, and interpersonal skills to address the unique needs and challenges associated with learners with high ability. This includes, but is not limited to, providing opportunities for students to develop emotional

intelligence, resilience, and interpersonal skills through targeted activities, discussions, and peer interactions. provides personal/social awareness and adjustment, academic planning and performance, and vocational and career awareness, investigation, and planning.—

005.02(B): Specialized Counseling Growth & Success Supports provides targeted strategies to address the unique social and emotional needs of high ability learners, preparing them to succeed and become college and career ready. This includes, but is not limited to, approaches for managing perfectionism, underachievement, transitions, academic planning, and performance, as well as vocational and career awareness, exploration, and planning. individual or small group guidance services to learners with high ability which will help them to make long-range decisions about school and career choices.—

006 PREPARATION OF PROFESSIONAL STAFF (as suggested by the Nebraska Department of Education)

006.01. Learners with high ability deserve to be served by professionals who have specialized preparation, expertise in content and instructional methods, involvement in ongoing development, and portray exemplary personal and professional traits.—

006.02. The director/supervisor/coordinator of a local district program for learners with high ability and the teachers whose primary responsibility is working with learners with high ability should have, or be working toward, an endorsement in Gifted Education.—

006.03. The recommendations of 006.02 should not apply to the director/supervisor/ coordinator of a program for learners with high ability or the teacher whose primary responsibility is working with learners with high ability if such a person has held a similar position for a period of two years or more. However, this individual should show to the local district administrator evidence of continued involvement in professional growth programs in the field of Gifted Education.—

006.04. All teachers and administrators in the school district should be aware of the district-wide plan for learners with high ability, and have an understanding of the characteristics of such students. Teachers who provide instruction and services that are part of the program for high ability students should be able to design and implement classroom experiences which utilize differentiation of curriculum and instruction;

~~and be able to assess the work and progress of learners with high ability.~~

~~006.04A. This knowledge base could be attained by: completion of at least one college-level course in Gifted Education or by involvement in at least ten (10) clock hours of information concerning learners with high ability within a college course.~~

~~006.04B. Or, by providing inservice training to administrative and teaching staff members to help them have an understanding of the characteristics of learners with high ability, be able to design and implement classroom experiences that utilize differentiation of curriculum and instruction, and be able to assess the work and progress of such learners.~~

006007 STATE FUNDING

006.01 The Department will, annually on or before October 15, distribute funds appropriated for approved accelerated or differentiated curriculum programs to school districts and combinations of school districts.

006.02 Each school district may apply to the Department individually or in a combination of school districts for base funds and matching funds. Each eligible applicant school district or combination of school districts will receive one-tenth of one percent of the appropriation as base funds plus a pro rata share of the remainder of the appropriation based on identified learners with high ability participating in an approved program as matching funds. For purposes of calculating matching funds under this subsection, the number of identified learners with high ability participating in an approved program in any school district may not exceed ten percent of the prior school year's fall membership as defined in Neb. Rev. Stat. 79-1003. Each applicant school district or combination of school districts must:

006.02(A) Provide an approved program pursuant to section 003 of this chapter for students identified as learners with high ability;

006.02(B) Provide matching funds greater than or equal to fifty percent of the matching funds received pursuant to this chapter;

006.02(C) On or before August 1 of the year following the receipt of funds, provide an accounting in the manner prescribed by the Department of the funds received pursuant to this section, matching funds required by subdivision 006.02(B) of this chapter, and the total cost of the accelerated or differentiated curriculum program; and

006.02(D) Provide data regarding the academic progress of students participating in the accelerated or differentiated curriculum program as required under subsection 007.02 of this chapter.

006.03 If a school district or combination of school districts will not be providing the necessary matching funds required by subdivision 006.02(B) of this chapter, the school district or combination of school districts must request a reduction in the amount received such that the school district or combination of school districts will be in compliance with such requirement. A school district or combination of school districts not complying with the matching fund requirement in subdivision 006.02(B) of this chapter will be ineligible for funds in the following year.

~~007.01. Section 79-1108.02 R.R.S. states in part: (1) beginning with school fiscal year 1998-99, the Legislature shall appropriate funds to be distributed by the department pursuant to subsections (2) and (3) of this section to local systems as defined in section 79-1003 annually on or before October 15. (2) For school fiscal years through 2000-01, five percent of the appropriation under subsection (1) of this section shall be reserved for distribution as grants to local systems for startup costs as defined by the State Board of Education. The funds distributed pursuant to this subsection shall be distributed based on a pro rata share of the eligible costs submitted in grant applications. (3) Local systems may apply to the department for base funds and matching funds pursuant to this section to be spent on approved accelerated or differentiated curriculum programs. Each eligible local system shall receive one-tenth of one percent of the appropriation as base funds plus a pro rata share of the remainder of the appropriation based on identified students participating in an accelerated or differentiated curriculum program, up to ten percent of the prior year's fall membership as defined in section 79-1003, as matching funds. Eligible local systems shall: (a) Provide an approved accelerated or differentiated curriculum program for students identified as learners with high ability; (b) Provide funds from other sources for the approved accelerated or differentiated curriculum program greater than or equal to fifty percent of the matching funds received pursuant to the subsection; (c) Provide an accounting of the funds received pursuant to this section, funds required by subdivision (b) of this subsection, and the total cost of the program on or before August 1 of the year following the receipt of funds in manner prescribed by the department, not to exceed one report per year; (d) Provide data regarding the academic progress of students participating in the accelerated or differentiated curriculum program in a manner prescribed by the department, not to exceed one report per year; and, (e) Include identified students from Class I districts that are part of the local system~~

~~in the accelerated or differentiated curriculum program. If a local system will not be providing the necessary matching funds pursuant to subdivision (b) of this subsection, the local system shall request a reduction in the amount received pursuant to this subsection such that the local system will be in compliance with such subdivision. Local systems not complying with the requirements of this subsection shall not be eligible local systems in the following year. 007.02:~~

~~The Department will distribute eligible Startup Costs funds to applicant systems as appropriated by the Legislature based upon a pro rata share of eligible costs submitted to the Department as a whole by all local systems pursuant to Section 79-1108 R.R.S. 007.02A:~~

~~Systems shall apply to the Department for startup costs on forms provided by the Department. To be eligible, the system's startup cost funding applications shall be received by the Department by no later than September 15. 007.02B:~~

~~Eligible start-up costs shall be determined according to the following: 1) costs for staff development related to Sections 004 (Identification Procedures) and Section 005 (Continuum of Programming Services, Option, and Strategies and Affective or Guidance Needs) up to \$100 per certified staff member; and, 2) costs for needs assessment, testing enhancement and other materials and supplies up to \$50 per identified student or 10% of the prior year's fall membership as defined in Section 79-1003. 007.03:~~

~~For purposes of the requirements of §79-1108.02(3) R.R.S. and Section 007.01 of this Rule, funds from other sources means funds local systems receive from sources other than funds received under the provisions of §79-1105 R.R.S. through §79-1109 R.R.S. and this rule.~~

006.04007.04: A School district or combination of school districts

Local systems applying for base and matching funds under this **section must** Section shall use the application forms provided by the Department. Such applications must be received by the Department by September 15 of each year.

~~007.05: When a system will not be providing the necessary funds from other sources and must request a reduction in the amount received as required in §79-1108.02(3) R.R.S., such reduced amounts may be deducted from any amounts the system receives as matching funds from the Department under §79-1108.02(3) for the following school fiscal year. If a system must request a reduction under §79-1108.02(3) for any one school fiscal year and the system ceased to be eligible for or does not apply for base and matching funds for the following school fiscal year, the system must refund to the Department the amount of the reduction by the end of the first school fiscal year in which the system~~

~~ceases to be eligible or does not apply. All requests for reduction shall be made on forms supplied by the Department.~~

~~007.06. For purposes of the payment of funds to systems under §79-1108.02 R.R.S. and Section 007 of this Rule, the Department will distribute any funds a system is eligible for to the high school district of the system. Such high school districts shall act as the fiscal agent for such funds of the system.~~

~~007.07. Data requirements for measuring and reporting academic progress: The system shall gather and maintain aggregate data measuring the academic progress of all its identified high ability learners.~~

~~007.07A. At a minimum, this shall include aggregate achievement test scores and/or GPAs, and the number of identified high ability learners participating in Advanced Placement Classes or honors level course work.~~

~~007.07B. The system shall also provide such data to the Department on forms prescribed by the Department by no later than September 15 of each year.~~

006.05 School districts that are applying for funding under this chapter as part of a combination of school districts must determine the method for identifying expenditures for funding with the approved program and reach a consensus on a mutually-beneficial plan.

006.06007.08. Accounting of Funds. Each school district or combination of school districts must Systems shall provide an accounting of funds to the Department pursuant to Neb. Rev. Stat. Section 79-1108.02 R.R.S. on forms provided by the Department. Each combination of school districts must designate a fiscal agent, which may be one of the member school districts or an educational service unit. The fiscal agent will complete the application, revise and publish the approved plan, and provide the accounting of funds to the Department.

007008 DATA, EVALUATION, AND FUTURE PLANNING

007.01 Data requirements for measuring and reporting academic progress: Each school district must gather and maintain aggregate data measuring the academic progress for the school district's identified learners with high ability. Each school district or combination of districts must provide the data required under this subsection to the Department by June 30 of each school year

electronically via the Department's reporting system using the Department's student identifier system.

007.01(A) At a minimum, such data must include:

007.01(A)(i) Individual achievement, including student achievement data collected pursuant to 92 NAC 10;

007.01(A)(ii) SAT/ACT scores;

007.01(A)(iii) Graduation rates; and

007.01(A)(iv) The number of identified learners with high ability participating in courses for which students are eligible for college credit, honors courses, or dual enrollment.

007.01(B) Each school district must provide the data required under subsection 007.01 of this chapter to the Department on forms prescribed by the Department.

~~007.02~~008.01. Program review Every ~~Each~~ school district or combination of school districts serving learners with high ability must ~~learners shall establish procedures for both formative and summative evaluation for a review. to determine the effectiveness of the district-wide plan for services extended to the learners with high ability. The purpose of such evaluation is to measure program effects, identify strengths, and provide information to drive continuous improvement of supporting learners with high ability.~~

~~007.02(A)~~008.01A. The evaluation procedures must include ~~should allow for input from parents and guardians,~~ educators, students, and community members.

~~008.01B~~. Quality indicators and illustrative criteria for both curriculum-based and student-based components should be used in the evaluation of the district program goals and objectives.

~~007.02(B)~~008.01C. The yearly review should include Each school district or combination of school districts must conduct a comprehensive program review at least once every five years. A report summarizing the program review process and its outcomes must be submitted to the Department within each five-year period. The program review process should include, but is not limited to:

007.02(B)(i) Methods and tools for evaluation, including, but not limited to, a schedule for periodic feedback and review of the program goals, identification process, services, personnel, budget, and reporting practices;

007.02(B)(ii) Collection and analysis of data about student performance, including, but not limited to, academic and affective outcomes; demographics, learning climate, and former high school students. Analysis includes, but is not limited to, outcomes in relation to program goals and identification proportionality;

007.02(B)(iii) Analysis of progress toward the goals outlined in the approved plan;

007.02(B)(iv) Personnel qualifications and staff development, including, but not limited to, the number of FTE dedicated to learners with high ability, the number of high ability endorsed staff, counselors, and number of professional learning hours related to learners with high ability;

007.02(B)(v) Communication, including, but not limited to, efforts to publicize the approved plan, communication with parents and guardians regarding identification and services, and community and family engagement; and

007.02(B)(vi) Stakeholder perceptions, including, but not limited to, student, parent or guardian, staff, and community perceptions of the program.

~~program strengths and weaknesses in such areas as: program design, students needs, learning environment, curriculum, student identification, personnel qualifications, resources, communication, staff development, and cost effectiveness.~~

007.03008.02: Plan revisions Each The local approved plan should be revised each five years in response according to the results of the yearly evaluation review. Revised plans should include, but not be limited to, findings from the review process, changes implemented, and newly established goals. Curricular planning should be open to and reflective of advanced research and information regarding learning and learners with high ability.

007.04008.02A: The evaluation procedures Evaluation Plan and review Yearly Review must shall be available for review by interested persons

upon request after redaction of any personally identifiable student information.

008009 APPEALS

~~008.01~~009.01: Any applicant for funding under ~~section 006~~ Section 007 of this chapter aggrieved by a ~~any~~ decision of the Department related in regard to this chapter its application may request in writing a review by the Commissioner of Education within fifteen (15) calendar days of its receipt of the Department's decision on the application. The Commissioner ~~must~~ shall review the claim together with all other materials submitted in the claimant's applicant's application, the requirements of this chapter Rule, and state law. The Commissioner, within ninety (90) ~~90~~ calendar days of the Department's receipt of the claim, ~~must~~ shall make a final written determination regarding the claim. A copy of the final written determination ~~must~~ this decision shall be mailed to the claimant, certified mail, return receipt requested.

~~008.02~~009.02: If the claimant disagrees with the Commissioner's final written determination, decision, the claimant it may request a hearing on the determination decision within fifteen (15) calendar days following its receipt of the final written determination decision pursuant to 92 NAC 61(Rule 61).

009010 PENALTIES FOR NONCOMPLIANCE

~~009.01~~010.01: In addition to other penalties which may be provided by law for noncompliance with the requirements of Neb. Rev. Stat. Section 79-1105 through 79-1108.03 R.R.S. and the requirements of this chapter, Rule, the failure of a school district district's failure to comply with the identification requirements of Neb. Rev. Stat. Section 79-1108 R.R.S. and ~~section~~ Section 004 of this chapter will Rule shall be treated as if it were a violation of a mandatory provision of 92 NAC 10 (Rule 10), and may subject the school district to loss of accreditation as provided in that chapter. A school district may comply with the identification requirements in combination with one or more other school districts.