

**APPROVED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R023-25

Filed February 27, 2026

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 385.080, 388.5259 and 388.5267.

A REGULATION relating to education; revising the requirements governing eligibility for special services and programs of instruction for pupils who are gifted and talented; revising requirements relating to the minimum amount of differentiated educational activities in which such pupils must participate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a child to undergo an examination to determine the extent to which the child deviates from normal patterns of growth and development before placement in a special program for gifted and talented pupils. (NRS 388.5259) Existing regulations prescribe standards for determining the eligibility of pupils for special services and programs of instruction for gifted and talented pupils. (NAC 388.435) This regulation revises those standards by: (1) eliminating the requirement that certain tests used to demonstrate the intellectual ability or academic aptitude of a pupil in a specific area be individually administered; (2) removing references to certain nationally standardized achievement tests; and (3) eliminating language providing that a pupil who is less than 6 years of age is not ineligible for such services and programs solely because of age.

Existing regulations authorize the use of alternative assessment procedures in determining eligibility for gifted and talented services and programs for certain pupils. (NAC 388.435) This regulation revises the terminology used to refer to the categories of pupils to whom such procedures may apply.

Existing law requires the State Board of Education to prescribe minimum standards for the special education of gifted and talented pupils. (NRS 388.5267) This regulation revises those standards by requiring a pupil who is gifted and talented to participate in not less than 600 minutes of differentiated educational activities each month, rather than 150 minutes each week. (NAC 388.435)

Section 1. NAC 388.435 is hereby amended to read as follows:

388.435 1. Except as otherwise provided in subsection 2, a pupil who is gifted and talented is eligible for special services and programs of instruction if a team, comprised of persons selected by the public agency, concludes that the pupil has:

(a) General intellectual ability or academic aptitude in a specific area that is demonstrated by a score at or above the 98th percentile:

- (1) On a test of cognitive ability ~~{that is individually administered;}~~ ; *or*
- (2) In a major content area on a nationally standardized achievement test ; ~~{that is individually administered in kindergarten through eighth grade;}~~ or
- ~~{(3) In a major content area on a nationally standardized achievement test,~~
~~→ the Preliminary Scholastic Aptitude Test (PSAT), the Scholastic Aptitude Test (SAT) or the American College Test (ACT) that is administered to a group of students for grades 9 through 12, inclusive; or}~~

(b) An area of talent, including, but not limited to, creative thinking, productive thinking, leadership, ability in the visual arts or ability in the performing arts, as determined by the local public agency of the pupil.

2. In determining the eligibility of a pupil for the special services and programs of instruction referred to in this section, the team may use alternative assessment procedures for a pupil ~~{from another culture;}~~ *who is an English learner*, a pupil who is ~~{environmentally or economically deprived}~~ *experiencing environmental or economic disadvantage* or a pupil who has a disability.

3. ~~{A pupil under the age of 6 years is not ineligible, because of the pupil's age, for the special services and programs referred to in this section.}~~

~~4.1~~ The conclusions of the team concerning the eligibility of the pupil for the special services and programs of instruction referred to in this section must be based upon an assessment of the talent, cognitive abilities or academic achievement of the pupil.

~~5.1~~ 4. Unless the pupil's individualized educational program otherwise provides, a pupil who is gifted and talented must participate in not less than ~~150~~ 600 minutes of differentiated educational activities each ~~week~~ month during the school year.