

**PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB FILE NO. R023-25I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/12/2025**

Proposed Amendments to NAC 388.435

NAC 388.435 must be amended because the regulation currently requires that assessments be individually administered, which creates undue hardship on districts who may not have the resources to administer assessments individually and restricts districts who choose to evaluate all students as a means to eliminate the effect of bias in the referral process. The proposed amendments seek to rectify this issue and to clarify the regulation by eliminating redundancies and using more concise language.

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) *A score at or above the 98th percentile* ~~On a test of cognitive ability [that is individually administered];~~
 - (2) *A score at or above the 98th percentile* ~~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]~~
A qualifying score on a state approved rubric that reflects both intellectual ability and academic aptitude.
 - (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.]~~ 3. 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-]~~ 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.