

§ 39.106

- (1) Providing technical assistance to schools in completing the application for the funds; and
- (2) Providing training to Bureau staff to improve the delivery of part B funds.

§ 39.106 Who is eligible for special education funding?

To receive ISEP special education funding, a student must be under 22 years old and must not have received a high school diploma or its equivalent on the first day of eligible attendance. The following minimum age requirements also apply:

- (a) To be counted as a kindergarten student, a child must be at least 5 years old by December 31; and
- (b) To be counted as a first grade student; a child must be at least 6 years old by December 31.

§ 39.107 Are schools allotted supplemental funds for special student and/or school costs?

Yes, schools are allotted supplemental funds for special student and/or school costs. ISEF provides additional funds to schools through add-on weights (called special cost factors). ISEF adds special cost factors as shown in the following table.

Cost Factor	For more information see
Gifted and talented students	§§ 39.110 through 39.121
Students with language development needs.	§§ 39.130 through 39.137
Small school size	§§ 39.140 through 39.156
Geographic isolation of the school.	§ 39.160

GIFTED AND TALENTED PROGRAMS

§ 39.110 Can ISEF funds be distributed for the use of gifted and talented students?

Yes, ISEF funds can be distributed for the provision of services for gifted and talented students.

§ 39.111 What does the term gifted and talented mean?

The term gifted and talented means students, children, or youth who:

- (a) Give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields; and

25 CFR Ch. I (4–1–08 Edition)

- (b) Need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

§ 39.112 What is the limit on the number of students who are gifted and talented?

There is no limit on the number of students that a school can classify as gifted and talented.

§ 39.113 What are the special accountability requirements for the gifted and talented program?

If a school identifies more than 13 percent of its student population as gifted and talented the Bureau will immediately audit the school's gifted and talented program to ensure that all identified students:

- (a) Meet the gifted and talented requirement in the regulations; and
- (b) Are receiving gifted and talented services.

§ 39.114 What characteristics may qualify a student as gifted and talented for purposes of supplemental funding?

To be funded as gifted and talented under this part, a student must be identified as gifted and talented in at least one of the following areas.

(a) *Intellectual Ability* means scoring in the top 5 percent on a statistically valid and reliable measurement tool of intellectual ability.

(b) *Creativity/Divergent Thinking* means scoring in the top 5 percent of performance on a statistically valid and reliable measurement tool of creativity/divergent thinking.

(c) *Academic Aptitude/Achievement* means scoring in the top 15 percent of academic performance in a total subject area score on a statistically valid and reliable measurement tool of academic achievement/aptitude, or a standardized assessment, such as an NRT or CRT.

(d) *Leadership* means the student is recognized as possessing the ability to lead, guide, or influence the actions of others as measured by objective standards that a reasonable person of the community would believe demonstrates that the student possess leadership skills. These standards include evidence from surveys, supportive documentation portfolios,

elected or appointed positions in school, community, clubs and organization, awards documenting leadership capabilities. No school can identify more than 15 percent of its student population as gifted and talented through the leadership category.

(e) *Visual and Performing Arts* means outstanding ability to excel in any imaginative art form; including, but not limited to, drawing, printing, sculpture, jewelry making, music, dance, speech, debate, or drama as documented from surveys, supportive documentation portfolios, awards from judged or juried competitions. No school can identify more than 15 percent of its student population as gifted and talented through the visual and performing arts category.

§ 39.115 How are eligible gifted and talented students identified and nominated?

(a) Screening can be completed annually to identify potentially eligible students. A student may be nominated for gifted and talented designation using the criteria in § 39.114 by any of the following:

- (1) A teacher or other school staff;
- (2) Another student;
- (3) A community member;
- (4) A parent or legal guardian; or
- (5) The student himself or herself.

(b) Students can be nominated based on information regarding the student's abilities from any of the following sources:

- (1) Collections of work;
- (2) Audio/visual tapes;
- (3) School grades;
- (4) Judgment of work by qualified individuals knowledgeable about the student's performances (*e.g.*, artists, musicians, poets, historians, etc.);
- (5) Interviews or observations; or
- (6) Information from other sources.

(c) The school must have written parental consent to collect documentation of gifts and talents under paragraph (b) of this section.

§ 39.116 How does a school determine who receives gifted and talented services?

(a) To determine who receives gifted and talented funding, the school must use qualified professionals to perform a multi-disciplinary assessment. The as-

essment may include the examination of work samples or performance appropriate to the area under consideration. The school must have the parent or guardian's written permission to conduct individual assessments or evaluations. Assessments under this section must meet the following standards:

(1) The assessment must use assessment instruments specified in § 39.114 for each of the five criteria for which the student is nominated;

(2) If the assessment uses a multi-criteria evaluation, that evaluation must be an unbiased evaluation based on student needs and abilities;

(3) Indicators for visual and performing arts and leadership may be determined based on national, regional, or local criteria; and

(4) The assessment may use student portfolios.

(b) A multi-disciplinary team will review the assessment results to determine eligibility for gifted and talented services. The purpose of the team is to determine eligibility and placement to receive gifted and talented services.

(1) Team members may include nominator, classroom teacher, qualified professional who conducted the assessment, local experts as needed, and other appropriate personnel such as the principal and/or a counselor.

(2) A minimum of three team members is required to determine eligibility.

(3) The team will design a specific education plan to provide gifted and talented services related in the areas identified.

§ 39.117 How does a school provide gifted and talented services for a student?

Gifted and talented services are provided through or under the supervision of highly qualified professional teachers. To provide gifted and talented services for a student, a school must take the steps in this section.

(a) The multi-disciplinary team formed under § 39.116(b) will sign a statement of agreement for placement of services based on documentation reviewed.

(b) The student's parent or guardian must give written permission for the student to participate.