I. Federal Governance

A. Federal Statutes/Regulations regarding Gifted and Talented education.


1. Authorizes USDOE to fund grants, provide leadership, sponsor national research center on the education of Gifted and Talented Students.
2. Grants awarded –

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
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<tr>
<td>2000</td>
<td>$6,500,000</td>
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<td>2011</td>
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<tr>
<td>2013</td>
<td>$0</td>
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</tbody>
</table>

3. 2014 - $5,000,000 appropriated, $1,000,000 for research, $4,000,000 for discretionary grants, 10 new awards anticipating totaling $3,963,091; no continuation awards; average new award $396,309. Range of new awards $232,504 - $500,000.

4. 2015 – $10,000,000 appropriated, $1,000,000 for research, $4,000,000 for new awards, $5,000,000 for continuation awards, $4,036,750 awarded to recipients; Range of new awards $147,255.00 - $500,000.00

5. Does not protect or establish legal rights – seeks to provide for model programs. No $ in New Jersey.

C. Elementary and Secondary Education Act/Improving America’s Schools Act/No Child Left Behind/Every Student Succeeds Act

1. Title I LEA plans may include $ for identifying and providing services to gifted and talented students.

2. State Title II plans professional development – includes identification of G&T students.

3. LEA Title II plans include programs and services for G&T students
   a. early entrance to kindergarten
   b. enrollment, acceleration and curriculum compacting activities
   c. dual or concurrent enrollment programs in secondary and post-secondary programs

II. State Governance

A. New Jersey Constitution – Article V, Section 4, Paragraph 1

The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years.


5. Educational Adequacy Report – 3/1/16 – Legislature objects to weights for at-risk, bilingual and combination students. 3/7/16

6. A Formula for Success: All Children, All Communities http://www.state.nj.us/education/sff/reports/AllChildrenAllCommunities.pdf

   Appendix E – Table 2: Resources and Base Costs – Base Costs include resources for gifted and talented (G&T) (Attachments 1, 2)

7. Adequacy Budget – Local Share = Equalization Aid


2. T & E Amounts and Cost Factors, Core Curriculum Standards Aid.

3. Efficiency Standards – FY 2004 (Attachment 3) – No specific designation for G&T.


1. Definitions – N.J.A.C. 6A:8-1.3

   a. Core Curriculum Content Standards

   b. Gifted and Talented Students
c. Instructional Adaptations

d. Standards Support Materials

2. Core Curriculum Content Standards – What students should know and be able to do. \textit{N.J.A.C. 6A:8-2.1 et seq.}

a. Originally adopted May 1996

b. Review and readoption process
   (1) July 2002 – Language Arts Literacy, Mathematics, Science
   (3) July 2004 - Preschool Teaching and Learning Expectations
   (4) October 2004 – Social Studies

c. 2009 Revised Core Curriculum Content Standards
   (1) Press Release \url{http://www.state.nj.us/education/news/2010/0217cccs.htm}
   (3) Website \url{http://www.njccs.org}

d. \url{http://www.state.nj.us/education/aps/cccs/g_and_t_reg.htm}

   Academic and Professional Standards/Curriculum and Instruction – includes summary of Gifted and Talented Requirements.

3. Implementation of the Core Curriculum Content Standards

a. \textit{N.J.A.C. 6A:8-3.1(a)5}

   District boards of education shall ensure that . . . appropriate instructional adaptations are designed and delivered . . . for students who are gifted and talented.

b. \textit{N.J.A.C. 6A:8-3.1(a)5} – District boards of education are responsible for

   (1) Ongoing K-12 identification process that includes multiple measures.

   (2) Appropriate instructional adaptations and K-12 educational services.
(3) Develop appropriate curricular and instructional modifications—content, process, products, learning environment.

(4) Take into consideration the Pre-K – Grade 12 Gifted Program Standards of the National Association for Gifted Children. 

c. N.J.A.C. 6A:8-3.1(a)(6) – District boards of education shall actively assist and support professional development for teachers, educational services staff and school leaders…(2) Individual and collaborative professional learning with adequate and consistent time…gifted and talented…

d. N.J.A.C. 6A:8-3.1(c)3 – Modification for gifted students

4. Enrollment in college courses. N.J.A.C. 6A:8-3.3

5. Graduation Requirements - Option 2 – N.J.A.C. 6A:8-5.1(a)2

6. Curriculum frameworks – resource to local districts, classroom teachers and staff developer.

a. New Jersey Curriculum Frameworks
http://www.state.nj.us/education/archive/frameworks.

b. May 1996 Core Curriculum Content Standard Curriculum Frameworks – 
http://www.state.nj.us/education/cccs/1996/frameworks

c. See adaptations for G&T Students

E. Managing for Equality and Equity

N.J.A.C. 6A:7-1.7 Equality in school and classroom practices

(b) Each district board of education shall ensure that the district's curriculum and instruction are aligned to the State's Core Curriculum Content Standards and address the elimination of discrimination by narrowing the achievement gap, by providing equity in educational programs and by providing opportunities for
students to interact positively with others regardless of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, gender, religion, disability or socioeconomic status, by:

3. Reducing or preventing the underrepresentation of minority, female and male students in all classes and programs including gifted and talented, accelerated and advanced classes;

F. Bilingual Education

6A:15-1.4 Bilingual programs for limited English proficient students

(g) In addition to (a) through (f) above additional programs and services shall be designed to meet the special needs of eligible LEP students and include, but not limited to, remedial instruction through Title I programs; special education; school-to-work programs; computer training; and gifted and talented education services.

G. Monitoring of School District Gifted and Talented Practices


a. Indicator 3.3 The instructional program shows recognition of individual talents, interest needs and exceptional abilities of pupils.

b. Documentation: program of studies, master schedule, program evaluation reports.

2. October 1993 Revised Manual

a. Indicator 3.4 Gifted and Talented Programs and Services:

   The district shall make provisions for identifying pupils with Gifted and Talented abilities and for providing them with an educational program and services.

b. Documentation/Activities – The written identification process; lesson plans; classroom observations and staff interviews.


a. Indicator 3.4 Gifted and Talented Programs and Services:

   The district shall be responsible for identifying Gifted and Talented students and shall provide them with appropriate instructional adaptations and services.
b. Documentation/Activities: The written identification process; curricular and instructional modifications; classroom observations and staff interviews.

4. Evaluation of the Performance of School Districts N.J.A.C. 6A:30-1.1 et seq.

   - District Performance Review Checklist – Instruction and Program, Quality Performance Indicator D. Mandated Programs – Gifted and Talented (Attachment 5)

6. Revised NJQSAC – September 2013
   a. District Performance Review every 3 years – Instruction and Program - #18 Gifted and Talented reference – 6 points
      - The district requires and verifies that instruction for all students is based on the district’s curriculum, instructional materials, media and school library resources and includes instructional strategies, activities, and content that meet individual student needs including Individual Education Plans (IEP). “All students” include those students with disabilities, English language learners, gifted and talented students and students in alternative education programs.
   b. Statement of Assurance (SOA) annually
      - Instruction and Program #3 – Curriculum Adjustment and Adoption Requirements - includes modifications for G&T students

III. New Jersey Case Law
   A. Superior Court
      1. Charter Schools
            Charter school application made adequate provision for identifying Gifted and Talented students and providing them with programs and services.
Appellate Division affirms Commissioner’s denial of Quest’s application for charter school approval. Among other concerns, Commissioner determined that Quest’s application provided little in the way of gifted and talented programs or co-curricular activities.

2. Child Custody


Quality of Gifted and Talented educational programs at private school issue in custody agreement.


School’s Gifted and Talented program issue with respect to joint custody arrangement. Child thriving in current school system.


Child support extraordinary expenses may include “special needs of gifted or disabled children.” Extraordinary expenses determination remanded for plenary hearing.


Dispute over which private religious school divorced parties’ daughter should attend. Daughter’s test scores indicated she was a gifted student. Trial court did not adequately consider child’s educational, emotional and social needs in ordering that she attend an accredited school. Matter reversed and remanded.


Calculation of child support and limited duration alimony affirmed in part, reversed in part. Child support extraordinary expenses may include predictable and recurring expenses such as private elementary or secondary expenses, special needs of gifted or disabled children and NCP/PAR toward transportation expenses.

3. Interscholastic Athletics
• Board of Education of the Township of North Bergen v. NJSIAA and Montclair Board of Education, Appellate Division Dkt. No. A-2306-12T4 (April 10, 2015)

High school football team forfeited state championship due to improper recruitment of two athletically gifted out-of-district students. Recruitment violated NJSIAA recruitment rules and gave North Bergen’s football team an unfair competitive education.

B. Administrative Decisions

1. Budget

   a. Budget Appeals

      (1) Gifted and Talented teacher funding restored. Township of Ocean, 96 N.J.A.R.2d (EDU) 39

      (2) Part-time Gifted and Talented teacher funding restored. Borough of Rockaway, 91 N.J.A.R.2d (EDU) 139

   b. Cap Waivers Granted

      (1) Art, music and Gifted and Talented programs. Westville, 95 N.J.A.R.2d (EDU) 320

      (2) Gifted and Talented teachers grades K, 1-5, 6-8. Twp. of Ocean, 93 N.J.A.R.2d (EDU) 638

      (3) Gifted and Talented teachers. South Orange-Maplewood, 92 N.J.A.R.2d (EDU) 445

2. School Funding

   • Lack of gifted and talented programs in certain Bacon districts part of determination that CEIFA, as applied to the Bacon districts, failed to conform to the constitutional mandate. Bacon v. New Jersey State Department of Education, State Board 2006: January 4, Commissioner 2003: February 10.

3. Tuition

4. **Gifted disabled students**

   a. Gifted student with cerebral palsy entitled to home instruction as an interim placement pending formulation of an IEP. *J.M. v. Woodcliff Lake Board of Education*, 92 N.J.A.R. 2d (EDS) 249

   b. Gifted student with learning disabilities may be eligible for benefits under the IDEA. *Warren G. v. Cumberland County School District*, 190 F.3d 80 (3d Cir. 1999)

   c. Relief is unavailable to parents who place their child in a private school not because his basic skills were lagging, but so that he may be among his gifted peers. *J.D. v. Pawlet School District*, 224 F.3d 60 (2d Cir. 2000)

   d. Summer program provided for autistic, academically gifted preschool student. IEP to be developed by parents and school district. *L.J. and J.J. o/b/o A.J. v. Toms River Board of Education*, OAL Dkt. No. 2700-00, 2000: August 2.


   g. Dismissal of claim that school district violated IDEA child find obligations and did not provide FAPE affirmed. Because child was never enrolled in public school, compensatory education was not an available remedy. Student in question was both learning disabled and mentally gifted. *P.P. by M.P./R.P. v. West Chester Area School District* – U.S. Court of Appeals, Third Circuit 585 F.3d 727, 2009 U.S. App. LEXIS 23976, November 2, 2009.

   h. District ordered to create new IEP for student who was gifted and emotionally disturbed. Student could only receive a meaningful educational benefit in a small school designed to educate students with behavioral and social emotional difficulties. *P.B. and M.B. on behalf of T.B. v. Wanaque Board of Education*, OAL Dkt. No. EDS 09260-09, June 16, 2010.

5. **Student Attendance Zone**
• V.L. and C.L. o/b/o R.S., R.L. v. Board of Education of the City of Rahway, Commissioner 2012 N.J. Agen. LEXIS 325, ALJ Decision 2012: July 12. Motion for emergent relief denied in matter regarding board of education decision to redistrict students, including a district wide program of 6th grade realignment. Among other criteria, no showing of violation of N.J.A.C. 6A:7-1.7 provisions for equality in school and classroom practice. No showing that minority students were underrepresented in Gifted and Talented program.

6. Admission to G&T Program
   a. Challenge to denial of admission into Gifted and Talented program dismissed as moot when student moved out of district. Spivak, 97 N.J.A.R. (EDU) 270
   b. Emergent relief to parents seeking placement in Gifted and Talented program denied. Mullane, 1999 S.L.D. March 4
   c. Denial of entry to Gifted and Talented program for pupil who was both gifted and learning disabled was proper where educators were concerned that he could be easily frustrated by pace. There is no law or regulation which prescribes the substantive content of a Gifted and Talented program. District followed board policies and procedures which were in conformance with Department of Education regulations. D.B. v. Lower Camden County Regional School District, 1999 S.L.D. October 28
   d. Placement of pupil in science class not improper; no federal or State requirement for programming for students who are Gifted and Talented. Wicker, 1999 S.L.D. December 27
   e. Placement of transfer student in 6th grade not arbitrary or capricious. District used screening and testing process for placement in G&T or remedial programs as appropriate. O.S. o/b/o K.S. v. Board of Education of Fort Lee, Commissioner 2004: July 7
   f. Eighth grade student failed to meet board criteria for placement as a freshman into the board’s Advanced Placement Academy; petitioner has not proven that the Board acted in an arbitrary, capricious or unreasonable manner in determining that student was not qualified for placement in the Academy; and the Board did not violate N.J.A.C. 6A:8-3.1, as the District does have a gifted and talented program in place which is separate and apart from the optional Academy program. D.R., 2011 Commr. July 28

7. Curriculum
a. Gifted and Talented pupils. Educational and instructional opportunities were offered. _Humcke_. 1981 S.L.D. January 26

b. Gifted and Talented program found adequate. No law prescribes the substantive content of a G&T program or imposes a particular regimen. _Kanter_, 95 N.J.A.R. 2d (EDU) 454

c. District’s enriched curriculum for all students appropriate to address student’s superior abilities and individual gifts. _K.S. v. Millburn Board of Education_, OAL Dkt. No. EDS 7086-98, 1999: May 11.

d. No requirement that board provide junior high school student with 11th grade chemistry placement in receiving school district. No criteria for G&T program requirements mandated by state law or regulation. _Wicker v. Oaklyn Board of Education_, Commissioner 1999: December 27.

8. Student Records

- Parent letter to board appealing decision denying her child admission into Gifted and Talented Program because certain test scores were below school’s cutoff was a student record. Parent argued for a policy change to use more criteria for entrance to the program; unclear as to whether single test scores was lone measure for admission. Bigger posted political comments regarding the school election and parent/candidate. Parent alleged that board failed to safeguard child’s student records and that failure resulted in improper public commentary over the instrument. No showing that board failed to properly safeguard student records. _G.L. and S.L. o/b/o S.L. v. Bd. of Education of the Borough of New Providence_, 2015 Comm’r. January 2.

9. Student Discipline

a. School district violated student’s First Amendment rights when it disciplined student who used grandmother’s computer to access a popular social networking site to create a fake internet profile of high school principal. Conduct did not disrupt school environment and was not related to any school sponsored event. Student had been classified as a gifted student, enrolled in AP program, competed and won several academic competitions – Discipline included banning from academic games and placement in alternative education program. _Layshock v. Hermitage School District_ – U.S. Court of Appeals, Third Circuit 593 F.3d 249 (3rd Cir. 2010) affirming 496 F.Supp. 2d 587 (W.D.Pa. 2007). Vacated by hearing en Banc 2010 U.S. App. LEXIS 7362 (April 9, 2010) aff’d 650 F.3d 205 (3d Cir. 2011).

10. Public Schools Contracts Law

- Board of education did not violate bidding requirements of Public Schools Contract Law in matter involving award of contract for school uniforms. Among other considerations, school uniforms would showcase students in the gifted and talented program. *Board of Education of the City of Elizabeth v. New Jersey State Department of Education, Commissioner* 2012:March 29.

IV. Gifted and Talented Teacher Certification

A. Instructional Certificate, no specific endorsement required.

B. Rutgers Continuing Studies Gifted Education Certificate Program gifteded.rutgers.edu, email houghliz@docs.rutgers.edu

V. Student Activities Fees – Gifted and Talented

A. *N.J.S.A. 18A:36-21* - Any board of education may authorize field trips for which all or part of the costs are borne by the pupils' parents or legal guardians, with the exception of pupils in special education classes and pupils with financial hardship. In determining financial hardship the criteria shall be the same as the Statewide eligibility standards for free and reduced price meals under the State school lunch program (N.J.A.C. 6:79-1.1 et seq.) P.L. 1980, c.49, effective June 26, 1980.

B. *N.J.S.A. 18A:36-23* - No student shall be prohibited from attending a field trip due to inability to pay the fee regardless of whether or not they have met the financial hardship requirements set forth in section 1 of this act. P.L. 1980, c.49, effective June 26, 1980.

C. *N.J.S.A. 18A:7C-5.1* - A board of education shall establish a policy to address the cost of the graduation ceremony and the cost of a yearbook for graduating pupils who have a financial hardship. No graduating pupil shall be excluded from a graduation ceremony whose parent, legal guardian or other person having legal
custody of the pupil is unable to pay the fees required for that graduation ceremony because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program. P.L. 1996, c.145.

D. Case Law

1. **Willett v. Colts Neck Board of Education** – 1966 *S.L.D.* 202 – Commissioner holds that pupils cannot be required to bear the costs of field trips and other activities that are part of the regular classroom program of instruction or course of study. Cites T&E clause, “free public schools.” Holds open possibility of charging for “extra-classroom” activities.


3. **Fairlawn Board of Education v. Schmidt**, 1979 *S.L.D.* 828 – State Board affirms Commissioner (September 19, 1978) holding that board could charge $25.00 fee for voluntary outdoor education program. No effect on pupil grades or graduation requirement for those who did not participate.

4. **Matrick v. Springfield Board of Education**, 1979 *S.L.D.* 420 – Commissioner directs board of education to adopt field trip policy consistent with **Willett** and **Schmidt**.

5. **R.H. v. Pascack Valley Regional**, State Board 2007:May 2, Commr. 2006:November 28. State Board affirms Commissioner determination that board of education refusal to issue student laptop computer for 2005-06 school year was reasonable and permissible. Student’s parents refused to comply with school district’s computer use policy and pay $50 annual insurance premium plus $100 deductible.

E. Legislative Proposal

1. **A1691, S2228** – Prohibits boards of education from charging students a fee to participate in extracurricular activities. Last Session Bill Number **A1489, S1135**.

VI. Legislative proposals – Gifted and Talented

A. 2008-2009 Session - **A-380** The New Jersey Academically Gifted and Talented Student Education Act – Provides for $800 per pupil categorical aid. Appropriates $5 million. Introduced 1/8/08

B. 2010-2011 Session – No bills introduced.

C. 2012-2013 Session – No bills introduced.
D. 2013-2014 Session – No bills introduced.

VII. Resources

A. National Association for Gifted Children [www.nagc.org]
   1. Gifted at a Glance
   2. Supporting Parents and Families
   3. Tools for Education
   4. Advocacy and Legislation – Advocacy Tool Kit

B. New Jersey Association for Gifted Children [www.njagc.org]