



April 19, 2011

TO: Board of Education
FROM: Daniel A. Nerad, Superintendent
RE: Talented and Gifted Compliance

APPENDIX MMM-10-32
April 25, 2011

I. Introduction

- A. **Title/topic** – Talented and Gifted Compliance
- B. **Presenter/contact person** – Sue Abplanalp, Jennifer Allen, Pam Nash and Dylan Pauly

Background information – On March 24, 2011, MMSD received DPI's initial findings in the matter of the TAG complaint. DPI found MMSD to be noncompliant on all four counts. The Board has forty-five days from the date of receipt of the initial findings to petition the state superintendent for a public hearing. If the Board does not request such a hearing, the findings will become final. Once the findings are final, regardless of whether a hearing is held, if there is a finding of noncompliance, the state superintendent may develop with the Board a plan for compliance. The plan must contain a time line for achievement of compliance that cannot exceed ninety days. An extension of the time period may be requested if extenuating or mitigating circumstances exist.

II. Summary of Current Information:

Current Status: Currently, DPI has made an initial finding of noncompliance against MMSD. While the Board is entitled to request a public hearing on the issue of compliance, the administration does not recommend this course of action. Consequently, at this time, the administration is working toward the development of a response to DPI's findings, which will focus on remedial steps to insure compliance.

Proposal: Staff are working on a response to the preliminary findings which we will present to the Board when completed. It is the administration's hope that this response will serve as the foundation to the compliance plan that will be developed once the DPI findings are final. The response will include input from the TAG Advisory Committee, the District's TAG professionals -- our Coordinator and staff. A meeting to begin work on the proposed response is currently scheduled for April 28, 2011 from 4:00 p.m.-5:00 pm. Subsequent meetings will follow.

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- A. **Recommendations**– Administration recommends that the Board not request a public hearing on the preliminary findings of non-compliance. We believe we need to move forward and address the identified areas of non-compliance.
 - B. **Link to supporting detail** – MMSD Preliminary Audit Report: Gifted and Talented Standard

III. Implications

- A. **Budget:** Not yet determined.

Funding Source: Administration will need to determine related costs after the plan is modified for the 2011-12 budget.

- B. **Strategic Plan – Learning is enhanced when...**

- Expectations for achievement are clear
- Standards for performance are consistently high for all students
- The educational process reinforces the joy of learning
- The focus is child by child
- Schools help focus student effort around a demanding, research-based curriculum

- C. **Equity Plan** – The equity plan identifies key factors needed to ensure equity for student success. These factors have provided insight into the development of the guiding principals and the process plan.

- D. **Implications for other aspects of the organization –XX**

- E. **IV. Supporting Documentation:** – MMSD Preliminary Audit Report: Gifted and Talented Standard

PI 8.03 (Noncompliance Hearings)

March 24, 2011

Maya Cole, President
Board of Education
Madison Metropolitan School District
545 West Dayton Street
Madison, WI 53703-1967


Dear Ms. Cole:

We wish to thank you and the staff for your prompt response to requests for information and for your assistance during the on-site visit in January 2011. The Wisconsin Department of Public Instruction has concluded its audit of Madison Metropolitan School District's compliance with Wis. Stat. secs. 121.02(1)(t) and 118.35, and Wis. Admin. Code sec. PI 8.01(2)(t)2.

Enclosed please find the Madison Metropolitan School District Gifted and Talented Audit Report which makes a preliminary finding of non-compliance. Because preliminary findings indicate non-compliance, the Madison Metropolitan School District School Board or the electors of the school district, as described in Wis. Stat. sec. 121.02(3), may petition State Superintendent Evers for a public hearing within 45 days of the receipt of the audit report. If no public hearing is requested, the department's preliminary findings will become the final report and a finding of non-compliance will be made. If the findings of noncompliance are made, the state superintendent may develop with the school district board a plan for compliance which specifies that compliance must be achieved within a specific time period not to exceed 90 days. See Wis. Admin. Code sec. PI 8.03(6).

Please direct any questions regarding this correspondence to me at rebecca.vail@dpi.wi.gov, via U.S. mail at the address below, or via fax at 608-266-1965.

Sincerely,


Rebecca J. Vail, Director
Content and Learning Team

RJV:cvm

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c: Dan Nerad, District Administrator
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MMSD PRELIMINARY AUDIT REPORT
Gifted and Talented Standard
March 24, 2011

BACKGROUND

On September 20, 2010, eight residents of the Madison Metropolitan School District (MMSD) filed a complaint (numerous others were listed as supporting the complaint) alleging the school district was not in compliance with the Gifted and Talented (G/T) standard, Wis. Stat. sec. 121.02(1)(t), that requires that each school board shall "provide access to an appropriate program for pupils identified as gifted and talented." Based upon this complaint, the Wisconsin Department of Public Instruction (department) initiated an audit pursuant to Wis. Admin Code sec. PI 8.02. The purpose of the audit was to determine whether the school district is in compliance with Wis. Stat. secs. 121.02(1)(t) and 118.35, and Wis. Admin. Code sec. PI 8.01(2)(t)2. The investigation focused on three core content areas: English/language arts; science; and social studies; in particular at the 9th and 10th grade levels, per the letter of complaint.

The department informed the school district of the audit on October 13, 2010, and requested information and documentation for key components of the G/T plan. The school district provided a written response and materials on November 29, 2010 and supplemental materials on December 21, 2010.

On January 25 and 26, 2011, a team of four department representatives conducted an on-site audit which began with a meeting that included the school board president, the district administrator, the deputy superintendent, the secondary assistant superintendent, the executive director of curriculum and assessment, the interim Talented and Gifted (TAG) administrator, an elementary TAG resource teacher, a secondary TAG resource teacher, and legal counsel. After this meeting, the team visited East, West, LaFollette, and Memorial High Schools. At each of these sites, the team conducted interviews with the building principal, school counselors, teachers, and students. At the end of each of the two days the department team met with parents.

GIFTED AND TALENTED STANDARD

Section 121.02 (1) (t), Wis. Stats., requires districts to provide access to an appropriate program for pupils identified as gifted or talented.

Section PI 8.01 (2) (t) 1, Wis. Admin. Code, describes an appropriate program as a systematic and continuous set of instructional activities or learning experiences which expand the development of the pupils identified as gifted or talented.

Section PI 8.001 (1), Wis. Admin. Code, defines access as an opportunity to study through school district course offerings, independent study, cooperative educational service agencies, or cooperative arrangements between school district boards under s. 66.0301, Wis. Stats., and postsecondary education institutions.

Section 118.35 (1), Wis. Stats., defines gifted and talented pupils as pupils enrolled in public schools who give evidence of high performance capability in intellectual, creative, artistic, leadership, or specific academic areas and who need services or activities not ordinarily provided in a regular school program in order to fully develop such capabilities.

Section PI 8.01 (2) (t) 2, Wis. Admin. Code, requires the district to:

1. Establish a plan and designate a person to coordinate the gifted and talented program.
2. Identify gifted and talented pupils as defined in sec. 118.35 (1), Wis. Stats.
 - This identification shall occur in kindergarten through grade 12 in general intellectual, specific academic, leadership, creativity, and visual and performing arts.
 - A pupil may be identified as gifted or talented in one or more of the categories under sec. 118.35 (1), Wis. Stats.
 - The identification process shall result in a pupil profile based on multiple measures, including but not limited to standardized test data, nominations, rating scales or inventories, products, portfolios, and demonstrated performance.
 - Identification tools shall be appropriate for the specific purpose for which they are being employed.
 - The identification process and tools shall be responsive to factors such as, but not limited to, pupils' economic conditions, race, gender, culture, native language, developmental differences, and identified disabilities as described under subch. V of ch. 115, Wis. Stats.
3. The school district board shall provide access, without charge for tuition, to appropriate programming for pupils identified as gifted or talented as required under secs. 118.35 (3) and 121.02 (1) (t), Wis. Stats.
4. The school district board shall provide an opportunity for parental participation in the identification and resultant programming.

RESULTS AND FINDINGS

Section PI 8.01 (2) (t) 2, Wis. Admin. Code, requires the school district to:

1. *Establish a plan and designate a person to coordinate the gifted and talented program.*

Findings – MMSD is not in compliance.

Madison Metropolitan School District submitted a document titled *Talented and Gifted (TAG) Education Plan: September 1, 2009 – June 30, 2012* that was reported to be revised and approved by the School Board on December 13, 2010. This document includes: 1) a brief overview of the TAG program in which areas in need of improvement are identified; 2) a mission statement; 3) goals, and; 4) action steps. There is no comprehensive discussion of the school district's identification process or programming options. Additionally, documentation provided and interviews with administrators, teachers, school counselors, students, and parents cast doubt on whether or not the plan is actually being implemented as written.

The TAG coordinator position is full-time and is held on an interim basis by Paul Bishop. Building-level coordination responsibilities are led by TAG resource teachers, with a total of 7.5 FTE for these positions. At the elementary level there are 4.5 FTE and 3.0 FTE at the secondary level. There is also 0.5 FTE to coordinate on-line courses through WCATY. Beginning January 2011, 2.2 FTE were allocated at the middle schools (0.2 at each of the 11 middle schools) to develop and support participation in WCATY on-line courses and other activities and clubs.

2. *Identify gifted and talented pupils.*

Findings – MMSD is not in compliance.

There is no comprehensive discussion of the school district's identification process in the TAG Education Plan. The plan itself indicates that a comprehensive identification process is an area that needs improvement (page 4). A number of documents provided separately from the plan indicate there has been work done to create an identification process that uses a Response to Intervention (RtI) approach. These documents are:

- Referral Process for Talented and Gifted Interventions K-12. The TAG Education Action Plan indicates in Goal 1, action step 2 (page 11 of the TAG Education Plan), that a referral process flowchart was created. This document was provided upon request and is not part of the TAG Education Plan. Students can be referred for TAG interventions in one of three ways: 1) assessment scores obtained through district screening; 2) educator referral; and 3) parent/guardian/student referral.
- TAG Assessment Guideline Matrix. On page 10 of the TAG Education Plan, Goal 1, action step 1 states that identification tools and criteria are found in Appendix A. This appendix actually provides the state statutes and administrative rule that guide

gifted education. The TAG Assessment Guideline Matrix, which is the document referenced in the TAG Education Plan, was provided upon request. It identifies grade levels where data from universal standardized assessments are available. It also includes identification criteria for these assessments, as well as for report card grades and the teacher checklist. The matrix is incomplete. No criteria are listed for Family Inventory, Math Assessment, EXPLORE, ACT, or SAT.

- Educator Referral Form. Using this form, staff provide information on a student including report card grades; portfolio, products, or demonstrated performance; classroom assessments; learner characteristics checklist; classroom profile, and the types of classroom differentiation offered. The form seems to be oriented towards academic abilities. There is little reference to creativity and no reference to leadership and the visual and performing arts.
- Student Profile & Programming/Intervention Form K-12. This form includes a blank TAG Assessment Guideline Matrix, blank HOPE teacher rating scale, a checklist for TAG programming/interventions provided, and a place to list other individual services.

District TAG staff indicated that identification begins in elementary school with 85% of students identified by 8th grade. At the 9-12 level, it is self-identification, i.e. students ask for more challenging coursework and/or register for advanced courses. Staff acknowledged that the focus of identification is in the academic areas rather than in creativity, leadership, and the visual and performing arts.

The school district was unable to provide a list of identified students.

During on-site interviews, principals, teachers, and school counselors were asked about the identification process. All who were interviewed were unaware of which students in their classes were previously identified and did not know how they could obtain this information.

When asked how their students were identified, 4 parents indicated that the school district initiated the process and 2 parents indicated that they initiated the process.

Students who were interviewed were generally aware that they were considered gifted and talented, although most were not sure when this occurred, in what area they were identified, or if they have ever receiving any programming.

3. The school district board shall provide access, without charge for tuition, to appropriate programming for pupils identified as gifted or talented as required under secs. 118.35 (3) and 121.02 (1) (t), Wis. Stats.

Findings – MMSD is not in compliance

There is no evidence of a policy statement that ensures that access to appropriate programming is without charge for tuition.

There is no discussion of programming in the TAG Education Plan. The plan itself indicates that programming options and individualized student planning and monitoring are areas that need improvement (page 5). The referral process flowchart, however, lists Tier 1, Tier 2, and Tier 3 programming/interventions. The Student Profile & Programming/Intervention Form K-12 provides a place for documenting programming/interventions, as well as other individualized services.

Interviews with TAG staff indicate that MMSD is working on using SIMS to document interventions/services for students with gifts and talents. This computerized application, however, is challenging to use.

The needs of high school students with academic gifts and talents are primarily met through course selection. Interviews with district and building administrators, teachers, school counselors, students, and parents confirm this. Also frequently cited are co-curricular opportunities such as Science Olympiad, Rocket Club, and the SMART team.

Course offerings are not uniform across the four high schools, although school district administration indicates that there will be more similarities beginning with the 2011-12 school year. Presently, LaFollette, Memorial, and East offer a variety of courses for freshmen and sophomores that include honors and regular sections of English 9 and 10, biology, and U.S. history and world history. West is the only high school that does not offer honors sections, but instead offers an embedded honors option in the regular sections of 10th grade English and 10th grade Western Civilization and also offers Accelerated Biology at the 9th grade level. District and building administrators indicate that these options at West will change for the 2011-12 school year.

The effectiveness of embedded honors is very teacher-dependent, as reported by teachers, school counselors, parents, and students. TAG staff report that it is challenging to provide support in developing and delivering embedded honors courses.

There are no systematic programming opportunities identified for creativity, leadership, or the visual and performing arts in the MMSD Talented and Gifted Education plan.

4. The school district board shall provide an opportunity for parental participation in the identification and resultant programming.

Findings – MMSD is not in compliance.

In the referral process flowchart, it is indicated that there is an opportunity for parents/guardians to initiate a referral. It's unclear that parents are afforded an opportunity to participate in programming decisions.

Summary

Based on the findings as articulated herein, MMSD is not in compliance with Wis. Stat. 121.02(1)(t) and Wis. Admin. Code sec. PI 8.01(2)(t).

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d. The number of students by grade level to be affected by the alternative compliance plan.

e. Any needed staff development to support the alternative compliance plan.

f. Timelines for implementation of the alternative compliance plan.

g. A description of how the alternative compliance will be evaluated, including a description of how progress toward meeting program objectives and anticipated outcomes identified under subd. 2. a. will be monitored and measured at regular intervals and at the conclusion of the year for which the plan is approved.

(b) 1. The state superintendent may approve a school district board's plan for alternative compliance with a school district standard, if he or she determines the alternative compliance plan will meet the objectives of the school district standard, maintains educational equity and will result in any of the following:

a. Improved efficiency in school administration or instruction.

b. Innovation in school district management or instruction, including but not limited to, progress towards outcome-based instruction and assessment; enhancement of educational opportunities; enhancement of education professions; and flexibility in staffing, programming and scheduling.

c. Other educational improvements.

2. The plan approval under subd. 1. may be subject to conditions specified by the state superintendent.

3. The state superintendent shall provide for the review of the requests for alternative compliance plans made under par. (a) and shall notify the school district board of his or her decision within 60 days from the date the request is received. The decision shall be in writing and shall include the reasons for the decision.

4. The state superintendent may either hold a public hearing or request that the school district board hold a public hearing on the alternative compliance being proposed.

(c) 1. An initial alternative compliance plan may be approved for a 2 year period.

2. An alternative compliance plan may be renewed every 3 years after the initial plan approval only if an evaluation of the alternative compliance plan is provided by the school district board and is approved by the state superintendent.

3. The evaluation shall include the information specified in par. (a) 2. g. and is subject to the same timelines specified under par. (a).

(4) WAIVER FROM SCHOOL HOURS. (a) In this subsection, "school closure" means the closure of one or more schools under s. 115.01 (10) (a) 2. and 3., Stats.

(b) A school district board may request a waiver from the requirements under this chapter, with some exceptions, as specified under s. 118.38, Stats. A school district board requesting a waiver from the requirement to schedule and hold at least the number of hours of direct pupil instruction specified under sub. (2) (f) 2. and s. 121.02 (1) (f) 2., Stats., shall submit all of the following information to the department:

1. A letter from the district administrator or school board president requesting a waiver from the hours of direct pupil instruction requirement under sub. (2) (f) 2. and s. 121.02 (1) (f) 2., Stats., and specifying the reason or reasons for requesting the waiver.

2. A record of the public hearing held under s. 118.38 (1) (b), Stats., indicating the response from the community to the waiver request.

3. A copy of the order to close the school under s. 115.01 (10) (a) 2. or 3., Stats., if applicable. If the order is submitted under s. 115.01 (10) (a) 3., Stats., a copy of the board minutes indicating approval of the request for a waiver.

4. The number of hours requested to be waived.

5. The dates the school or schools were closed.

6. A description of the actions the school board took to make up the hours of instruction missed during the period of the school closure and what prevented the district from scheduling and holding at least the number of hours of direct pupil instruction specified under sub. (2) (f) 2. and s. 121.02 (1) (f) 2., Stats.

7. The number of days planned for inclement weather and parent teacher conference days as specified under sub. (2) (f).

8. Any additional information requested by the department.

(c) In determining whether to grant a waiver from the requirement to schedule and hold at least the number of hours of direct pupil instruction specified under sub. (2) (f) 2. and s. 121.02 (1) (f) 2., Stats., the department shall consider all of the following factors and may consider additional factors:

1. Whether the department received all the information required under par. (b).

2. The response of the community to the proposed waiver as indicated by the record of the public hearing submitted under par. (b) 2.

3. The length of the school closure.

4. The dates of the school closure and whether there was sufficient time before the end of the school year to adjust the school calendar to provide the required hours of direct pupil instruction missed during the period of the school closure.

History: Cr. Register, October, 1974, No. 226, eff. 11-1-74; emerg. am. (2) (f) 2., eff. 12-24-79; am. (2) (f) 2., Register, September, 1980, No. 297, eff. 10-1-80; r. (1), (2) (b) (h) and (m), renum. (2) (intro.) to be (1) and am., renum. (2) (c) to (e), (g), (i) to (l) to be (b) to (d), (e) and (g) to (j), cr. (2) (n), r. and recr. (2) (f), Register, November, 1986, No. 371, eff. 12-1-86; r. and recr. (2) (b), cr. (2) (f) 2., (k) to (m) and (o) to (t), eff. 9-1-88; r. and recr. (2) (h), cr. (2) (j) (intro.), am. (2) (j), Register, December, 1987, No. 384, eff. 1-1-88; am. (2) (c), (d), (e), (f) 2., cons. (2) (f) 2. intro. and a. and am., renum. (2) (f) 2. b., c., d. and 3 to be (2) (f) 2. a., b., 3. and 4. and am. 2. a. and b., r. and recr. (2) (k) 6. intro., eff. 9-1-88; am. (2) (c), (d), (h) 3., (i), (k) 3. and 4., (r) 1., (s) and (t) 2., r. and recr. (2) (e) and (g), renum. (2) (l) 2. to 4. to be 3., 5. and 6., cr. (2) (f) 2. and 4., Register, February, 1991, No. 422, eff. 3-1-91; except (2) (c) (d), (e), (g), (h) 3., (i), (k) 3. and 4., (l) 2. and (t) 2., eff. 9-1-91 and (2) (f) 4., eff. 9-1-94; am. (1), cr. (3), Register, November, 1992, No. 443, eff. 12-1-92; renum. (2) (a) to be (2) (a) 1., cr. (2) (a) 2., r. and recr. (2) (o), am. (2) (s), Register, October, 1994, No. 466, eff. 11-1-94; corrections in (2) (i) and (m) made under s. 13.93 (2m) (b) 6. and 7., Stats., Register October 2001 No. 550; corrections in (2) (a) 2. made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582; CR 07-057; am. (2) (f) 2. Register March 2008 No. 627, eff. 4-1-08; correction in (2) (s) 1. b. made under s. 13.92 (4) (b) 7., Stats., Register March 2008 No. 627; CR 09-117; cr. (4) Register May 2010 No. 653, eff. 6-1-10; correction in (2) (i) made under s. 13.92 (4) (b) 6., Stats., Register May 2010 No. 653; CR 10-083; r. and recr. (2) (a) 2. b., r. (2) (a) 2. c., renum. (2) (a) 2. d. to be (2) (a) 2. c. Register November 2010 No. 659, eff. 12-1-10.

PI 8.02 Compliance audits. (1) The department shall conduct an inquiry into compliance with the standards upon receipt of a complaint and may, on its own initiative, conduct an audit of a school district.

(2) The department shall notify the school district board at least 90 days prior to beginning the on-site audit.

(3) The department shall provide a report to the school district board in writing within 60 days of the end of the on-site visit. If the report indicates that the district is not in compliance with s. 121.02 (1), Stats., or s. PI 8.01 (2), the school district board or the electors of the school district as provided under s. 121.02 (3), Stats., may petition the state superintendent for a public hearing within 45 days of receipt of the audit report. The state superintendent shall hold the public hearing prior to any finding of noncompliance.

History: Cr. Register, November, 1986, No. 371, eff. 9-1-88; am. (1), Register, October, 1994, No. 466, eff. 11-1-94; CR 03-073; am (1) Register January 2004 No. 577, eff. 2-1-04.

PI 8.03 Noncompliance hearings. (1) Upon request of the school board or upon receipt of a petition signed by the number of electors under s. 121.02 (3), Stats., the state superintendent, or a person designated by the state superintendent as the hearing officer, shall conduct a public hearing in the school district prior to any finding that a school district is not in compliance with the standards under s. 121.02 (1), Stats., or s. PI 8.01 (2).

(2) The department shall mail notice of the hearing to the interested parties or their representatives and to representative

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media in the geographical area of the school district at least 10 days before the public hearing. The notice shall include the time and place of the hearing, and a deadline for submitting written statements.

(3) At the public hearing, all interested persons or their representatives shall be given an opportunity to present facts, opinions or arguments relative to the allegation of noncompliance in the report under s. PI 8.02 (3) or in the petition of the electors under s. 121.02 (3), Stats. The hearing officer may administer oaths or affirmations to those persons interested in giving testimony, and may question persons giving testimony. The hearing officer may limit the length of oral presentations at his or her discretion and may continue or postpone the hearing to such time as he or she deems appropriate. The department shall keep minutes or a taped record of the hearing.

(4) Any interested person may present written statements of facts, opinions or arguments on the issue of the hearing to the state superintendent, whether or not the person presented oral testimony. The state superintendent or hearing officer shall set a rea-

sonable deadline for the submission of any written statements.

(5) After the public hearing and not later than 90 days after the deadline for submission of written statements, the state superintendent shall issue a written decision on whether the district is in compliance with the standards.

(6) If the state superintendent finds the school district board is not in compliance with the standards, the state superintendent may develop with the school district board a plan for compliance which specifies a time period, not to exceed 90 days, in which compliance must be achieved. Prior to the expiration of the time period, a school district board may submit a written request to the state superintendent for an extension of the time period. The request shall set forth the extenuating or mitigating circumstances that support granting the request and a date by which compliance will be achieved. The state superintendent may grant one extension of the time period, not to exceed one year. The state superintendent shall withhold up to 25% of state aid from any school district which fails to achieve compliance within the specified period, as required under s. 121.02 (3), Stats.

History: Cr. Register, November, 1986, No. 371, eff. 9-1-88.