

**Bureau of Indian Affairs, Interior**

**§ 39.135**

(b) If a school identifies a student as gifted and talented based on § 39.114 (d) or (e), the student must be reevaluated annually for the gifted and talented program.

**§ 39.119 When must a student leave a gifted and talented program?**

A student must leave the gifted and talented program when either:

- (a) The student has received all of the available services that can meet the student's needs;
- (b) The student no longer meets the criteria that have qualified him or her for the program; or
- (c) The parent or guardian removes the student from the program.

**§ 39.120 How are gifted and talented services provided?**

In providing services under this section, the school must:

- (a) Provide a variety of programming services to meet the needs of the students;
- (b) Provide the type and duration of services identified in the Individual Education Plan established for each student; and
- (c) Maintain individual student files to provide documentation of process and services; and
- (d) Maintain confidentiality of student records under the Family Educational Rights and Privacy Act (FERPA).

**§ 39.121 What is the WSU for gifted and talented students?**

The WSU for a gifted and talented student is the base academic weight (see § 39.103) subtracted from 2.0. The following table shows the gifted and talented weights obtained using this procedure.

Grade level	Gifted and talented WSU
Kindergarten .....	0.85
Grades 1 to 3 .....	0.62
Grades 4 to 6 .....	0.85
Grades 7 to 8 .....	0.62
Grades 9 to 12 .....	0.50

LANGUAGE DEVELOPMENT PROGRAMS

**§ 39.130 Can ISEF funds be used for Language Development Programs?**

Yes, schools can use ISEF funds to implement Language Development programs that demonstrate the positive effects of Native language programs on students' academic success and English proficiency. Funds can be distributed to a total aggregate instructional weight of 0.13 for each eligible student.

**§ 39.131 What is a Language Development Program?**

A Language Development program is one that serves students who either:

- (a) Are not proficient in spoken or written English;
- (b) Are not proficient in any language;
- (c) Are learning their Native language for the purpose of maintenance or language restoration and enhancement;
- (d) Are being instructed in their Native language; or
- (e) Are learning non-language subjects in their Native language.

**§ 39.132 Can a school integrate Language Development programs into its regular instructional program?**

A school may offer Language Development programs to students as part of its regular academic program. Language Development does not have to be offered as a stand-alone program.

**§ 39.133 Who decides how Language Development funds can be used?**

Tribal governing bodies or local school boards decide how their funds for Language Development programs will be used in the instructional program to meet the needs of their students.

**§ 39.134 How does a school identify a Limited English Proficient student?**

A student is identified as limited English proficient (LEP) by using a nationally recognized scientifically research-based test.

**§ 39.135 What services must be provided to an LEP student?**

A school must provide services that assist each LEP student to: