

## Law for Gifted and Talented Students in South Korea: Its Development, Issues, and Prospects

## Güney Kore'de Üstün Yetenekliler Eğitimi Yasası: Gelişimi, Sorunlar ve Beklentiler

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### Abstract

With the enactment of the Gifted and Talented Education Promotion Act (GTEPA) (2000) and the Gifted and Talented Education Promotion Enforcement Decree (GTEPED) (2002), South Korea acquired a full-fledged legal system for implementing gifted and talented education. Since 2000, the administration of gifted and talented education in South Korea entered a new level of development compared to the previous era. With the enactment, official definitions of giftedness and gifted and talented education were adopted. Accordingly, gifted education was recognized and promulgated into society. The government mapped out a comprehensive plan for gifted education on legally firm ground with the concerted efforts from various ministries in the name of gifted and talented education. New types of educational institutions and administrative systems for gifted education were founded such as gifted schools, gifted classes, gifted centers, and departments for gifted education. Lastly, the importance of educating each student in accordance with his/her potential gained more impetus when extremely low birthrates and an aging population threaten the sustainability of Korean society. In general, the enactment of the gifted education law acts as a divide of eras, before and after the law.

**Key Words:** gifted and talented education promotion act, educational legal system, policy and administration in South Korea

### Öz

Üstün Zekâlı ve Yetenekliler Eğitiminin Teşvik Yasası (GTEPA) (2000) ve Üstün Zekâlı ve Yetenekliler Eğitiminin Teşvikinin İcra Kararının (GTEPED) (2002) yürürlüğe girmesi ile birlikte Güney Kore üstün yetenekli ve zekâlıların eğitimleri uygulamalarında tam teşekküllü bir yasal sisteme sahip oldu. 2000 yılından bu yana, Güney Kore Üstün zekâlı ve yetenekli eğitimi uygulamaları önceki döneme kıyasla yeni bir gelişme düzeyini girdi. Yasal düzenlemeler ile birlikte resmi "üstün zekâ" ve "üstün zekâlıların eğitimi" tanımları geliştirildi. Buna bağlı olarak üstün yeteneklilerin eğitiminin toplumsal tanınırlığı ve yaygınlığı arttı. Hükümet Üstün zekâlı ve yeteneklilerin eğitimi için çeşitli bakanlıkların ortak çabaları ile yasal zemini sağlam kapsamlı bir plan geliştirdi. Üstün yetenekliler için okulu, sınıfı, merkez ve bölümler gibi yeni tip eğitim kurumları ve idari sistem geliştirildi. Son olarak çok düşük doğum oranları ve yaşlanan bir nüfus Kore toplumunun sürdürülebilirliği tehdit ettiğinden, her öğrencinin potansiyeline uygun eğitim almasının önemi daha da artmıştır. Genel olarak üstün yetenekliler eğitimi kanun öncesi ve sonrası olmak üzere iki dönemde incelenebilir.

**Anahtar Sözcükler:** üstün yetenekliler eğitiminin teşviki yasası, eğitimde yasal sistem, Güney Kore üstün yetenekliler eğitimi

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## Introduction

Beginning in 2000, gifted and talented education (hereinafter referred to as 'gifted education') in South Korea was promoted on the basis of its own legal framework. The Gifted and Talented Education Promotion Act (hereinafter referred to as 'GTEPA') legislated in 2000 and the Gifted and Talented Education Promotion Enforcement Decree (hereinafter referred to as 'GTEPED') legislated in 2002 are positive policy examples which provide comprehensive and detailed terms for gifted education. Of course, educational activities and institutions for gifted students existed before the year 2000. However, the enactment of the GTEPA and GTEPED is recognized as the start of a new era of gifted education in Korea in terms of drastic expansion in its quantity and the settlement of administrative issues (De Wat & Jeong, 2008). For example, the number of students participating in gifted education increased from 19,974 to 121,433 between 2003 and 2013, and the number of institutions offering gifted education increased from 400 to 2,868 during the same period (Ministry of Education, Science, and Technology and Korean Educational Development Institute, 2013). In addition to an increase in students, the enactment of the GTEPA and GTEPED is claimed to be the turning point for the stabilization and maturation of gifted education in Korea (Lee, Kang, & Lee, 2012).

In this regard, we should evaluate education laws to gain a more in-depth understanding of Korea's gifted education. Regarding the legal system in Korea, the GTEPA legislated by the National Assembly is the core of the law compared to the GTEPED, which was enacted by the Ministry of Education in order to actualize the purpose and regulations of the GTEPA on an administrative level. This paper analyzes the background, process, content, and impact of the laws, with a focus on the GTEPA.

### Before the Enactment of the Gifted and Talented Education Promotion Act

The foremost legal ground for gifted education in South Korea has roots in Article 31 of the Constitution of the Republic of Korea, which regulates, "*All citizens, according to his/her ability, shall have an equal right to receive education*". This clause implies that the fundamental right and equality of education are guaranteed under any circumstances such as social and economic status, gender, religion, race, etc. (Lee, 2009, p. 195).

To actualize the equal right of education, the Fundamentals of Education Act established Article 19 (Gifted and Talented Education) in 1997, which mandates, "*State and local governments shall carry out and establish policies for educating children who have exceptional abilities in fields such as the academic, artistic or athletic*". As this clause shows, Article 19 regulates the basic responsibility of state and local governments for gifted education and follows the mandates of Article 31 of the Constitution, which stipulates an 'equal right to receive education' for 'all citizens' by their 'ability.' In addition, the Fundamentals of Education Act is the first rule which specifies clearly the term 'Gifted and Talented Education.' Finally, the GTEPA was established in 2000 to solidify the regulations related to gifted education following the

Fundamentals of Education Act of 1999. In this respect, the history of gifted education in South Korea has taken a decade to develop.

However, even before the enactment of the GTEPA, policies and activities took place at the level of the central government. The government of Korea was interested in gifted education and began shaping policies for gifted education as early as the 1980s (Cho et al., 2000). For example, in the year 1980, special classes for the gifted in science were set up in Gumi High School as a pilot program. In 1981, experimental programs for the gifted in science began in city and local boards of education nationwide (Cho et al., 2000). Following these movements, the Ministry of Education commissioned policy research to map out a comprehensive development plan for gifted education, which decided that the government set up a special type of high school for the gifted in science. At last, in 1983, the government established a special high school for the gifted in science called Gyonggi Science High School in Gyonggi Province. In 1984, three more science high schools were founded in Gwangju City, Daejon City, and Gyongnam Province. Institutionally speaking, this type of science high schools from the 1980s is the basis of gifted education in Korea.

With a framework of policies and institutes of gifted education in place, a national research lab called the 'Gifted Education Research Division' was installed in 1987 under the Korean Educational Development Institute (KEDI). The division carried out various research studies to develop identification instruments, programs, as well as policies. With these trends, the President of Korea approved an 'Educational Reform Plan for the Establishment of New Education System' in 1995 which contained details related to gifted education. According to this Educational Reform Plan, the Ministry of Education set up the Gifted Education Center for Science as an affiliate institute of the Korean Advanced Institute of Science and Technology in 1997. The government expanded the gifted education centers from nine to twelve across the nation between 1998 and 1999 (Lee, 2009).

During the 1980s and 1990s, typical forms of gifted education were acceleration including grade-skipping, early entrance to elementary school or colleges, and specialized high schools (Min et al., 2010). These accelerated forms of gifted education had roots in the Constitution and the Fundamentals of Education Act. However, these methods revealed various limitations such as a lack of evidence-based identification of gifted children and no legal framework for guaranteeing the quality of the education program.

### **After the Enactment of the Gifted and Talented Education Promotion Act**

As mentioned earlier, gifted education in Korea secured the legal foundation beyond the level of policy in 2000 with the enactment of the GTEPA. Since then, gifted education is an obligatory education statute. As Article 1 (purpose) of the GTEPA stipulates, this law was established on the basis of Article 12 (Learners) and Article 19 (Gifted and Talented Education) of the Fundamentals of Education Act.

The significance of the GTEPA is the fact that South Korea obtained irreversible legal and institutional foundation that advocates fought for since 1980s. At that time, policymakers and practitioners of gifted education felt it difficult to secure stability in gifted education with only educational policies without legal foundation. For instance, science high schools for the gifted did not have a legal basis to act as gifted institutions. In turn, science high schools did not have an appropriate curriculum for the gifted because it had to follow regulations which were applied to general education (Cho & Oh, 1997).

The inconsistency of gifted education was based on who was in charge of gifted education and which administration won the last election. This meant that gifted education before 2000 could not help but be swayed by multiple variants. Consistency required not just policy but also legal guarantees. The enactment of the GTEPA in 2000 was the step needed to secure this consistency.

Since 2000, the GTEPA has been amended several times to resolve current issues and to better reflect alternative practices in schools. The most significant change occurred in 2005. Among the clauses amended were the articles “a person who requires special educational support for having conspicuous talent and potential” (Article 2-8), “the responsibilities of local governments” (Article 3-2), “alteration of main body for selecting gifted students from superintendent to the head of the institute” (Article 5), and “establishment of system to include minority[ities] who are in the condition of social and economic disadvantages” (Article 5). In general, the 2005 revision moved Korean education in the direction of acquiring more specific regulations for gifted education and decentralization in making policies for gifted education.

**Table 1. Progression of Legal Revisions in Gifted and Talented Education**

<b>Period</b>	<b>Contents</b>
May 1995	May 31 Education Reform Plan (to set up measures to develop a scientific identification tool of gifted students and to activate educational institutes for the gifted)
Jan. 2000	Enactment of the Gifted and Talented Education Promotion Act
Apr. 2002	Enactment of the Enforcement Decree for Gifted Education
Nov. 2002	Establishment of the 1st Comprehensive Plan for Gifted and Talented Education (2003-2007)
Dec. 2005	Revision of the Gifted and Talented Education Promotion Act (to transfer authority of selecting gifted students from the superintendent to the head of educational institutes)
Dec. 2006	Revision of the Enforcement Decree (to mandate regulation for setting up a comprehensive database system for gifted education nationwide)
Dec. 2007	Establishment of the 2nd Comprehensive Plan for Gifted and Talented Education (2008-2012)
Jun. 2009	Improvement of the selection system for the recommendation formula

In 2006, the GTEPED under the aegis of the Ministry of Education was amended as a follow-up to the revision of the GTEPA and added new regulation to establish a national Gifted Education Database (GED) system to collect and use data on gifted education for more effec-

tive policymaking and advancements in the gifted education system (Suh et al, 2012). Table 1 chronicles the legal revisions in Gifted Education since the 1990s.

### **Characteristics and Issues of the Gifted and Talented Education Promotion Act**

Through analysis of the Gifted and Talented Education Promotion Act, we can ascertain which direction the law is headed and how South Korea understands gifted education officially. In this sense, the GTEPA provides an opportunity to determine the characteristics of the institutional, philosophical, and educational realm of gifted education in Korea.

**Concept of Giftedness and Gifted Education.** With regard to the purpose of gifted education in Korea, Article 1 of the GTEPA clearly stipulates, *“The purpose of this Act is to early identify persons endowed with talents and provide them with education tailored to their competence and talents as provided for in Articles 12 and 19 of the Fundamentals of Education Act in order to encourage them to develop innate potential, seek self-realization and contribute to development of the nation and of society”*.

This regulation shows that gifted education in Korea includes dual aspects of gifted education: self-actualization in the personal realm and a contribution to society at large. This perspective distinguishes itself from the Western point view of gifted education in terms of philosophical background. For example, the Jacob K. Javits Gifted and Talented Students Education Act of the U.S. stipulates, *“The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students”* (Sec. 5462, Part D, P.L. 100-297, 1988). In the case of Germany, Article 56 (Rights and Obligations) of the Bayern Law on Education and Public Education (BayEUG) stipulates, *“Every student has the right to have proper service by their abilities and internal needs in accordance with the Article 128 of Federal Constitution. Because of this law, individual rights arise when and if they are determined by conditions and content in this Act or under this Act”*. These examples illustrate that Western societies place more emphasis on individualism than Korean society does. It also shows that the rationale of gifted education in Korea is based on both collectivism and individualism.

Following the purpose, Article 2 of the GTEPA defines the concept of gifted as *“Any person who has superior talent who requires special education to actualize their innate potential”*. This definition is in line with the Marland Report in 1972, which defined gifted and talented children as *“Those identified by professionally qualified persons who by virtue of outstanding abilities, are capable of high performance. These are children who require differentiated educational programs and/or services beyond those normally provided by the regular school program in order to realize their contribution to self and society”* (Marland, 1972).

The influence of the Marland Report on the definition of the gifted in Korean law is detected in the categorization of giftedness. For instance, Article 5 of the GTEPA clarified the extent of

a gifted person's abilities as general intelligence, aptitude for a special academic field, creative thinking ability, artistic talent, physical talent, and other special talent.

**Responsibilities of the State and Local Government.** One of the characteristics of the GTEPA in Korea is that it articulates the responsibilities of state and local government. For example, Article 3 and sub-paragraph 1 stipulates, *"The state has to seek the following plans for the promotion of the education for the gifted; a) establishment of a comprehensive plan on the education for the gifted, b) R&D related to the education for the gifted and dispersion, c) designation, establishment, installation and operation of the education institution for the gifted, d) designation, establishment, and operation of the education research center for the gifted, e) seeking the implementation of a plan to secure the connectivity of education for the gifted in elementary school, middle school, and high school, f) employment and training of faculty, g) support of expenses required for the education for the gifted, and h) other action plan for promoting the education for the gifted"*.

In general, Article 3 specifies the responsibilities of state government in terms of promoting gifted education in quality and quantity. For this to progress, Article 4 mandates the establishment of the Central Committee to Promote Education for the Gifted. The central committee is headed by the Vice Minister of the Ministry of Education and has authority to make decisions on the following: *"a) basic policies on the education for the gifted, b) matters on establishment of the comprehensive plan, c) improvement of the education for the gifted related system, and d) matters on designation and establishment of the education for the gifted"*. The central committee acts as a steering entity which makes decisions at the highest level.

Paragraph 1 of Article 3 stipulates that establishment of a Comprehensive Plan for Gifted Education every five years is the responsibility of the state. What is unique about the Comprehensive Plan for Gifted Education compared to other education plans is that all ministries related to gifted education collaborate closely. To this extent, gifted education can be said to be gaining consensus at the governmental level. The first comprehensive plan for years in 2003-2007 was established in November 2002, the second comprehensive plan for 2008-2012 in December 2007, and the third comprehensive plan for 2013-2017 in December 2012. This comprehensive plan functions as a bridge to connect the regulations of the gifted education law with administrative policies. With the help of a comprehensive plan, policies for gifted education are promoted strategically and effectively based on the law and vision for the future (Suh et al, 2012).

Article 3 also regulates the responsibilities of local government from an administrative perspective. It says, *"Each local government shall formulate the following policies to facilitate gifted education: a) establishment of detailed implementation plans on the local level for the promotion of gifted education under the provision of paragraph 1, and b) other supporting plans for the promotion of gifted education"*. This regulation on the responsibilities of local government stemmed from the spirit of municipal autonomy in education from the late 1990s. With Article 3, the law balances the role of the state and local government in promoting gifted education. In this

sense, detailed practices and the administration of gifted education are decided by a local committee in accordance with gifted education laws and state policies.

**Types of Educational Institutions for the Gifted.** With regard to the types of educational institutions for the gifted, Article 2 of the GTEPA stipulates three kinds of institutions: gifted schools, gifted classes, and gifted centers. By law, a gifted school is a specialized high school for educating gifted students and is designated or established by the state. A gifted school can recruit students from the entire nation unlike previous special schools and enjoys a highly autonomous curriculum. The administration is not subordinated by state curriculum and regulation. As of the year 2014, there are six gifted schools in addition to the pre-existing science high schools in Korea.

A gifted class is defined as a program for the gifted established and operated under an individual primary and secondary school. It is operated in the form of extracurricular activities. Article 7 says that the state or local government may establish and operate gifted classes for some or all subjects in schools. Currently, two kinds of gifted classes operate: one is a class consisting of students from one school and the other is a class consisting of students from several schools within the same school district. These classes do not collect tuition since, in principle, they operate on state funds.

A gifted center is a type of annex institution that is established and operated either under the provision of Article 2 of the GTEPA or other applicable schools established in accordance with other laws and regulations. A gifted center is an educational institute with a city or local board of education, university, national and public research institute, or government chartered institution. Any non-profit organization related to science, technology, art, sports, and others may establish and operate an education center for the gifted (Article 8).

Currently there are two dominant types of gifted centers: one is operated by the school district, while the other by universities. Gifted centers run by the school district offer services to students who are within their own school district. Teachers from regular schools who are qualified for gifted education are dispatched for about two years. City and local boards of education take charge of all budgets and manage the centers. In comparison, gifted centers run by universities can recruit students beyond the boundary of the school district and offer more advanced programs. University faculty participates in educating students in their own institution. As of 2013, 25 gifted centers run by universities are funded by the central government (Jeong, Choi, & Shin, 2013).

**Curriculum.** As mentioned above, the types of gifted education institutions are comprised of gifted schools, gifted classes, and gifted centers. Curricula in these institutions are differentiated from each other in accordance with the characteristics of the students, operating body, academic period, educational environment, teachers, etc. Article 11 of the GTEPA and Article 24 of the GTEPED regulate the details of the curriculum. For example, Article 11 regulates that “a) *when a person eligible for gifted education completes all or some of*

*curriculum for the gifted in an educational institute for the gifted, he/she may be deemed to have completed regular curriculum equivalent thereto, and b) the head of each educational institution for the gifted may, when deemed necessary, entrust some curriculum for relevant persons eligible for gifted education to other educational institutions for the gifted, universities, etc."*. This regulation implies that the curriculum of gifted education institutions is autonomously operated.

One of the most intriguing factors of the curriculum in gifted education is that high autonomy is secured in gifted schools in contrast to other ordinary schools. There are various types of schools for science education in Korea such as specialized science high schools, science focused high schools, as well as gifted schools for the scientifically talented. Specialized science high schools and science focused high schools have to follow national standards of curriculum compared to gifted schools. Students of gifted schools acquire qualification by credit which differs from other school-based grade systems.

**Faculty.** The faculty of gifted education by law is categorized into three types. First, incumbent teachers who are in service of the school participate in gifted education after completing 60 hours of in-service training. These kinds of teachers can obtain certificates in order to teach students in gifted classes, gifted centers, as well as gifted schools.

With regard to incumbent teachers who have acquired certificates in gifted education, they can be dispatched to various gifted institutions such as gifted centers, gifted research centers, or administrative positions for a specific time period. For this matter, sub-paragraph 2 of Article 12 defines the regulation about the dispatch of faculty members, "*when it is required for research, competency development and others related to the education, the authorized person of employment of faculty may dispatch the faculty in charge of education for the gifted to other education[al] institution[s] for the gifted, education research center[s] for the gifted, education administrative institution[s], domestic and overseas education training and research institution[s], and other institutions for a certain period of time"*. Usually, their role is taking charge of teaching or managing gifted programs.

Second, another type of faculty is those who do not have a national teaching certificate but are hired directly by the gifted school. In general, Korean public school teachers need to pass the national exam and then acquire the status of civil servant. Direct recruitment by public schools without national exams or without being a civil servant is highly exceptional. This way of recruiting teachers was introduced because gifted schools needed expert teachers in STEM fields for high quality education.

Third, another type of faculty is being an instructor for a particular subject in gifted education institutions. Artists, scientists, and other experts can teach as part-time instructors in gifted institutions. This type of teacher can be hired by gifted schools, gifted classes, and gifted centers. Article 12 of the GTEPA stipulates that regulations related to faculty such as employment standards for recruiting teachers, payment, benefits, working conditions, and placement criteria be defined by the GTEPED.

## Conclusion

In this paper, the legal system of gifted education in Korea is presented. As mentioned earlier, there are two kinds of legal systems for gifted education – The GTEPA legislated by the National Assembly and the GTEPED legislated by the Ministry of Education as a presidential decree. The enactment of these two laws contributed to the development of gifted education with no comparison or precedent in the history of education in Korea. Implications and issues are discussed below in terms of the law.

First, prior to the enactment of GTEPA, GTEPED students past the 4<sup>th</sup> grade in elementary school were allowed to enter gifted institutions such as gifted classes and gifted centers. In this context, Cho et al. (2000) opposed age and grade restrictions related to when a student could enter gifted education. Currently, GTEPED regulates the level of the gifted school as being equal to or lower than that of high schools. With regard to this matter, some argue that gifted schools should be limited to middle or elementary schools (Lee, 2004). However, this argument has to be carefully considered because of potential negative side effects such as overheated competition or inefficiency of education for young children. This implies that the law of gifted education in Korea has to sustain proper balance between earlier development of giftedness and prevention of negative side effects from heated educational competitions among parents and children.

Second, in regard to the curriculum, GTEPA does not specify when gifted education should or can be provided. However, administrative order does not permit gifted programs to be provided during regular school hours (Min et al., 2010). This means that aside from gifted schools, other gifted education institutions are permitted to provide gifted education as a supplementary program, not as a regular curriculum. This contradicts Article 11 of the GTEPA which regulates ‘recognition of completion and commissioned education.’ Considering this, the regulation and administrative order have to be settled to explore how to negotiate the conflicts between the legal regulations and practices in gifted programs.

Third, on the aspect of governance, the GTEPA and GTEPED regulate the accountability of a nation, but do not articulate the role of involved ministries specifically for handling gifted education and do not mandate control towers with which to coordinate matters of gifted education (Min et al., 2010). For instance, even though the Ministry of Education coordinates matters of gifted education, the authority of coordinating is problematic in terms of the law. As a result, it lacks flexible adjustment between related ministries when gifted education policies are carried out. Also, the responsibility of state and local government in terms of securing funds for gifted education is not specified in the law. Therefore, the system of governance at the level of central administration has to be clarified in the law.

Lastly, because the current law was established with the purpose of promoting gifted education, there is a lack of regulating accountability in terms of legality. In this matter, Lee, Kang, and Lee (2012) suggested that the GTEPA be revised into the Gifted and Talented Education

Act (GTEA). They pointed to the GTEPA as the proper tool to spur development in quantity at the initial stage. However, a decade since its inauguration, gifted education has to move on to the stage of quality and accountability.

These issues above do not mean the law has critical weaknesses or flaws. Rather, current laws need to be supplemented for a changing reality. Furthermore, these concerns imply that the promotion of gifted education based on policy and administration is not the only way to settle all matters of gifted education these days. After all, in order for gifted education in Korea to advance to a righteous and stable phase, not only the policy and administration but also the legal system has to improve in accordance with changes and needs of the societal environment and educational context.

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