

## **Instruction**

### **INDEPENDENT EDUCATION EVALUATIONS**

**AR 6164.412**

#### **ENTIRE ADMINISTRATIVE REGULATION – PUSD EXCLUSIVE**

### **Definitions**

Independent education evaluation means an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502 (a)(3)(i))

Public expense means that the district pays for the full cost of the evaluation or evaluation components or ensures that the evaluation components are otherwise provided at no cost to the parent. (34 CFR 300.502 (a)(3)(ii))

### **Independent Educational Evaluations**

The Governing Board affirms this policy which sets forth the circumstances and steps under which parents/guardians of a student with a disability may obtain an Independent Educational Evaluation (IEE) at public expense. The policy is intended to provide guidelines for parents/guardians and professionals.

### **Parameters for Seeking an Independent Educational Evaluation**

If a parent/guardian disagrees with an evaluation conducted by the district, and seeks an Independent Educational Evaluation (IEE), the district will either initiate a due process hearing to show that the District's evaluation is appropriate, or provide the parent/guardian an opportunity to obtain an IEE in accordance with this policy by arranging for the Independent Educational Evaluation.

The district requires that the parent/guardian first notify the district in writing or communicate to the district at an IEP meeting that the parent/guardian:

1. Disagrees with the district's evaluation; and
2. Requests an Independent Educational Evaluation at public expense.

### **Explanation of Disagreement**

If the parent/guardian disagrees with an evaluation conducted by the District, the parent may request an IEE at the District's expense. Although there is no requirement for a parent to provide a specific reason for the request of an IEE, the District may ask for a reason why the parent/guardian objects to the

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District's evaluation. The District may not reasonably delay completion of a new assessment or conduct an IEE at District expense, or the District will initiate a due process hearing to defend its evaluation. (34 CFR 300.502(b)(4))

#### **The District's Response to a Request for an Independent Evaluation**

Upon receipt of the parent/guardian request for an IEE, the district will provide to the parent/guardian, without unnecessary delay, a copy of this policy, procedures and criteria for independent educational evaluation (34 CFR 300.502(a)(2)) and offer a choice of an alternative district evaluator and options for providing an IEE at public expense.

Alternative evaluators may include:

1. A different district staff member qualified to conduct the evaluation;
2. A staff member from another SELPA qualified to conduct the evaluation;
3. A private sector provider previously determined by the district to be qualified to provide IEEs.

Once the parent chooses an option, the district will arrange for the alternative evaluator, contract with the independent examiner or otherwise ensure that an IEE is provided at public expense. (34 CFR 300.502(b)(2)(ii)).

If the district initiates a Due Process Hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to an IEE but not at public expense. (34 CFR 300.502(b)(3))

#### **Timeline Regarding Independent Educational Evaluation**

The district encourages parents/guardians select, in the interest of consistency between public and private evaluations, one of the district's options for assessment within 15 days of receipt of those options.

After the parent/guardian of the student with a disability chooses an option for an additional evaluation and signs an Assessment Plan, the district will arrange for or initiate a contract with, the examiner within 15 days of the date that the parent(s)/guardian(s) written consent to the evaluation is received by the district.

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In the event that the option agreed upon is that the district will contract with a qualified independent examiner, the examiner will provide a written report for an IEP meeting within 60 days of the date of contracting for the evaluation. If the selected examiner cannot meet the timeline, the district will inform the parent/guardian and request either an extension or the selection of another option.

### **Consideration of the Independent Educational Evaluation**

Independent educational evaluations are designed to determine the educational needs of disabled students. The district is responsible for determining placements and services. Therefore, the district will consider recommendations obtained in independent educational evaluations completed in accordance with this policy and its implementing procedures and criteria. However, independent educational evaluations will not control the district's determinations and may not be considered if not completed by a qualified professional, as determined by the district.

### **Parent Initiated Evaluations**

If the parent/guardian obtains an independent educational evaluation at private expense, the results of the evaluation:

1. Must be considered, if it meets the district's criteria, in any decision made with respect to the provisions of a Free Appropriate Public Education (FAPE) to the student and;
2. May be presented as evidence at a due process hearing regarding that student.

### **Evaluations Ordered by Hearing Officers**

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at the district's expense.

### **The District's Criteria**

1. If an independent educational evaluation is at the district's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications for the

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examiner, costs limits, and use of approved instruments must be the same as the criteria that Pasadena Unified School District uses when it initiates an evaluation (34 CFR 7 300.502(E)(1)).

2. As part of an IEE, the examiner shall follow district evaluation guidelines, which include, but are not limited to, observing the student in an appropriate setting, classroom visitations and interviews with parents and staff (Education Code 56327). The independent examiner shall attend the IEP team meeting by phone or in person at which time the evaluation will be discussed. The district will pay the independent examiner to attend as a part of the evaluation responsibilities.
3. Except for the criteria described in the district policy and procedures and criteria, the district imposes no other conditions related to obtaining an independent educational evaluation at the district's expense.

The independent examiner must be competent to perform the assessment as determined by the school district, county office, or Special Education Local Plan Area (SELPA) (Education Code 56322).

Assessments or evaluations shall be conducted under the requirements of Education Code 56320.

#### **Circumstances Resulting in Evaluations Not Funded by the District**

Because the parent/guardian must first disagree with the district's evaluation in writing or verbally inform the representative of the district at an IEP team meeting, the district does not have an obligation to reimburse parents/guardians for privately obtained evaluations obtained prior to the date that the district's evaluation is completed and discussed at an IEP team meeting. The district is not obligated to reimburse parents/guardians for privately obtained evaluations if the parent/guardian disagrees with the district's evaluation and independently seeks a private evaluation without first notifying the district of their disagreement with the district's assessment and requesting an independent educational evaluation from the district except as provided below.

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#### **Circumstances Resulting in Privately Obtained Evaluations Reimbursed by the District**

The district may reimburse parents/guardians for a privately obtained independent educational evaluation even though the policy above was not followed in any one of the following three circumstances:

1. All the following conditions have been met:
  - a. The parent/guardian disagreed with the district's evaluation;
  - b. The parentally obtained evaluation meets the district's criteria;
  - c. The parent/guardian will in a timely manner provide to the district, upon the district's request, written consent to exchange information with the examiner;
  - d. The parent/guardian will in a timely manner provide a copy of the written evaluation report and all other documentation related to the report;
  - e. The examiner attends the relevant IEP team meeting by phone or in person to discuss his/her findings and provide protocols of all assessments to the district.
2. The district's assessment has not been provided in compliance with the law.
3. The privately obtained evaluation assessed the student in an area of suspected disability which was not previously assessed by the district.

Reimbursement will be in accordance with the district policy, procedures and criteria and in an amount no greater than the actual cost to the parents/guardians. In all cases, if the district initiates a due process hearing to show that the district's evaluation is appropriate, no reimbursement shall be made unless ordered by a Hearing Officer.

*Legal Reference:*

EDUCATION CODE

*56000 - Education for individuals with exceptional needs*

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*56020-56035 - Definitions*

*56170-56177 - Children in private schools*

*56195.8 - Adoption of policies for programs and services*

*56300-56385 - Identification and referral, assessment*

*56500-56509 - Procedural safeguards, including due process rights*

*56600-56606 - Evaluation, audits and information*

UNITED STATES CODE, TITLE 20

*1232g - Family Educational Rights and Privacy Act*

*1400-1482 - Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

*794 Section 504 of the Rehabilitation Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

*300.1-300.818 - Assistance to states for the education of students with disabilities, especially:*

*300.130-300.140 - Children with disabilities enrolled by their parents in private schools*

COURT DECISIONS

*Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997*

#### *Management Resources:*

UNITED STATES DEPARTMENT OF EDUCATION PUBLICATIONS

*Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools, March 2006*

FEDERAL REGISTER

*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*

WEB SITES

*California Department of Education, Special*

*Education: <http://www.cde.ca.gov/sp/se>*

*U.S. Department of Education, Office of Special Education*

*Programs: <http://www.ed.gov/about/offices/list/osers/osep>*

## **Regulation**

**Approved:** April 9, 2020

## **PASADENA UNIFIED SCHOOL DISTRICT**

Pasadena, California