

Policy and Procedures Independent Educational Evaluations

**Adopted by OSC January 23, 2004
Revised, OSC, January 18, 2006
Revised, OSC, October 28, 2009
Revised, OSC, March 6, 2019
Revised, OSC, May 6, 2020
Revised, OSC October 6, 2021**

Policy and Procedures

Independent Educational Evaluations

This policy sets forth the procedures under which students with disabilities are entitled to an IEE at public expense.

Definitions

Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the School District of Special Education Accountability (DSEA).

Public expense means that the School District pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Policy and Procedures

Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the local educational agency.

Parents must indicate in writing to the district or inform the district at an IEP meeting that they:

1. Disagree with the district's evaluation, and
2. They are requesting an IEE at public expense.

The District may ask for the parent's reason(s) for disagreeing with the school district's evaluation, but the parent is not required to provide those reasons. The District may offer to conduct another evaluation of its own with parent consent. If the parent does not agree to another District evaluation, the District must respond to the parent's request by ensuring an IEE is provided at public expense in a timely manner or initiate a due process hearing in accordance with this policy. The district may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation.

Parents may only request one publicly funded independent evaluation for each evaluation completed by the District. The parents must request the IEE within two calendar years of the date that the results of the District's evaluation were shared with the parents.

Once the parent communicates his/her disagreement with the District's evaluation and requests an IEE at public expense in writing or at an IEP meeting, the following procedures will be followed:

1. The District's administrator responsible for special education will be notified.
2. The District will provide to the parents a copy of the Marin SELPA policy and procedures including criteria for IEEs, the option for an alternative District examiner (Option A below), and options for an IEE at public expense (Options B, C, and D below) as follows:
 - A. A district staff member from another school
 - B. A staff member from another LEA in the SELPA
 - C. A staff member from another SELPA

D. A private sector provider.

3. The parents will communicate to the District, in writing, their preferred option.
4. The district will determine whether the District will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an independent educational evaluation.

The above procedure must be completed in a timely manner. Without unnecessary delay, the district must decide whether to initiate a due process hearing to show that the District's evaluation is appropriate, or must ensure that an IEE is provided at public expense.

If the District agrees to provide an IEE:

- Parents will be sent an assessment plan for their review and consent.
- Upon receipt of the signed written consent to assess, the District will arrange for the completion of the IEE.
- Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the District.

If the District determines that it will initiate a due process hearing to establish the appropriateness of its evaluation, the District will notify the parent of such decision in writing prior to filing a due process hearing complaint. This written notice shall include all of the elements of prior written notice as required by section 300.503(b) of Title 34 of the Code of Federal Regulations.

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

1. Must be considered by the District, if it meets District criteria, in any decision made with respect to the provision of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding that student.

If the District initiates a hearing and the final decision is that the District's evaluation is appropriate, the parents still have the right to an IEE, but not at public expense.

District Criteria

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the examiner, and cost containment criteria, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the District uses when it initiates an evaluation.

If the District observed the student in conducting the evaluation with which the parents disagree or if its assessment procedures allow in-class observations, the independent examiner will be provided with an equivalent opportunity to observe the student in the current educational setting, and to observe the District's proposed setting, if any. This opportunity shall also be provided if the parents obtain an evaluation at private expense.

The District shall define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, district personnel who will participate in the observation and restrictions on student/teacher interactions.

All independent educational evaluators must utilize testing and assessment materials and procedures which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the student's primary language or other mode of communication, unless there are stated reasons why this provision and administration are not clearly feasible. All assessment instruments utilized must have been validated for the specific purpose for which they are used, and be administered by trained personnel in conformity with the instructional provided by the publisher. All written reports must meet the requirements of the IDEA and California Ed. Code Section 56327.

Geographic Limitations for Evaluators

Evaluators will be located within the greater Bay Area including Marin, Sonoma, Napa, San Francisco, Contra Costa, Alameda, San Mateo, and Santa Clara Counties. Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using personnel outside the specified area. Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation.

Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3))

Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications (Ed. Code 56320 (b)(3))

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist
Adaptive Behavior	School Psychologist Licensed Educational Psychologist
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Auditory Perception (Central Auditory Processing)	Licensed or Credentialed Speech/Language Pathologist School Psychologist Licensed Educational Psychologist
Behavioral	School Psychologist Licensed Educational Psychologist
Cognitive	School Psychologist Licensed Educational Psychologist
Health (including neurological)	Licensed Physician Nurse
Motor	Licensed Physical Therapist Registered Occupational Therapist Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	School Psychologist Licensed Educational Psychologist
Visual Acuity/Developmental Vision	Licensed Ophthalmologist Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher School Psychologist
Transition	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist

Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

Guidelines for all IEE costs are calculated by considering time required for the assessment and the appropriate District employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria. A school district will not necessarily fund the attendance of the assessor at the IEP team meeting convened to consider the IEE.

When insurance will cover all or partial costs of the IEE, the District will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

- A. A decrease in available lifetime coverage or any other benefit under an insurance policy;
- B. An increase in premiums or the discontinuance of the policy; or
- C. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the District reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

- Provide protocols of all the assessments, and
- Provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their assessment information and results to the school district prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals With Disabilities Education Act.

EDUCATION CODE

56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements

56506(c) Due process rights of pupil and parent

CALIFORNIA CODE OF REGULATIONS, TITLE 5

3022 Assessment Plan.

UNITED STATES CODE, TITLE 20

1415(b)(1)

CODE OF FEDERAL REGULATIONS, TITLE 34

300.502 Independent Educational Evaluation