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INDEPENDENT EDUCATIONAL EVALUATIONS POLICIES AND PROCEDURES SP:L-3

POLICY OVERVIEW

This policy sets forth the procedures under which students with disabilities are entitled to an Independent Educational Evaluation (IEE) at public expense if they disagree with a special education evaluation completed by District subject to specific limitations. These costs do not include travel or lodging to conduct such assessments.

The Antelope Valley Special Education Local Plan Area (“SELPA”) has developed this policy, along with corresponding procedures and criteria that govern IEEs. (20 USC 1415; E.C. 56506[c] and 56329[b]; 34 CFR 300.502) For purposes of this policy, the term “SELPA” also includes the appropriate school district responsible for your child’s education. Parents¹ should be sure to read the entire document carefully. The policy, procedures, and criteria are to be read in conjunction with one another as one comprehensive document. Parents who need additional information about IEEs should contact their district Special Education Administrator, the Antelope Valley SELPA, or the California Department of Education as outlined in the Notice of Procedural Safeguards.

DEFINITIONS:

1. *Local educational agency (LEA)* means the school district or county education office that is responsible for providing educational services to a child with a disability.
2. *Independent Educational Evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the Local Educational Agency (LEA or District).
3. *Qualified Examiner* is an evaluator who is competent to perform the evaluations through criteria established by the LEA in accordance with Education Code, Section 56322.
4. *Public Expense* means the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
5. *Parent Initiated Evaluation* is an educational evaluation obtained by the parent at private expense.

PARENT REQUESTS FOR INDEPENDENT EDUCATIONAL EVALUATIONS

Parents who have a child with a disability have the right to an IEE at public expense if they disagree with an evaluation completed by the LEA. Parents may only request one IEE in response to each evaluation completed by the LEA. Parent must make a request for an IEE within two years

¹ The phrase “parent” in this document is intended to be inclusive of a parent, guardian, or other educational rights holder.

of the date of presentation of the evaluation with which they disagree, consistent with the statute of limitations.

If the parent requests an IEE at public expense, the parent will be asked the reason why they object to the evaluation conducted by the LEA. The LEA may not, however, require the parents to explain their reasons and may not unreasonably delay either providing an IEE at public expense or initiating a due process hearing to defend its evaluation because a parent does not provide such reason. If the LEA initiates a hearing and the final decision is that the evaluation conducted by the LEA was appropriate, the parent/guardian still has the right to an IEE, but not at public expense.

COST LIMITATIONS FOR IEE REQUESTS

Parents must indicate in writing to the LEA or inform the LEA at an Individualized Education Program (“IEP”) team meeting that they disagree with an evaluation conducted by the LEA and that they are requesting an IEE at public expense. The parent must be clear what area of evaluation it is that they are seeking an IEE. If the District evaluation is being discussed at the IEP team meeting, the parent should provide their disagreement after the evaluation has been presented and discussed in its entirety. If the parent makes an oral request for an IEE, LEA staff shall offer to assist the parent in putting the request in writing and shall assist the parent if the parent so requests.

Once the parent communicates their disagreement with the evaluation(s) completed by the LEA and requests an IEE at public expense, the following procedures will be followed:

1. The parent will receive a copy of this IEE policy, which includes the agency criteria for IEE.
2. The LEA will determine whether to initiate due process to establish the appropriateness of its evaluation or to proceed with providing an IEE at public expenses.
3. If the LEA agrees to fund the IEE, the parent will be provided with a list of potential evaluators and how these evaluators may be contacted. The list is not intended to be exhaustive and is not intended to limit a parent’s options in obtaining an IEE from other qualified professionals who meet the agency criteria outlined in this policy.
4. In the event that a parent requests to utilize an evaluator who does not meet agency criteria, the LEA shall provide the parent the opportunity to demonstrate that there are unique circumstances to justify the selection of such an evaluator. The LEA will then make a determination if the use of the requested evaluator that does not meet agency criteria is warranted and respond to the parent with a prior written notice outlining such decision.
5. Upon agreement of assessor, the LEA will provide procedures and next steps for the parent to obtain the IEE.
6. Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the District.
7. Upon receipt of the signed consent to assess and the exchange of information, the

District will arrange for the completion of the IEE by providing records and information to the evaluator.

8. The IEE assessor will be encouraged to complete the assessment within 60 days.
9. IEE assessors will be requested to write reports focusing on the present levels of performance of the child, any identify unique needs, make eligibility determinations (if applicable) and if appropriate the types of special education programs and services recorded to address the child's needs. IEEs should not recommend specific levels of service, or identifying specific providers of special education programs and services as this is the function of the IEP team and is necessary to avoid any possible "conflict of interest" situations. Evaluators must be knowledgeable of and agree to comply with all provisions of the Individuals with Disabilities Act ("IDEA") and California Education Codes governing special education, to include the criteria required to make recommendations for eligibility.

It is the policy of the SELPA that IEEs be focused on student needs and avoid any possible conflict of interest. IEE assessors should avoid making recommendations for their own services in order to prevent concerns with a conflict of interest. If the IEP team determines the recommended services/programming is required for a FAPE based on an identified need, the LEA shall provide the services through a qualified provider other than the IEE assessor to avoid the conflict of interest. It is further acknowledged that a student may have a need for which no other qualified provider may be available. Under this circumstance, the District Special Education Director or designee of the SELPA may authorize an exception to this provision, certifying that no other qualified provider can be identified. Nothing in the implementation of this provision shall impede a parents'/guardian's right to an IEE.

If the parent obtains an IEE at private expense, the results of the evaluation must be considered by the LEA in making educational decisions as required by IDEA. The evaluation may also be presented as evidence at a due process hearing regarding the child.

PARENT INITIATED EVALUATIONS

If the Parent elects to obtain a unilateral Parent-initiated IEE and then later seeks reimbursement, the following procedure must occur:

1. District conducted its own evaluation of student;
2. Parent disagrees with the evaluation;
3. Parent notifies District in writing of its disagreement with District evaluation;
4. Parent notifies District in writing that Parent will be unilaterally obtaining an IEE for which reimbursement will be sought;
5. Parent obtains an IEE by an otherwise qualified evaluator and then Parent provides District with the IEE report within a reasonable amount of time following the disagreement with the District evaluation; and
6. Parent provides a request for reimbursement of the parent-obtained IEE within a reasonable amount

of time following the receipt of the parent-initiated IEE report.

The District will deny a request for reimbursement for a unilateral Parent-initiated IEE if:

1. The procedures listed above were not followed;
2. The IEE was in areas other than or in addition to the areas of evaluation by the District;
3. The Parent did not provide prior notice of disagreement with the District evaluation;
4. The request is for an IEE in more than one area;
5. The examiner and/or the evaluation does not meet the minimum qualification and criteria defined by District, and no exceptional circumstances are proven to waive those criteria;
6. The IEE does not meet the minimum state and federal criteria for educational identification of the specific disability discussed in the IEE; or
7. The District does not receive a request for reimbursement in writing within a reasonable time after receipt of the results of the evaluation or the cost is not within the reasonable cost limits outlined by the District without exceptional circumstances being proven to waive such cost limitations.

Parent-obtained IEEs may not be considered if not completed by a Qualified Examiner, as determined by the District criteria and no exceptional circumstances exist to waive those criteria.

TIMELINE REGARDING COMPLETION OF INDEPENDENT EDUCATIONAL EVALUATIONS

The LEA will act promptly in responding to parent requests. Once contacted by the LEA, in the interest of consistency between evaluations completed by the LEA and the privately completed IEE, parents are encouraged to return signed releases of information and other documents (e.g., provide names of assessors, etc.), *promptly* and preferably within 15 calendar days of receiving documents or information from the LEA. If the parent has not identified an assessor within 60 days of notification of an IEE being granted by the LEA/District, the District will assume the parent is no longer interested in obtaining an IEE at public expense. The parent may contact the District at any time to initiate the request again.

The District and parent will encourage the private assessor to complete the assessment within 60 days.

INDEPENDENT EVALUATIONS NOT FUNDED BY THE LEA

The LEA does not have an obligation to reimburse parents for privately obtained evaluations completed prior to the date that the LEA's evaluation is completed and discussed at an IEP team meeting.

CONSIDERATION OF INDEPENDENT EDUCATIONAL EVALUATIONS

IEE are designed to assist in determining the educational needs of students with disabilities. The LEA is responsible for offering appropriate placements and services. Therefore, the LEA will consider recommendations contained in IEE completed in accordance with this policy and implementing procedures and criteria. IEE, however, will not control the LEA's determinations regarding eligibility for special education, appropriate goals, objectives and/or placement recommendations and may not be considered if not completed by a qualified professional.

REIMBURSEMENT FOR COMPLETED INDEPENDENT EDUCATIONAL EVALUATIONS

If parents request reimbursement for a completed IEE, the evaluation must meet the agency criteria included in this policy. It is the responsibility of the special education administrator of the LEA to determine whether the completed IEE meets the agency criteria. Once the LEA receives a request for reimbursement, the special education administrator shall respond to the parent in a timely manner. The parents will be reimbursed for the costs of the previously obtained IEE if it meets the agency criteria as determined by the special education administrator for the LEA and the LEA does not elect to request a due process hearing.

Reimbursement for IEE assessments shall be limited to the cost limitations set forth in this policy.

If the LEA files for a due process hearing, the parents will not be reimbursed for the cost of the evaluation unless the LEA is ordered to reimburse the parents pursuant to a due process hearing decision.

AGENCY CRITERIA

The criteria, under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the examiner, cost limits, and use of approved evaluation instruments, must be consistent with the criteria set forth in this policy. In the event that the parent believes that due to the unique needs of their particular child it is necessary to select an assessor who does not meet agency criteria, Parent will be given an opportunity to explain factors, which make such a selection necessary.

Independent evaluators must agree to release their assessment information, testing protocols, report, and results to the LEA prior to receipt of payment for services. The results of the IEE will be discussed and considered during an IEP team meeting with required participants as outlined in the IDEA.

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

The LEA 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. These parameters may include, but are not limited to, identifying the time constraints of such observation, district personnel who will participate in the observation and restrictions on student/teacher interactions.

LOCATION LIMITATIONS FOR EVALUATORS IEE

Evaluators must be located within fifty miles of the school of attendance. Evaluators outside of this area will be approved only on an exceptional basis by the LEA/district if the parents can demonstrate there is a unique need for a specialized evaluation and that there are no qualified evaluators within the specified area who can appropriately assess their child's educational needs.

COST LIMITATIONS FOR EVALUATIONS

The cost of an IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or market value in the area for contractors to perform a similar assessment. Costs include: observations, record review, administration and scoring of test measures, report writing, and attendance in person or virtually 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.

INSURANCE

The IEE assessor must, at their sole cost and expense, maintain insurance coverage from a California licensed, authorized, and/or admitted insurance provider for areas such as professional liability insurance, general liability insurance, sexual abuse and molestation insurance, and workers compensatory insurance for the contracting period with the school district and consistent with the criteria the school district requires when it initiates outside provider assessments and services. The criteria in this section shall be abided by only to the extent it is consistent with the parent's right to an IEE.

When insurance will cover all or partial costs of the IEE, the LEA 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 IEE costs if such action would result in a financial cost to the parents including, but not limited to the following:

1. A decrease in the available lifetime coverage or any other benefit under an insurance policy;
2. An increase in premiums or the discontinuance of the policy; or
3. 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 LEA reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

1. Attend relevant IEP team meetings by phone or in person to discuss their findings,
2. Provide protocols of the assessments, and
3. Provide a written report prior to the IEP team meeting.

The written report must meet the requirements of the IDEA and California Education Code Section 56327.

Minimum Qualifications for Evaluators

Evaluators must meet qualifications specified in Education Code and must meet the minimum requirements of the LEA or they will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications. (E.C. 56320(b)(3); E.C. 56329)

Qualifications for Independent Assessments

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Adaptive Behavior	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist (LEP) Board Certified Behavior Analyst (BCBA)
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Certified Assistive Technology Specialist Credentialed Special Education Teacher Registered Occupational Therapist Licensed or Certificated Audiologist
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech and Language Pathologist
Auditory Perception	Credentialed School Psychologist Licensed Educational Psychologist Licensed or Credentialed SLP
Central Auditory Processing Disorder (CAPD)	Licensed or Certificated Audiologist
Behavioral/Functional Behavior Assessment (FBA)	Licensed Educational Psychologist Credentialed School Psychologist Board Certified Behavior Analyst Credentialed Special Education Teacher Board Certified Behavior Analyst
Cognitive Functioning	Licensed Educational Psychologist Credentialed School Psychologist Licensed Psychologist
Health	School Nurse Licensed Physician

Motor Skills (fine)	Licensed Educational Psychologist Registered Occupational Therapist
Motor Skills (gross)	Credentialed Adapted Physical Education Teacher Registered Occupational Therapist Licensed Physical Therapist
Neuropsychological Assessment	Licensed Psychologist Licensed Educational Psychologist
Post-Secondary Transition	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Psycho-Educational	Credentialed School Psychologist Licensed Educational Psychologist
Social/Emotional/ERICS	Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Social Worker with a PPS Licensed Marriage and Family Therapist with a PPS
Speech and Language	Credentialed or Licensed Speech and Language Pathologist
Vision (acuity and perception)	Board Certification in Optometry
Visual Perception	Credentialed Teacher of the Visually Impaired Credentialed School Nurse Vision Specialist
Visual Processing	Credentialed School Psychologist Registered Occupational Therapist Licensed Educational Psychologist Credentialed Teacher of the Visually Impaired
Vocational/Career	Credentialed School Counselor/Psychologist Credentialed Special Education Teacher

The SELPA will maintain a courtesy list of potential IEE evaluators who meet the agency's criteria and are within the reasonable cost limitations; however, the Antelope Valley SELPA or its member LEAs/districts do not endorse the evaluators listed and are not responsible for any liability that may arise from use of any evaluator listed. It is recommended that parents request a copy of potential evaluators' resume or curriculum vitae, ask for references, and request a written proposal that includes the itemized costs for the evaluation including writing the report and attending the IEP team meeting, prior to making a final selection. It is recommended that parent contact the LEA/district prior to making the final selection of an IEE evaluator to ensure that the evaluator meets the agency's licensures/credentialing criteria.

(E.C. 56320(b)(3); E.C. 56320(b)(3); E.C. 56329) (CALIFORNIA CODE OF REGULATIONS 3022) (GOVERNMENT CODE 7572)