

INDEPENDENT EDUCATIONAL EVALUATION

EHBAD
(REGULATION)

INDEPENDENT
EDUCATIONAL
EVALUATION (IEE)
AT PRIVATE
EXPENSE (PARENT
INITIATED
EVALUATIONS)

If a parent obtains an independent educational evaluation (IEE) at private expense, the District must consider the results of the evaluation, if it meets District criteria. An IEE that meets District criteria must be considered in any decision made with respect to the provision of a free appropriate public education (FAPE) to the child. Consideration of an IEE that meets District criteria does not make the District liable for reimbursement of the IEE.

INDEPENDENT
EDUCATIONAL
EVALUATION (IEE)
AT PUBLIC
EXPENSE

A parent of a child with a disability has the right to an independent educational evaluation (IEE) at public expense if the parent disagrees with all or part of an evaluation obtained by the District. An IEE is defined as an evaluation conducted by a qualified examiner who is not employed by the District. The District may pay for such an IEE if it meets District criteria. However, the District may, at its option, initiate a due process hearing to show that its evaluation is appropriate. If a parent requests an IEE at public expense, the District, without unnecessary delay, must either (1) initiate a due process hearing to demonstrate that its evaluation is appropriate, or (2) ensure that an IEE is provided at public expense, unless the District demonstrates in a hearing that the evaluation obtained by the parent did not meet District criteria. The District may ask for the parent's reason for objection to the District's evaluation. However, the District may not require an explanation by the parent, and may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the District's evaluation. If the District initiates a hearing, and the final decision is that the District's evaluation is appropriate, the parent still has a right to an IEE, but not at public expense.

DISTRICT CRITERIA
FOR AN INDEPEN-
DENT EDUCATION-
AL EVALUATION
(IEE)

- A. General
1. Only one IEE may be reimbursed for each evaluation obtained by the District. This would include the three-year reevaluation or reevaluations conducted more frequently.
 2. If the District has not conducted an evaluation, the parent does not have a right to an IEE at public expense. If the District refuses to conduct an evaluation, the parent may use the dispute resolution options available under the procedural safeguards including mediation, filing a due process hearing or filing a state complaint. See *OSEP Letter to Zirkel* (December 11, 2008).
 3. The right of a parent to obtain an IEE is triggered if the parent disagrees with a District initiated evaluation. Therefore, if a parent refuses to consent to a proposed

District evaluation, then an IEE at public expense would not be available since there would be no District evaluation with which the parent can disagree. If the parent believes the proposed public evaluation is inappropriate, the parent may pursue an appropriate publicly-funded evaluation via the mediation or due process procedures.

4. Information on where and how an IEE at public expense may be obtained will be provided to the parent of a child with a disability upon request for an IEE, including a list of providers.
5. If an IEE is at public expense, the criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner must be the same as the criteria that the District uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. The District may not impose conditions or timelines related to obtaining an IEE at public expense other than the criteria used by the District when it initiates an evaluation.
6. An IEE obtained by a parent, either at public or private expense, must meet District criteria to be considered by the District.

B. Evaluator Criteria

The following are the same criteria used to select the School District's evaluator(s):

1. Parents are free to select whomever they choose to perform the IEE so long as the evaluator meets the District's criteria.
2. The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of the District.
3. Evaluators must possess current licensure/certification in the State of Texas to conduct evaluations.
4. The evaluator that collects or reviews evaluation data in connection with the determination of a student's eligibility must meet the qualification requirements of the State of Texas and the Commissioner of Education for the specific eligibility category or categories assessed.

5. The assessment of emotional or behavioral disturbance, for educational purposes, using psychological techniques and procedures is considered the practice of psychology. Therefore, an evaluation that involves a determination of whether or not a student meets or continues to meet, eligibility criteria as a student with emotional disturbance (ED) must include, but is not limited to, a licensed psychologist.
6. Evaluators must meet appropriate professional requirements in the State and be trained to administer the specific tests and other evaluation materials used, in conformance with the instructions provided by the producer.

C. Evaluation Criteria

The following are the same requirements of a School District evaluation:

1. Evaluations must comply with all requirements specified in state and federal law.
2. The evaluation must be completed within a reasonable time after the District approves the IEE, and in accordance with any timelines established by the ARD committee for its completion.
3. The report must address the District's format (which will be provided directly to the evaluator) for evaluation and eligibility. The report must comply with all requirements of state and federal law.
4. The independent evaluator is requested to furnish an original, typed evaluation report to the District in advance of an ARD meeting where the report will be considered by the student's ARD committee.
5. The report must include an original signature, title of all evaluation personnel involved in the evaluation, licensures/certifications of each evaluator, including license/certification numbers.
6. Protocols must be available for review.

D. Cost Criteria

1. The District will pay a fee for an IEE that allows a parent to

choose from among qualified professionals in the area.

2. The District will not pay unreasonably expensive fees. An unreasonably excessive fee is one that is 25% above the prevailing rate in the area for the specific test or type of evaluation being considered.
 3. When service providers have a sliding scale fee based on parent income, the District will pay the amount charged to the parent.
 4. Travel costs for examiners or parents will not exceed District rates for travel as established by State guidelines. The District will not cash advance any travel costs.
- E. Procedures to be Followed by Parents Requesting an IEE at Public Expense and Obtaining Payment/ Reimbursement.
1. Parents obtaining an IEE without following District criteria and these procedures risk non-payment. The following procedures are designed to insure an IEE that meets District criteria and safeguard against non-payment. The District reserves the right to request a due process hearing to demonstrate that the IEE obtained by a parent did not meet District criteria.
 2. The request for an IEE at public expense must be made in writing to the Director of Special Education or at an ARD meeting.
 3. Parents are requested, but not required, to specify the nature of their disagreement with the District's evaluation.
 4. Request the IEE as soon as possible following the District's evaluation in question.
 5. Provide the name and address of the evaluator to enable the District to:
 - a. Check the evaluator's certification/licensure, and
 - b. Contract directly with the evaluator.
 6. If the parent selects an evaluator that is not on the District's list of qualified evaluators, submit the name and vitae of the evaluator to the Director of Special Education in advance of conducting the IEE in order that the District may notify the parent regarding whether the evaluator is

qualified to perform the IEE.

7. Reimbursement/payment will be made directly to the evaluator upon receipt of an IEE that meets District criteria.
8. In the event that a parent pursues an IEE independently, an original billing form must be submitted to the District prior to payment.
9. Before reimbursement or direct payment is authorized, all criteria must be met, including the receipt of a written report by the independent evaluator.
10. If a parent feels that an IEE that falls outside of the District's criteria is justified by the child's unique circumstances, the parent must request, in writing, a waiver of the criteria, including a description of the unique circumstances that justify an IEE that does not fall within the District's criteria. The District will consider any such request.