

# INDEPENDENT EDUCATIONAL EVALUATIONS

## Introduction

The following guidelines will provide special education administration and staff with an overview of the federal and state laws surrounding Independent Educational Evaluations (IEE) and recommended best practices when working with parents and assessors when the LEA/district has received a request for an IEE.

## Definitions

- “Independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the responsible LEA/district.
- An IEE can only be conducted in areas previously evaluated by the local education agency (LEA). Should a parent request that an IEE be conducted in an area not previously assessed by the LEA, the LEA may consider this a request for new assessment and provide the parent/guardian with an assessment plan.
- “Public expense” means that the LEA/district either pays for the full cost of the evaluation or ensures that the evaluation or evaluation components are otherwise provided at no cost to the parent.
- A “parent” is defined as the following:
  - A biological or adoptive parent of a child
  - A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order. (C.F.R. 34, 300.30(b)(1) or (2)).
  - A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child. (Sections 361 and 726 of the Welfare and Institutions Code)
  - An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare
  - A surrogate parent who has been appointed. (Section 7579.5 or 7579.6 of the Government Code, Section 300.519 of Title 34 of the Code of Federal Regulations, and Section 1439(a)(5) of Title 20 of the United States Code)

## When May a Parent/Guardian Request an IEE?

A parent/guardian has the right to obtain an independent educational evaluation (IEE) for their child at their own expense at any time (34 CFR 300.502(a)(1)).

The parent/guardian of a student with a disability has the right to obtain an independent educational evaluation at public expense, subject to the provisions of federal and state law, when the parent disagrees with an assessment obtained by the LEA/district within the last two years (34 CFR 300.502(b)(1) and (d)(2)(A), California Education Code Sec 56329(b), and (OAH Case No. 2012051153)).

A parent/guardian may request one IEE in response to each area of evaluation completed by the LEA/district within the last two years.

## Procedures for Sharing a “Parent-Initiated IEE”

When a parent/guardian obtains an IEE at private expense, the results of the evaluation, if shared with the LEA/district, shall:



- Be considered by the LEA/district, if it meets agency criteria, in any decision made with respect to the provision of a free, appropriate, public education (FAPE) to the student; and
- May be presented as evidence at a due process hearing regarding the child.

### **Responding to a Request for an IEE at Public Expense**

Once a parent/guardian has requested an IEE at public expense, the LEA/district must provide the parent/guardian with a copy of their Procedural Safeguards *and* either:

- Provide the parent/guardian with the IEE Information Packet for Parents (located in the SEIS Document Library) which provides information about where an IEE may be obtained, the agency criteria applicable for IEEs, and expense information (34 CFR 300.502(a)(2)); or
- Prior Written Notice (PWN) indicating that an IEE is not appropriate and initiate a due process hearing to show that LEA/district's evaluation is appropriate.

The LEA/district may request that the parent/guardian explain why s/he objects to the LEA/district's evaluation or specific areas of evaluation. However, the LEA/district may not require the parent/guardian to provide an explanation and may not unreasonably delay providing the IEE at public expense.

### **Providing Prior Written Notice (PWN)**

When the LEA/district is responding to a parents request for an IEE, whether granting or denying the request, the LEA/district shall provide the parent with a Prior Written Notice (PWN) and a copy of their Procedural Safeguards.

### **Obtaining Written Consent to Conduct an IEE**

In circumstances in which the LEA/district is granting the parent's request for an IEE, the LEA/district shall provide the parent/guardian with PWN, their Procedural Safeguards, and the SELPA IEE Parent Information Packet (SEIS Document Library).

### **Agency Criteria for Conducting an IEE**

According to federal regulations, the criteria under which the IEE is obtained at public expense, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the LEA/district uses when it initiates an evaluation (34 CFR 300.502(e)(1)).

The LEA/district may not impose conditions or timelines related to obtaining an IEE at public expense (34 CFR 300.502(e)(2)).

### **Location**

The IEE shall be administered by an evaluator in the same type of educational setting as that used by the LEA/district in providing similar evaluations including, but not limited to, classroom observations (California Education Code Section 56329(c)).

### **Guidelines for Determining Qualifications**

All assessments shall be completed by persons competent to perform the assessment as determined by the LEA/district (California Education Code Section 56322).



The IEE shall be administered by an evaluator who holds equivalent certifications, licenses, or other qualifications that would be required of the LEA/district staff to provide similar evaluations.

Independent evaluators shall have the following minimum credentials issued by the appropriate agency or board with the State of California:

Type of Assessment	Minimum Qualifications
Academic Achievement	Credentialed Special Education Teacher Licensed Educational Psychologist Pupil Personnel Services Credential
Adaptive Behavior	Licensed Educational Psychologist Pupil Personnel Services Credential
Adaptive Physical Education	Credentialed Adapted Physical Education Specialist
Assistive Technology	Certified or Licensed Speech/Language Pathologist Occupational Therapist Certified Assistive Technology Specialist
Auditory Acuity	Licensed Educational Audiologist Clinical or Rehabilitative Services Credential Language, Speech and Hearing and Audiology Credential
Auditory Perception/Auditory Processing	Language, Speech and Hearing and Audiology Credential Clinical or Rehabilitative Services Credential Education Specialist Instruction Credential: Deaf and Hard-of-Hearing Licensed Educational Psychologist Pupil Personnel Services Credential
Functional Behavioral Assessment	Credentialed Special Education Teacher Pupil Personnel Services Credential Licensed Marriage and Family Therapist Licensed Clinical Social Worker Licensed Educational Psychologist Board Certified Behavior Analyst
Cognitive	Licensed Educational Psychologist Pupil Personnel Services Credential
Health	Licensed Physician Registered Nurse School Nurse Services Credential
Motor	Licensed Physical Therapist Registered Occupational Therapist Adaptive Physical Education Specialist
Occupational Therapy	Licensed Occupational Therapist
Orientation and Mobility	Clinical or Rehabilitative Services Credential Education Specialist Instruction Credential: Physical and Health Impairment
Physical Therapy	Licensed Physical Therapist
Social/Emotional	Licensed Educational Psychologist Licensed Clinical Social Worker (LCSW) Licensed Marriage and Family Therapist Pupil Personnel Services Credential



Transition/Vocational	Credentialed Special Education Teacher Adult Education Credential with a Career Development Authorization Pupil Personnel Services Credential
Visual Acuity/ Developmental Vision	Licensed Optometrist Licensed Ophthalmologist Education Specialist Instruction Credential: Visual Impairments
Functional Vision	Education Specialist Instruction Credential: Visual Impairments

A parent/guardian shall have the opportunity to demonstrate that unique circumstances justify a waiver of any of the criteria listed above as defined by the LEA/district.

A parent/guardian may also request a list of suggested IEE evaluators who meet the LEA/district agency criteria, but the parent/guardian is not required to select from the list provided.

**Conflict of Interest**

The LEA/district should ensure there is no conflict of interest between the evaluator and service provider. After completing an IEE, it is not recommended that the independent evaluator or their agency provides the service(s) recommended to the IEP team.

**IEE Cost Determination**

The cost determination for an IEE shall be comparable to the costs incurred by the LEA/district when it uses its own employees or contractors to complete a similar assessment. Such costs shall include:

- Observations;
- Administration and scoring of assessments;
- Report writing; and
- Attendance in person, or by phone, at the IEP meeting in which the IEE is presented.

As a result, the El Dorado County Charter SELPA would recommend that the LEA/district determine a reasonable cost ceiling for each evaluation listed on page 3 and 4 of this section. The SELPA would recommend that the ceiling be determined by averaging the cost of the following three assessors:

- The cost of an assessment provided by a LEA/district employee;
- The cost of an assessment provided by a neighboring LEA/district; and
- The cost of an assessment provided by a private service provider, with appropriate qualifications, within a reasonable distance from the LEA, usually 40 miles.

A parent/guardian shall have the opportunity to demonstrate that unique circumstances justify a financial waiver of any of the cost determination criteria listed above as defined by the LEA/district.

**Payment of IEE Costs**

- IEE Obtained at Public Expense:
  - The LEA/district shall issue payment to the independent evaluator for the cost of conducting the IEE following the LEA/district’s receipt of the following:
  - A written IEE assessment report prepared by the independent evaluator containing



- all necessary assessment and eligibility sections. The report shall be received by the LEA/district and the parent five days prior to the IEP meeting;
  - The original assessment protocols utilized to conduct the IEE shall be provided to the LEA/district; and
  - Detailed invoice(s), including dates of assessment, observation(s), and hourly rates.
- Unilaterally Obtained IEE at Private Expense:
    - A parent/guardian is requested, but is not required, to notify the LEA/district prior to obtaining a unilateral IEE. Regardless, if a parent/guardian obtains an IEE at private expense, the parent's request for payment and/or reimbursement shall be received by the LEA/district within a reasonable time after receipt of the results of the completed IEE.

Once a parent/guardian has requested that a unilaterally obtained IEE be paid for by the LEA/district, the LEA/district must provide the parent/guardian with a copy of their Procedural Safeguards *and* either:

- Initiate a due process hearing to show that the LEA/district's evaluation is appropriate; or
- Provide the parent/guardian with the El Dorado Charter SELPA IEE Information Packet (SEIS Document Library), which provides information about where an IEE may be obtained, the agency criteria applicable for IEEs, and proceed with consideration of the LEA/district's obligation to pay for the independent evaluation.

If the LEA /district proceeds with consideration to pay for the unilaterally obtained IEE, the LEA/district shall:

- Review and consider the parent/guardian's request for payment;
- Ensure the request was made within a reasonable time after receipt of the results of the evaluation; and
- Ensure all criteria discussed in this policy are met and the required documents (assessment report, original assessment protocols and invoice(s)) have been received.

Evaluations Ordered by Hearing Officer:

- If a hearing officer orders an IEE as part of a hearing, the cost of the evaluation must be at the LEA/district expense, unless otherwise specified by the Hearing Officer.

### **Criteria for Accessing Private Insurance**

When private insurance will cover all, or a portion of, the costs of the IEE, the LEA/district may request that the parent/guardian voluntarily have their insurance pay the costs of the IEE covered by their insurance. However, parents will not be asked to have private insurance cover the costs of an IEE if the process would result in a financial cost to the parent/guardian including but not limited to:

- A decrease in available lifetime coverage or any other benefit under an insurance policy;
- An increase in premiums or the discontinuance of the policy; or
- An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim.

### **IEE Assessment Results**

The results of the IEE, whether obtained at public or private expense, will be considered by the IEP team when making a determination regarding the student's eligibility for special education and



related services, educational placement, and other components of the student's educational program as required by federal and California special education laws and regulations.

However, the results of an IEE will not control the IEP team's determinations and may not be considered if not completed by a qualified professional, as determined by the LEA/district.

### **IEE LEA & Independent Evaluator Service Agreement**

The SELPA recommends that the LEA complete a service agreement with the independent evaluator to ensure clarification regarding terms of the agreement. A sample agreement is available in the SEIS Document Library for review and use.

