

## **SECTION 3**

# **Independent Educational Evaluations**

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## **INDEDPENDENT EDUCATIONAL EVALUATIONS OVERVIEW**

Federal law defines an independent educational evaluation (IEE) broadly as “an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.” 34 C.F.R. 300.503.

Parents may obtain an evaluation of their child, if they so choose, for virtually any purpose. If parents further choose to share this information with their child’s IEP team, it becomes an IEE.

Federal regulations require that parents and school personnel act as equal participants in the development of a child’s IEP and that the parents’ participation in the IEP process must be meaningful. In many cases, independent evaluations provide support for the parents’ opinions and requests. If a school district were to refuse to consider an independent evaluation, it would not only deny the equal and meaningful input from parents, but would also prevent important information from being considered by the team that develops the child’s IEP.

Parents are not the only ones to find the IEE results valuable. Sometimes, school districts request IEEs when they lack the personnel or expertise to conduct a particular type of evaluation. In other instances, school districts may seek an IEE to assuage parental concerns about the fairness or accuracy of an evaluation.

Consideration of parentally obtained evaluations by the IEP team is not discretionary, **IT IS MANDATORY.** 34.C.F.R. 300.503(c) states “If the parent obtains an independent educational evaluation at private expense, the results of the evaluation (1) Must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child, if the IEE meets the school district’s established criteria.” This does not mean the school district must agree or accept the findings or recommendations in the IEE. It simply means the school district must “consider” the information and discuss it as appropriate.

Generally, parents are responsible for the costs of an IEE. However, in some circumstances the school district may be financially responsible for the cost. If the school district does not have the personnel or resources to conduct an evaluation that an IEP team has identified is needed, the school district must obtain a private evaluation at its own expense.

If parents and the school district disagree about the need for an IEE, there are certain conditions under which a school district may be obligated to pay for the evaluation.

1. If the parents present results of an evaluation that the school district previously refused to conduct, the school district may be required to reimburse the parents for the cost of the evaluation if it is determined that the evaluation provided information which impacted the child’s education, services, or placement.
2. If the parents disagree with the results of the evaluation the school district has conducted and request an IEE at public expense, the school district must either: (a) obtain the evaluation and pay for it or (b) request a due process hearing. The hearing officer will determine whether an IEE is necessary. 34. C.F.R. 300.503.
3. If the district’s evaluation (which the parent disagreed with) is deemed inappropriate in a due process hearing.

So, a school district cannot simply refuse the parents' request for an IEE. If the school district believes that the district's assessment is appropriate and disagrees that an IEE is necessary, the district **MUST** request a due process hearing to prove that its assessment is appropriate. If the district prevails, parents have the right to have their child evaluated privately, but at their own expense. If the parent prevails, the hearing officer may order an IEE at public expense.

See attached Independent Education Evaluation Policy, Administrative Regulations, and Parent Independent Educational Evaluation Packet for further information.

**A copy of the Parent Independent Educational Evaluation Packet should be provided to the parents upon request for an IEE.**

### **Frequently Asked Questions regarding IEEs**

**Can the parents insist on an IEE (that the district pays for) before the district has done its assessment?**

NO - Parents can request anything, however, the district is not obligated to consider an IEE request prior to conducting their own evaluation. Once the district has presented its evaluation results and the parent disagrees with those results, they can then request an IEE at district expense. At this point, a copy of the IEE policy and AR (attached) should be provided to the parents.

**Do the parents have to say why they disagree with the district evaluation results?**

NO - Parents only have to say that they disagree. They do not have to provide further explanation.

**Does the district HAVE to pay for an IEE just because a parent requests it?**

NO - The district has the option of requesting a due process hearing to prove their evaluation was appropriate. If the district chooses not to file for due process on this issue, then they **MUST** pay for the IEE.

**Can the parents request an IEE in any area or discipline?**

NO - Again, parents can request anything, however the district is only obligated to provide an IEE in the same areas it evaluated and the parent disagreed with. For example, if a parent disagrees with a psychological evaluation, they are entitled to a psychological IEE, not a neuropsychological evaluation. However, the district continues to have the option to refuse to fund an IEE if they file for due process to prove their evaluation was appropriate.

**Can the parents seek reimbursement for multiple IEEs?**

NO – Parents may only be reimbursed for one IEE in each area or discipline with which they disagree.

**Can the parents insist on a particular examiner?**

IT DEPENDS - The law states the independent evaluator must be “mutually agreed upon” by parents and districts. Districts can set specific criteria for independent evaluators through policy to address issues such as distance from home, cost of the evaluation, and specific credentials or licenses held by the evaluator, but it is difficult for a district to refuse to use a specific evaluator if they meet all criteria under board policy. Parents ultimately have the final say on who should conduct an IEE within the parameters of the IEE policy and AR.

## **INDEPENDENT EDUCATIONAL EVALUATIONS**

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### *An Overview*

The San Joaquin County Special Education Local Plan Area (“SELPA”) has developed this policy, corresponding procedures and criteria which govern independent educational evaluations. (20 USC 1415; EC 56506[c] and 56329[b][c]; 34 CFR 300.502) For purposes of this policy, the term “SELPA” also includes the appropriate school district and/or administrative unit responsible for a child’s education. The Policy, Procedures and Criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about independent educational evaluations should contact the SELPA Director of the San Joaquin SELPA, District Director (their district of residence) or contact the California Department of Education as outlined in their Notice of Procedural Safeguards.

### *Definitions*

“Independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the responsible local educational agency (LEA or district).

“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.

“Public expense” means that the LEA either pays for the full cost of the evaluation or evaluation components or ensures that the evaluation or evaluation components are otherwise provided at no cost to the parent.

“Parent Initiated Evaluation” is an educational evaluation obtained by the parent at private expense.

### *Parameters for Seeking Independent Educational Evaluation*

The parent of a child with a disability has the right to obtain an independent educational evaluation of the child if the parent disagrees with an evaluation obtained by the District, subject to the following:

1. If the parent disagrees with an evaluation completed by the District and seeks an IEE at public expense, the District will without unnecessary delay either:
  - a. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
  - b. Ensure that an IEE is provided at public expense in accordance with this policy, unless the District demonstrates in a due process hearing that the evaluation parents obtained did not meet the District’s criteria.
2. If the District requests a due process hearing and the final decision is that the District’s

assessment is appropriate, the parent still has the right to an IEE, but not at public expense.

*Explanation of Disagreement*

If parents request an independent educational evaluation at the expense of the District, the parents will be asked for a reason why they object to LEA's evaluation. The explanation by the parent is not required. In addition, the District may not unreasonably delay completion of a new assessment, completion of the independent educational evaluation at public expense, or the initiation of due process hearing to defend its evaluation. There is no requirement that the parents specify areas of disagreement with the District's evaluation as a prior condition to obtaining the independent educational evaluation. However, the district must be given the opportunity to do its assessment first and parent must disagree with the assessment's findings before parent can request and obtain funding for an IEE. Parent placing restrictions or limits on agency's evaluation process may be seen as refusal to consent. If the parent makes an oral request for an IEE, LEA staff should offer to assist the parent in putting the request in writing and shall assist the parent if the parent so requests.

*San Joaquin SELPA's/District's Response to a Request for an Independent Evaluation*

If parents request an independent educational evaluation at public expense, and the District agrees to provide the assessment; the District will, without unnecessary delay, offer the parent an alternative examiner (option 1 below) and also provide options for an independent educational evaluation at public expense (option 2, 3 or 4 below) as follows:

1. A staff member from another school;
2. A staff member from another LEA in the SELPA;
3. A staff member from another SELPA;
4. A private sector provider.

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.

Once the parent chooses an option, the District will arrange for the alternative evaluator, contract with an independent examiner, or otherwise ensure that an independent educational evaluation is provided at public expense.

The District should provide parent with a prior written notice upon receipt of an IEE request, documenting their response and explanation for their decision to pay the entire cost of the completed IEE. If the LEA determines that the student does not have unique circumstances warranting public payment of the completed IEE the LEA shall inform the parent in writing and without reasonable delay request a due process hearing to demonstrate that the completed IEE does not meet with agency criteria.

If the District disagrees with the request for an independent educational evaluation and initiates a due process hearing where the final decision is that the SELPA's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

*In Class Observations*

“If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.” (Education Code 56329(b))

The District will define the nature and scope of an independent examiner's in-class observations consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This will 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. This opportunity will also be provided if the parents obtain an evaluation at private expense.

The District will make arrangements for a new evaluation, or contract with a qualified independent examiner who is able to provide a written report for an IEP meeting within a reasonable time period after the date of the contract for the independent educational evaluation. If the selected examiner cannot complete the independent educational evaluation report within a reasonable period of time, the District will inform the parent and ask for agreement to an extension of the time or select another option.

As clarified in the Federal Regulations released in October 2006:

- (1) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

*Time Line Regarding Independent Educational Evaluations*

In the interest of consistency between public and private evaluations, the SELPA encourages parents to choose an option for additional assessment offered by the SELPA within 15 days of receiving the options.

After the parent 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 written consent to the evaluation is received by the District.

The District will make arrangement for a new evaluation, or contract with a qualified independent examiner who is able to provide a written report for an IEP meeting within a reasonable amount of time.

*Information Provided to Parents*

Upon parent request for an independent educational evaluation, the SELPA will provide the parents with a copy of the 1) Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense, 2) Information Regarding Qualified Evaluators and Applicable Criteria for Conducting Independent Educational Evaluations, and 3) Independent Educational Evaluations - Qualifications/Cost Criteria.

*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 San Joaquin County's determinations regarding eligibility for special education, appropriate goals, objectives and/or placement recommendations and may not be considered as reimbursable if not completed by a qualified professional, as determined by the SELPA.

*Parent Initiated Evaluations*

If the parents obtain an independent educational evaluation at private expense, the results of the evaluation:

1. may be considered as reimbursable, if it meets the SELPA's criteria, in any decision made with respect to the provisions of FAPE to the student; and
2. may be presented as evidence at a due process hearing regarding that student. 34 CFR§300.502©(1)(2).

The parents will communicate to the School District, preferably in writing, their choice. If the School District agrees to provide an IEE and the parent has chosen an evaluator:

1. The School District will document in writing its agreement with the parent regarding choice of independent educational evaluation evaluator and area(s) to be assessed.
2. Parents will also be required to sign a release and exchange of information between the independent educational evaluation evaluator(s) and the School District. Refusal to sign this document will cause unnecessary delay by the parent.

*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.

*San Joaquin SELPA'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 of the examiner, cost containment criteria, and payment criteria, must be the same as the criteria that San Joaquin County SELPA uses when it initiates an evaluation. The content of the evaluation must meet the criteria set forth in 34 CFR§300.301 through §300.311, and as applicable, 34 CFR §300.502 (c) (1). 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.
2. If the District observed the student in conducting the evaluation with which the parent disagrees 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/or in the District's proposed setting, if applicable.

The District will 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 obligation 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.

Parents will be required to sign consent for the evaluation and appropriate releases to exchange information between the independent educational evaluator and the LEA as a prerequisite to the payment or provision of an IEE.

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 considered in the diagnosis, program decisions, and placement of the child with disabilities as required by the Individuals with Disabilities Education Act.

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 the IEP team meeting as part of the evaluation responsibilities, which also include a classroom visitation and interviews with parents and staff.

3. Except for the criteria described in the SELPA Policy and Procedures and Criteria, the District imposes no other conditions related to obtaining an independent educational evaluation at the District's expense.



*Parameters of Providers*

It is the policy of the SELPA that IEEs be focused on student needs and avoid any possible conflict of interest. Therefore, any private practitioner who provides an IEE shall not be used as a provider for any services required in the resultant IEP. 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 the SELPA Assistant Superintendent, shall certify that no other qualified provider can be identified, and shall authorize any exception to this provision.

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.

*Location Limitations for Evaluators*

Evaluators will be located within a 30-mile radius of the San Joaquin County SELPA boundary. 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 due to a . Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent educational evaluation. Evaluators will be paid the federal business mileage reimbursement rate for required travel if assessor is located outside of San Joaquin County associated with the assessment of the students school of attendance.

*Minimum Qualifications for Evaluators*

All assessments must be conducted by persons qualified to perform the assessment as determined by the District/SELPA (California Education Code Section 56322). All assessments must be conducted in accordance with all requirements of Federal and State law, including but not limited to, observing the student in the appropriate setting (California Education Code Section 56327), and conducting evaluations in accordance with California Education Code Section 56320. Evaluators with credentials other than those listed in Procedures & Criteria will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications.

Additionally, evaluators must meet the criteria for any school employee who works with children, i.e. TB testing and fingerprinting, as well as any other contract requirements enforced by the School District.

*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, as identified above. Costs may include observations, record review, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting; costs will be delineated on independent evaluator's contract with the

School District. Reimbursement will be in an amount no greater than the actual cost to the parent or the maximum cost identified above (whichever is more), and will be subject to proof of payment.

Maximum costs for all independent educational evaluations are calculated by considering time required for the assessment and the appropriate School 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.

If the total cost of the IEE exceeds the maximum allowable costs and the school district believes that there is no justification for the excess cost, the school district cannot in its sole judgement determine that it will pay only the maximum allowable cost and no further. The district must without necessary delay, initiate a hearing to demonstrate that the evaluation obtained by the parent did not meet the agency's cost criteria. If the LEA files for a due process hearing, parent shall not be reimbursed for any cost of the IEE unless the LEA is ordered to do so pursuant to a due process hearing decision.

As part of the contracted evaluation, independent evaluators must:

1. Provide protocols of all the assessments,
2. Provide a written report meeting requirements of EC Section 56327 prior to the IEP team meeting, and
3. Attend IEP meetings by phone or in person to discuss their findings.

Independent evaluators must agree to release their written evaluation and results (as listed above) to the School District prior to receipt of payment for services. The results of the independent educational evaluation 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.

#### *Insurance Coverage*

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 independent evaluation 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 a 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.

#### *Conflict of Interest*

In order to ensure the appropriateness of an independent educational evaluation and its recommendations, the District/SELPA may, in its discretion, not fund an independent educational evaluation by an evaluator

who provides ongoing service(s) or is sought to provide service(s) to the student for whom the independent educational evaluation is requested. Likewise, the District/SELPA may, in its discretion, not fund services through the evaluator whose independent educational evaluation the District/SELPA agrees to fund. Independent evaluators will be requested to write reports focusing on the “unique needs” of the child and if appropriate the types of special education programs and services recommended to address the “unique needs.” Independent education evaluators will be requested not to identify specific providers of special education programs and services as to avoid any possible “conflict of interest” situations. Evaluators must be knowledgeable of and agree to comply with all provisions of the Federal Code of Regulations (IDEA) and California Education Codes governing special education, to include the criteria required to make recommendations for eligibility.

*Circumstances Resulting in Evaluations Not Funded by San Joaquin SELPA*

Because the parent must first disagree with the District’s evaluation in writing, the District does not have an obligation to reimburse parents 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 for privately obtained evaluations if the parent disagrees with the District’s evaluation and independently seeks a private evaluation without first notifying the District in writing, or at an IEP meeting, of their disagreement with the District’s assessment and requesting an independent educational evaluation from the District except as provided below.

*Circumstances Resulting in Privately Obtained Evaluations Reimbursed by San Joaquin SELPA Districts*

The District may reimburse parents for a privately obtained independent educational evaluation provided when the following conditions have been met:

1. The parent disagreed with the District’s evaluation;
2. The parentally obtained evaluation meets the SELPA criteria;
3. The parent timely and upon request provides the District with written consent to exchange information with the examiner;
4. The parent timely provides a copy of the written evaluation report and all other documents\tests related to the report;
5. The examiner attends the relevant IEP team meeting by phone or in person to discuss his or her findings and provides protocols of all assessments to the District.

The reimbursement will be in an amount no greater than the actual cost to the parents.

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 References

20 U.S.C. 1414(a)(1)(A) - Evaluations and re-evaluations  
20 U.S.C. 1415(b)(1) - Right to independent educational evaluations  
34 CFR 300.321 - Re-evaluations  
34 CFR 300.502 - Independent Educational Evaluations  
Comments to 34 CFR 300.502 Independent educational Evaluations  
20 U.S.C. Section 1415(b)(1)  
Education Code section 56327  
34 CFR 300.505 - Parent Consent - Evaluation  
34 CFR 300.530-536 - Procedures for evaluation and Determination of eligibility  
34 CFR 300.537 - Re-evaluations  
Education Code 56329 - Independent educational assessments  
Education Code 56381 - Reassessments

**INDEPENDENT EDUCATIONAL EVALUATIONS – PROCEDURES & CRITERIA**

The following procedures will apply to all requests for independent educational evaluations:

*Request for District Evaluation:*

Parents of students suspected of having a disability requiring special education services, and parents of students receiving special education services may request at any time that a district within San Joaquin County Special Education Local Plan Area, complete an evaluation or reevaluation of their child. The District will respond to such requests by initiating the special education evaluation process, or if an evaluation is not warranted, parents will receive written notice of refusal to evaluate and be informed of the procedural safeguards available to parents and students.

If parent requests an IEE due to disagreement with RtI process, best practice would be for District to offer to conduct its own formal assessment in order to avoid an allegation that District failed to comply with assessment and referral timelines.

All requests for an independent educational evaluation will be processed in accordance with the District/SELPA’s independent educational evaluation Policy, Procedures, and Criteria. At the time of request, the parent will be given a copy of the 1) Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense, 2) Information Regarding Qualified Evaluators and Applicable Criteria for Conducting Independent Educational Evaluations, and 3) Independent Educational Evaluations – Qualifications/Cost Criteria.

*Parent Disagreement*

Parents may only seek an independent educational evaluation at public expense when they are in disagreement with an evaluation completed by the District in accordance with District/SELPA’s Independent Educational Evaluation Policy, Procedures, and Criteria.

*Three-Year Re-Evaluations*

- A. In order to determine the extent of the three year reevaluation, the District will review existing evaluation data, which may include, but not be limited to:
  - a. assessments and information provided by the parents of a child;
  - b. current classroom-based assessments and observations; and
  - c. observations by teachers and related services providers.
  
- B. Based upon a review of existing evaluation data, the District/ may conclude that no additional testing is required in order to determine, among other things:
  - a. whether the child has a particular category of disability or whether the child continues to have such a disability;
  - b. the present levels of performance and educational needs of the child;

- c. whether the child continues to need special education and related services; and/or
  - d. whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.
- C. Parents may request that the District complete an assessment to determine whether the child continues to be a child with a disability or to determine the child's educational needs. The District is not required to conduct the assessment unless requested to do so by the child's parents. If the parents request additional assessment, the District will either complete the requested assessment or initiate a due process complaint to demonstrate why additional assessment is not required. In such a case, District should send a Prior Written Notice explaining the decision.
- D. If parents do not request additional assessment, they may not seek an independent educational evaluation at public expense until the District has had an opportunity to complete an assessment requested by the parents.

*Parent Notification of Intent*

Parents are required to notify the special education department that they are seeking an independent educational evaluation at public expense prior to obtaining an independent educational evaluation if they intend to seek reimbursement for such assessment. However, if parents obtain an independent educational evaluation at their expense and seek reimbursement from the District, the parents will not be reimbursed the cost of the evaluation if the District demonstrates through a due process hearing that the evaluation completed by the District was appropriate or that the parents' evaluation did not meet the District/SELPA criteria. However, any independent evaluation obtained by the parents will be considered in making educational decisions about the child.

*Parent Request for Payment of Completed Independent Educational Evaluation*

When parents are requesting reimbursement for an independent educational evaluation that has already been completed, the administrator of special education programs must be notified. Parents will be provided a copy of the Parent Packet which includes: 1) Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense, 2) Information Regarding Qualified Evaluators and Applicable Criteria for Conducting Independent Educational Evaluations, and 3) Independent Educational Evaluations - Qualifications/Cost Criteria. A determination will be made as to whether the District will initiate a due process hearing to establish the appropriateness of its evaluation or proceed with consideration of the District's obligation for reimbursement of the independent evaluation. The District's evaluation and independent educational evaluation may be reviewed with the parents to identify areas of disagreement. The parents must request reimbursement for the independent educational evaluation within one calendar year of the date the results of the District's evaluation were shared with the parents. Districts may refuse to reimburse IEEs should parents refuse to sign consent for exchange of information.

## San Joaquin County

### *Special Education Local Plan Area* **ADMINISTRATIVE REGULATION**

#### *District/SELPA Criteria Obligation*

If the District proceeds with consideration of the reimbursement request for the independent educational evaluation, the District/SELPA criteria for the location of the evaluator(s), the minimum qualifications of the evaluator(s), the costs of the evaluation, and the use of approved assessment instruments must be met.

#### *Notification to the Appropriate Special Education Director and SELPA Director*

If parents request an independent educational evaluation at public expense, the appropriate Special Education Director and/or SELPA Director must be notified. The District's evaluation may be reviewed with the parents to identify any areas of disagreement. Parents will be provided a copy of the Parent Packet which includes: 1) Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense, 2) Information Regarding Qualified Evaluators and Applicable Criteria for Conducting Independent Educational Evaluations, and 3) Independent Educational Evaluations - Qualifications/Cost Criteria. Following discussion with the parents, and subject to parental consent, the District may elect to complete an additional or supplemental evaluation.

#### *Limitation of One Independent Educational Evaluation for each evaluation completed by the District.*

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

#### *District/SELPA's Assessment Plan/Release of Evaluation Information and Results*

If the District agrees to fund an independent evaluation, an assessment plan is not necessary, however, the evaluation that has been agreed to will comply with the District/SELPA criteria for the location of the evaluator(s), the minimum qualifications of evaluator(s), and the costs of the evaluation as set out in the Independent Educational Evaluations – Qualifications/ Cost Criteria. As part of an independent educational evaluation, the examiner will follow guidelines for the District evaluations, which include but are not limited to, observing the student in an appropriate setting. Parents will be required to execute appropriate releases to exchange information between the independent educational evaluator(s) and the District as a condition of the District's agreement to pay the provider for an independent evaluation.

The independent examiner will be required to provide a written report and to participate in the IEP team meeting by telephone or in person at which time the evaluation will be discussed. The examiner will notify the district upon completion of the evaluation and be available for discussion. Results must be sent to the District prior to or on the same day that results are provided to the parent. The evaluator must agree to release their evaluation information, including protocols and results directly to the District prior to the receipt of payment for services. The cost of the independent examiner's participation in the IEP team meeting will be borne by the District as part of the cost of the independent educational evaluation at public expense, the total not to exceed the cost criteria articulated in the Independent Educational Evaluations – Qualifications/Cost Criteria. The results of the independent evaluations will be considered in making educational decisions as required by the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973.

*Evaluations by Diagnostic Centers*

If the District requests an evaluation from a Diagnostic Center and the Diagnostic Center completes the evaluation, both the District and the parents will receive a copy of the evaluation.

*Guidelines for Observation and Completion of IEE*

- A. IEE expert may observe for an equivalent amount of time that public agency observed when completing their evaluation.
- B. IEE expert must comply with school/district visitor policy. Observation or evaluation will not be allowed without an appointment.
- C. A district staff member shall accompany the evaluator.
- D. Equivalent access shall be provided which may entail multiple shorter visits if this will result in less classroom disruption and still allow for a worthwhile assessment.
- E. IEE evaluator shall take privacy concerns into consideration and will ensure that activities shall not cause classroom disruption.
- F. The IEE evaluator may be prohibited from accessing student records or other personally identifiable information, interfering with classroom instruction and communicating with students and teachers.
- G. Review of a student's educational records will only be allowed with supervision by a district staff member.



# Parent Independent Educational Evaluation Packet

( \_\_\_\_\_ ) District

## **Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense**

### ***Purpose***

The purpose of these procedures is to provide for a process for responding to a parental request for the District to fund an independent educational evaluation (IEE).

### ***The Parental Right to an IEE***

Under the IDEA, a parent has the right to an IEE at public expense *only* when the parent disagrees with an individual evaluation completed or obtained by the District (e.g., OT, PT, achievement). If the District has not conducted or obtained an evaluation of the student, the parental right to an IEE does not arise until the District has completed its evaluation.

A parent is entitled to only one IEE at public expense each time the District conducts an individual evaluation(s) with which the parent disagrees.

### ***Definition of an IEE***

An IEE is an evaluation conducted by a qualified evaluator who is not an employee of the District. The IEE is funded by the District or otherwise provided at no cost to the parent of a student with a disability. The purpose of an IEE is for determining a student's eligibility for special education or related services and for meeting a student's educational needs.

### ***District's General Response to a Request for an IEE***

If a parent requests an IEE at public expense, the District must, without unnecessary delay, either: 1) file a due process hearing request to show that its evaluation is appropriate; or 2) agree to fund the IEE and ensure that the IEE is provided, unless the District demonstrates in a due process hearing that the evaluation obtained by the parent did not meet agency criteria. If the final decision in a due process hearing is that the District's evaluation is appropriate, the parent continues to have the right to an IEE, but not at public expense.

Specific procedures for responding to a request for an IEE are set forth below and are to be followed when a parent makes a request for an IEE.

# Parent Independent Educational Evaluation Packet

## *Consideration of IEE Results*

If a parent obtains an IEE at public expense or shares with the District an evaluation obtained by the parent at private expense, the results of the evaluation will be considered by the District in any decision made with respect to the provision of FAPE to the student. However, the District is not required to adopt the findings or recommendations contained in an IEE.

## *Specific Procedures for Responding to a Request for an IEE*

1. Parents are encouraged to notify the District and ask for funding prior to obtaining an IEE. However, the District will not necessarily deny funding or reimbursement for an IEE already obtained, as long as the IEE meets District evaluation criteria, including cost and location of the evaluation and the qualifications of the evaluator that the District uses when it initiates an evaluation.
2. All parental requests for an IEE must be made in writing and forwarded to the District's Special Education Director or designee for decision. When a parent makes a request for an IEE, a copy of the Procedures and Guidelines for the Provision of Independent Educational Evaluations at District Expense, Information Regarding Qualified Evaluators and Applicable Criteria for Conducting Independent Educational Evaluations, and Independent Educational Evaluations - Qualifications/Cost Criteria shall be provided to the parent. The Request for IEE form should be completed by the parent making the IEE request and returned to the Special Education Director or designee. The refusal of a parent to complete the Request for IEE form cannot ultimately serve as a basis for unnecessarily delaying the funding decision if an otherwise proper request for an IEE has been made.
3. Upon receipt of the Request for an IEE, the Special Education Director or designee will decide whether the requested IEE will be publicly funded or, in the alternative, whether the District will seek a due process hearing to obtain a ruling that its evaluation is appropriate or that the parents' privately funded IEE (if they have already obtained one) does not meet District criteria. Once it is clear to the District that the parent disagrees with an evaluation conducted by the District and has properly and clearly requested an IEE, a decision will be made, without unnecessary delay, as to whether it will be funded. Generally, the time period for responding to the request will be 10 school days, unless more flexibility is needed to accommodate good-faith discussion and negotiations regarding the need and arrangements for an IEE.
4. In selecting an evaluator to conduct the IEE, a parent may choose whom they wish to conduct the IEE. The evaluation must meet the District's criteria, including those related to the qualifications of the evaluator, the cost and location of the evaluation and the criteria for performing evaluations. Should the parent's requested IEE not meet criteria, the parent will be given the opportunity to provide an explanation of any unique circumstances that exist that would justify any deviation from the criteria.

# Parent Independent Educational Evaluation Packet

The evaluator must submit a copy of his/her fingerprints as well as the results of a TB test.

5. Once the parent has selected an independent evaluator that meets District criteria or is otherwise approved pursuant to the guidelines, the Special Education Director or designee will contact the evaluator in order to make appropriate contractual arrangements for the evaluation to be performed and funded. An independent evaluator will not be paid for the independent evaluation until the Director receives a written evaluation report from the evaluator and is given the opportunity to discuss the evaluation results with the evaluator, if needed, and at the same time that the results are discussed with the parent.
6. If the District decides to refuse funding for the IEE, prior written notice of the refusal must be provided to the parent and a request for due process hearing will be initiated by the District to prove its evaluation is appropriate or that the IEE requested or obtained by the parent does not meet agency criteria.

# Parent Independent Educational Evaluation Packet

( \_\_\_\_\_ ) District

## **Information Regarding Qualified Evaluators and Applicable Criteria For Conducting Independent Educational Evaluations (IEEs)**

You have indicated that you disagree with an evaluation conducted by the District and have requested that the District fund an Independent Educational Evaluation (IEE). The criteria under which an IEE is conducted or obtained, including the location and cost of the evaluation and the qualifications of the evaluator, must be the same as the criteria the District uses when it conducts the same kind of evaluation.

Below is information related to the District criteria for conducting an IEE. You must ensure that the qualifications of the evaluator and the District's criteria are met or provide the District with an explanation as to any unique circumstances that would justify deviation from the criteria.

### ***District's Evaluation Criteria***

Where an IEE is at the expense of the District, the criteria under which the evaluation is conducted or obtained, including the location of the evaluation and the qualifications of the evaluator, must be the same as the criteria the District uses when it initiates an evaluation, to the extent the criteria are consistent with the parent's rights to an IEE. The following are the District's criteria applicable to the performance of evaluations. An IEE must be conducted based upon these criteria, unless the parent can demonstrate that unique circumstances justify deviation from them.

#### ***1. Applicable Overall Criteria for Conducting an Evaluation***

An independent evaluation must include an observation of the student in an educational setting (if the student is in an educational setting) and review and consideration of current education records;

The evaluator must obtain direct information concerning the performance of the student from not less than one current teacher or other service provider of the child, unless the child does not have a current teacher/service provider;

All assessment instruments must be administered by a qualified evaluator, be age-appropriate to the child, and be administered and scored in conformance with the test publisher's instructions. The evaluation instruments are to be chosen on the basis of their relevancy to the educational question to be addressed by the evaluation. This means that the instruments should be those which are commonly known to and used

# Parent Independent Educational Evaluation Packet

by public school professionals. All instruments used must be current editions and reported in standard scores;

The evaluator must prepare and sign a full evaluation report containing:

- A list of all information/data reviewed;
- A clear explanation of the testing and assessment results;
- A complete summary of all test scores, including, for all standardized testing administered, all applicable full scale or battery scores, domain or composite scores, and sub-test scores reported in standard, scaled or T-score format;
- A complete summary of all information obtained or reviewed from sources other than testing conducted by the evaluator;
- Recommendations for IEP team consideration for educational programming and, if appropriate, placement that is educationally relevant and realistic within a public educational setting.

## 2. *Location of Evaluators conducting IEEs*

An independent evaluator must be located within the same geographic area that the District uses for its own evaluations, which is within the SELPAs of Region 6, i.e., Amador, Calaveras, Tuolumne, San Joaquin and Stanislaus Counties and any other areas within a 50 mile radius of the city of Stockton. These location requirements may be waived or modified in special circumstances when unique diagnostic expertise is warranted, provided the parents can demonstrate the necessity of using an evaluator outside the specified geographic area.

## 3. *Qualifications of Evaluators Conducting IEEs*

All assessments must be conducted by persons qualified to perform the assessment as determined by the District/SELPA (California Education Code Section 56322). All assessments must be conducted in accordance with all requirements of Federal and State law, including but not limited to, observing the student in the appropriate setting (California Education Code Section 56327), and conducting evaluations in accordance with California Education Code Section 56320. Evaluators with credentials other than those listed in the Independent Educational Evaluations – Qualifications/Cost Criteria will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications.

Additionally, evaluators must meet the criteria for any school employee who works with children, i.e. TB testing and fingerprinting, as well as any other contract requirements enforced by the School District.

## 4. *Cost for IEEs*

The cost of an IEE shall reflect reasonable and customary rates for such services in the Region 6 area. Unreasonable costs for travel will not be reimbursed as part of the funding for an IEE. Costs above customary amounts will be approved only if the

# Parent Independent Educational Evaluation Packet

parent can demonstrate that the cost reflects a reasonable and customary rate for such evaluative services or if the parents can demonstrate that there are other factors that make the extraordinary costs necessary in order to exercise their right to an IEE.

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, as identified above. Costs may include observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting; costs will be delineated on the independent evaluator's contract with the School District. Reimbursement will be in an amount no greater than the actual cost to the parent or the maximum cost identified above (whichever is more), and will be subject to proof of payment.

Maximum costs for all independent educational evaluations are calculated by considering time required for the assessment and the appropriate School 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. If the total cost of the IEE exceeds the maximum allowable costs and the school district believes that there is no justification for the excess cost, the school district cannot in its sole judgement determine that it will pay only the maximum allowable cost and no further. The district must without necessary delay, initiate a hearing to demonstrate that the evaluation obtained by the parent did not meet the agency's cost criteria.

## 5. *Timeline for Completing the IEE*

If the IEE has not already been conducted, it must be completed within a reasonable period of time from the date that the District finalizes its agreement with the evaluator to fund the IEE. Generally, the IEE should be completed within sixty (60) calendar days from the date that the District finalizes the agreement with the evaluator. However, agreements of availability of the chosen independent assessor may be a factor of completion timeline.

## 6. *Provision of Evaluation Report to District*

Parents will be required to execute appropriate release to exchange information between the independent educational evaluator(s) and the district as a condition of the District's agreement to pay the provider for an independent evaluation. The evaluator must agree to prepare an evaluation report and release their assessment information and results directly to the District prior to the receipt of payment for services. Results must be sent to the District prior to or on the same day that results are provided to the parents.

## 7. *Conflict of Interest Requirements*

# Parent Independent Educational Evaluation Packet

The independent evaluator must be free of any conflict of interest and the independent evaluation must not be of benefit to any particular public, non-public or private school, agency or institution.

# Parent Independent Educational Evaluation Packet

<b>Type of Assessment</b>	<b>Qualifications</b>	<b>Cost</b>
Academic Achievement	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist	\$1,000
Adaptive Behavior	Credentialed School Psychologist Licensed Educational Psychologist	\$500
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher Licensed Occupational Therapist Registered (OTR)	\$800
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist	\$350
Auditory Perception	Licensed or Credentialed Speech/Language Pathologist	\$500
Central Auditory Processing	Licensed Audiologist	\$500
Behavioral	Credentialed School Psychologist Licensed Educational Psychologist	\$800
Behavior Analysis/BIP	Board Certified Behavior Analyst	\$2,000
Cognitive	Licensed Educational Psychologist Credentialed School Psychologist	\$750
Health (including neurological)	Licensed Physician Credentialed School Nurse	\$350
Motor	Licensed Physical Therapist Licensed Occupational Therapist Registered (OTR) Credentialed Teacher of Pupils with Physical & Health Disabilities Adaptive Physical Education Teacher	\$750
Occupational Therapy	Licensed Occupational Therapist Registered (OTR)	\$1,200
Speech and Language	Credentialed or Licensed Speech/Language Pathologist	\$1,200
Social/Emotional	Credentialed School Psychologist Licensed Educational Psychologist	\$800
Visual Acuity Developmental Vision	Licensed Ophthalmologist Optometrist	\$500
Functional Vision	Credentialed Teacher of the Visually Impaired	\$350
Vision Perception	Credentialed Special Education Teacher Credentialed School Psychologist	\$500
Transition	Credentialed Special Education Teacher	\$1,000
Psycho-Educational	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist	\$3,500