

POLICY: IGBA(1)
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INDEPENDENT EDUCATIONAL EVALUATION POLICY

An independent educational evaluation is an activity conducted pursuant to Federal and State laws, which establish certain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education under the Individuals with Disabilities Education Act (IDEA). *See* 20 U.S.C. § 141.5(a)(2001); 34 C.F.R. § 300.502, 300.532 (2001); Wis. Stat. § 115.792(3)(b), 115.80(1)(b).

An independent educational evaluation (“IEE”) is an evaluation conducted by a qualified examiner who is not an employee of the child’s school district. A parent has a right to an IEE at public expense if the parent disagrees with an evaluation conducted by the School District. For purposes of this policy, “evaluation” means the procedures used to determine whether a child has a disability and the nature and extent of the special education and related services the child needs. A parent’s right to an IEE is available each time the School District conducts an educational evaluation, including the child’s pre-placement evaluation, the triennial reevaluation, or more frequent reevaluations conducted at the request of the child’s parent or teacher or if conditions warrant it. An IEE may be provided at public expense if the parents disagree with the evaluation because they believe that the child has not been assessed in all areas related to the suspected disability.

If the parent refuses to consent to a proposed evaluation initiated by the School District, an IEE at public expense is not available because there is no public evaluation with which the parent can disagree. If the parent believes the proposed public evaluation is inappropriate, he or she may pursue an appropriate publicly funded evaluation via the mediation or due process procedures provided under the law.

In the event the School District receives a parent request for an IEE, the School District must, without unnecessary delay, either provide the IEE at public expense per this policy or initiate a due process hearing to challenge the parent’s request and show that its evaluation is appropriate. If the final decision in the due process hearing is that the School District’s evaluation is appropriate, the parent still has a right to an IEE, but not at public expense. Parents are entitled to only one publicly funded IEE for each evaluation completed by the School District. IEEs at public expense are to be conducted pursuant to the same criteria that apply to evaluations conducted by the School District.

The results of an independent educational evaluation obtained by a parent at public or private expense will be considered by the School District in any decision made with respect to the provision of a free, appropriate, public education to the child if it meets the School District’s criteria. However, because no single assessment or procedure may be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate education program for the child, the results of an IEE cannot be the sole determining factor for eligibility and individualized education programs.

Procedure to Obtain an IEE at Public Expense:

1. The parents should submit to the School District a written request for an IEE and may include in such request an explanation of their reasons for objecting to the evaluation obtained by the School District. However, the School District will not deny parents a publicly funded IEE because they fail to provide the School District with such a written request or fail to provide reasons for requesting an IEE.
2. Upon receipt of a parental request for an IEE, the School District will determine whether it will initiate a due process hearing to establish the appropriateness of its evaluation or proceed with ensuring that an IEE is provided at public expense. The School District will respond in writing to a parental request for an IEE within fifteen school days from the date that the School District receives the request.
3. If the School District decides that an IEE will be made available at public expense, the School District's written response to the parents will contain the following information:
 - a) A list of the names and addresses of IEE examiners located within the specified area. The list will identify those IEE examiners who, in the School District's judgment, meet the same criteria that the School District uses when it initiates an evaluation and selects an examiner. If the School District cannot identify a qualified examiner within the specified area, it will identify an individual located in the state of Wisconsin who is qualified to perform the evaluation. Parents shall be given the opportunity to provide information to the School District that demonstrates that unique circumstances justify selection of an IEE examiner who does not meet the School District's qualification criteria.
 - b) The location of the evaluation. IEEs are to be conducted in the School District. However, parents shall be given the opportunity to provide information to the school district that demonstrates that unique circumstances may warrant the necessity of evaluating the child at a location out of the District.
 - c) A description of the School District's criteria for selection of IEE examiners.
 - d) A list of the areas that need to be assessed to be comparable to the District's evaluation.
4. Minimum qualifications for IEE examiners. The following minimum qualifications for IEE examiners are consistent with the School District's criteria for selecting examiners when initiating an evaluation. Examiners with credentials or characteristics other than those listed below may not be provided by the School District at public expense.
 - a) An examiner (the "Examiner") must be licensed by the Wisconsin Department of Public Instruction in the appropriate field when the area of evaluation is governed by State licensure, or hold a college or university degree and training in the appropriate field of expertise where no applicable license exists, such as rehabilitation engineering or sensory deprivation therapy. Physicians, nurses, psychiatrists and non-school psychologists must be licensed by the State of Wisconsin.
 - b) The Examiner must be located within a specified area which includes the Milwaukee metropolitan and the Fox Valley areas.

- c) The Examiner must charge fees for educational evaluations services that, in the judgment of the School District, are reasonable.
 - d) The Examiner shall not be an employee of the School District.
 - e) The Examiner must be permitted to directly communicate and share information with members of the IEP Team. The Examiner will be expected to conduct in-class observations if the School District examiner observed the child as part of his or her assessment or as a required component of the evaluation of a learning disability. The Examiner must also agree to release the assessment and results, including parent and teacher surveys, prior to receipt of payment for services.
5. The maximum allowable cost for an Examiner will be the average cost per day or hour for a similarly qualified staff member employed by the School District during the current school year as determined by the District's Director of Pupil Services. In the event the Examiner is one not typically employed by the School District, such as a medical doctor, psychiatrist, clinical psychologist, or other similar professional, reimbursement costs will be limited to reasonable and customary charges as determined by the School District and its insurance carrier. If the School District believes the requested expenses are unreasonable, it may decline to provide the full cost of the IEE and initiate a due process hearing to challenge the provision of the IEE at public expense.
 6. Parents may submit information for the School District to consider that demonstrates unique circumstances justifying an IEE examiner whose credentials or characteristics are different than the criteria used by the School District and explain why expenses exceed the maximum allowable cost.

When private insurance will cover all or partial costs of the IEE, the School District will request that the parents have their private insurance pay the IEE costs covered by their insurance. The School District may access a parent's private insurance proceeds only if the parents provide informed consent each time the public agency proposes to access the parents' private insurance. Parents may refuse such consent. Parents need not ask their insurer to cover the IEE costs if such action would result in a financial cost to the parents, such as an increase in premiums or the discontinuance of the policy. The School District may use public insurance benefits in which a child participates to provide or pay for services, such as Medicaid, when consistent with Federal Law.

7. In the event the IEE is ordered by an Administrative Law Judge (ALJ) as part of a due process hearing pursuant to Wis. Stat. § 115.80 or as part of a mediation session conducted pursuant to Wis. Stat. § 115.797, the ALJ or mediator may determine the qualifications of the Examiner. The IEE must be conducted at public expense.
8. If a dispute or disagreement arises regarding the parent's right to obtain an IEE at public expense, the selection of an IEE examiner, the location of the evaluation, or the maximum allowable cost of the IEE, the School District will, without unnecessary delay, initiate a due process hearing to demonstrate that the evaluation obtained by the parent did not meet the agency's criteria.