

INDEPENDENT EDUCATIONAL EVALUATION

Resources for Implementation

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Special Education



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Independent Educational Evaluations Resources for Implementation



Region 4 Education Service Center
Houston, Texas

Special Education Solutions
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Region 4 Education Service Center supports student achievement by providing educational products and services that focus on excellence in service for children.

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Preface

Under federal (20 U.S.C. §1415(b)(1) of the Individuals with Disabilities Education Improvement Act, 2004, and 34 CFR §300.502) law, the parents of a child with a disability have the right to obtain an independent educational evaluation of their child subject to certain conditions. The resources in this manual were developed in 2015 and revised in 2019 by Region 4 Education Service Center, Houston, Texas, and Thompson and Horton, LLP, Houston, Texas, to provide school districts and charter schools with information to implement the Independent Educational Evaluation (IEE) process under 34 CFR §300.502. Included in this manual are sample program operating guidelines, forms, and a question and answer document. The use of these resources does not create an attorney-client relationship between the user and Thompson and Horton, LLP or any of its agents or employees.

The user should contact an attorney for legal advice on any questions arising from the documents. It is possible that specific laws or regulations that could affect your legal rights have been adopted by local public school districts or charter schools or by federal and state regulatory agencies and legislatures. It is also possible that these laws have been changed, clarified or updated by courts, agencies, public school districts or charter schools, and legislatures since these materials were prepared.

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Relevant Case Law Related to Independent Educational Evaluations

34 CFR 300.502—Independent Educational Evaluation

§ 300.502 Independent educational evaluation.

(a) General.

- (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
- (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this subpart—

(i) *Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) *Public expense* means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with § 300.103.

(b) Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) 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.

(c) *Parent-initiated evaluations.* If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

(e) *Agency criteria.*

(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A))

INDEPENDENT EDUCATIONAL EVALUATIONS

QUESTIONS AND ANSWERS

1. What is an Independent Educational Evaluation (“IEE”)?

Independent educational evaluation means an evaluation conducted by a qualified evaluator who is not employed by the school district responsible for the education of the child in question. (34 CFR §300.502(a)(3)(i))

2. Who can request an IEE?

A parent/legal guardian or adult student has the right to request an IEE at public expense when the parent/legal guardian or adult student disagrees with an evaluation conducted by the school district. (34 CFR § 300.502)

3. Is there a timeline for requesting an IEE?

The evaluation with which the parent/legal guardian or adult student disagrees must have been conducted within the statute of limitations, which in Texas is one (1) year from the date the parent/legal guardian or adult student requests an IEE. (19 TAC § 89.1151 (c))

4. How does a parent/legal guardian or adult student request an IEE?

Most often, a parent/legal guardian or adult student will verbally request an IEE during an ARD meeting. Other times, a parent/legal guardian, adult student, or their attorney/advocate will make a request verbally or in writing to the student’s teacher, principal, case manager, or special education staff.

5. What do I do if I receive a request for an IEE?

It is important to note the date that the school district receives the parent’s/legal guardian’s or adult student’s request for an IEE because the school district must respond within a reasonable time.

Collect pertinent information from the parent/legal guardian or adult student such as with which school district evaluation does the parent/legal guardian or adult student disagrees, the reason the parent/legal guardian or adult student disagrees with the district’s evaluation, and what type of IEE the parent/legal guardian or adult student is requesting.

A parent/legal guardian or adult student may not be able or willing to explain the reason for their disagreement with the school district’s assessment and the school district may not require the parent/legal guardian or adult student to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a request for a due process hearing to defend the public evaluation. (34 CFR § 300.502(b)(4))

Without delay, forward the parent's/legal guardian's or adult student's request, pertinent information collected, and the date you received the request to the responsible school district staff. Generally, the Director of Special Education is responsible for considering and responding to requests for IEEs.

6. Can a parent/legal guardian or adult student require the school district to rely on the parent's/legal guardian's or adult student's IEE rather than the school district's own evaluation?

The parent/legal guardian or adult student cannot require the school district to use the parent's/legal guardian's or adult student's IEE rather than the school district's own evaluation. The school district has the right to conduct its evaluation using personnel of its choice subject to the requirement to obtain informed parental consent.

7. What if the school district's assessment is appropriate?

If the school district determines that the school district assessment with which the parent/legal guardian or adult student disagrees is appropriate, it may file a request for due process hearing to defend the validity of its assessment, or it may grant the request for an IEE.

8. What if the school district has not conducted an evaluation?

If the school district has not conducted an evaluation for the parent/legal guardian or adult student to disagree with, their request for an IEE is premature. The district may deny the request for an IEE without filing for due process. (34 CFR § 300.502(b)(5))

9. What if a parent/legal guardian or adult student disagrees with a school district assessment in one area but seeks an IEE in another area?

Under most circumstances, a parent/legal guardian or an adult student is not entitled to an IEE in an area other than the area that the school district assessed. However, the parent/legal guardian or adult student may be entitled to an IEE where the school district's assessment is insufficient because the assessor failed to assess in all areas of suspected disability for the field. For example, if an evaluation was performed in a case where only a learning disability is suspected and a parent/legal guardian or adult student later requests an IEE for an emotional disturbance ("ED"), the school district would have the right to perform an evaluation for ED first. If a learning disability and an emotional disturbance are both areas of suspected disability and the school district's assessment only examines the learning disability, the parent's/legal guardian's or adult student's IEE request would be justified because the district's evaluation did not address all areas of suspected disability.

10. Can a parent/legal guardian or adult student disagree with a school district evaluation before the evaluation is completed?

A parent/legal guardian or adult student must wait until the school district has completed an evaluation of the student to request an IEE. (34 CFR § 300.502(b)(5))

11. What is the school district's obligation when a parent/legal guardian or adult student requests an IEE?

If a parent/legal guardian or adult student requests an IEE at public expense, the school district must, without unnecessary delay, provide the IEE at public expense or request a due process hearing to show that its evaluation of the student was appropriate.

Each school district must provide to a parent/legal guardian or an adult student, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and the school district's criteria for independent educational evaluations. (34 CFR § 300.502(a)(2))

12. How long does the school district have to respond to the request for an IEE?

The law states that the school district must respond without unnecessary delay but does not establish a specific timeframe. It is best practice for the school district to respond in writing as soon as possible but no later than 30 calendar days. (34 CFR § 300.502(b)(2))

13. Which school district personnel make the decision to grant or deny a request for an IEE?

The IDEA and state regulations do not specify which school district personnel are responsible for making the determination to grant or deny a parent's/legal guardian's or adult student's request for an IEE. Generally, the Director of Special Education is responsible for considering and responding to a request for an IEE. When the request is made to the ARD committee, the committee should refer the parent/legal guardian or adult student to the Director of Special Education and forward the request to the Director of Special Education (or the designated district staff member).

14. What should a school district do when it grants a request for an IEE?

The school district must provide a prior written notice ("PWN") response to the parent's/legal guardian's or adult student's request. Like the term *IEE*, *PWN* is a term of art. A school district must ensure that its letter responding to the parent's/legal guardian's or adult student's request meets the legal requirements for a PWN. The school district must provide information to the parent/legal guardian or adult student about where an IEE may be obtained and the school district's criteria for an IEE. The school district may provide the parent/legal guardian or adult student a list of evaluators the district has determined would be qualified to perform the IEE that has been granted. The school district should provide the parent/legal guardian or adult student an authorization to release and exchange information with the IEE evaluator, a copy of district

guidelines for IEEs, a copy of the school district's criteria for IEE assessments, and a copy of the IDEA procedural safeguards document.

15. What are the legal requirements for “prior written notice” (PWN)?

A prior written notice consists of the following:

- A description of the action proposed or refused;
- An explanation of why the district proposed or refused the action;
- A description of each evaluation procedure, assessment, record or report the district used as a basis for the proposal or refusal;
- Other options considered and why they were rejected;
- Other factors relevant to the decision;
- A statement that the parent/legal guardian and student have procedural protections and where they can obtain a copy of the procedural protections, or that a copy is attached; and
- A source to contact for assistance in understanding their procedural protections.

The PWN must be written in understandable language and be in the parent's/legal guardian's or adult student's native language or other mode of communication unless it is clearly not feasible to do so. If the parent's/legal guardian's or adult student's native language is not a written one, it must be documented that the PWN was translated orally or by other means into the parent's/legal guardian's or adult student's native language or other mode of communication, and steps were taken to ensure the parent/legal guardian or adult student understands.

PWN is provided any time the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education to a student.

16. What should a school district do when it denies a request for an IEE?

The school district is obligated to provide the parent/legal guardian or adult student a PWN response when the school district denies a request for an IEE. The school district must ensure that its letter responding to the parent's/legal guardian's or adult student's request meets the legal requirements for a PWN. Additionally, barring very narrow exceptions, the school district must, without unnecessary delay, file a request for due process hearing to defend the appropriateness of its evaluation.

17. Who selects the IEE evaluator?

The parent/legal guardian or adult student has the right to select an IEE assessor who meets the same criteria that the school district uses for its district evaluations.

18. Can the school district recommend evaluators?

Maintaining a list of qualified evaluators is one way a school district may provide the parent/legal guardian or adult student with information on how and where to obtain an IEE. The school district may restrict parental-/guardian- or adult student-selection of the evaluator to the persons on the list only if the child's needs can be appropriately evaluated by the persons on the list and the list exhausts the availability of qualified persons within the specified geographic area. However, if the list does not exhaust the number of minimally-qualified persons, the parent/legal guardian or adult student is free to select an evaluator who is not on the list so long as the evaluator meets other school district criteria.

The list of qualified evaluators may include private sector assessors, staff from other school districts in the region, and staff from other regions.

19. Can the school district establish criteria for IEEs?

Yes. The school district can establish board policies and administrative procedures that establish criteria for IEE assessments, including qualifications of the evaluator, geographical proximity of the evaluator, provision of an original written report, willingness to contract with the school district for the IEE, and cost guidelines. The criteria that are established must be the same as the school district would require if it performed the evaluation. (34 CFR § 300.502(e)(1))

20. What if the parent/legal guardian or adult student chooses an evaluator that does not meet the school district's criteria?

The school district should give PWN to the parent/legal guardian or adult student that the chosen evaluator does not meet school district criteria, explain what criteria are not met, and advise the parent/legal guardian or adult student of the right to choose another evaluator who meets school district criteria. The school district must explain to the parent/legal guardian or adult student that the parent/legal guardian or adult student has the opportunity to provide information to the school district about any unique or unusual circumstances that would justify the use of the IEE evaluator who does not meet school district criteria, and the school district will consider the information and determine whether the IEE should be allowed. A parent's/legal guardian's or adult student's wish alone to use a particular evaluator does not amount to unique circumstances that would warrant an IEE outside the criteria. Each case should be analyzed on its own circumstances, and districts should contact their legal counsel regarding options available to the district. A school district does not have to pay for an IEE if it demonstrates in a due process hearing that the evaluation obtained by the parent/legal guardian or adult student did not meet the district's criteria. (34 CFR § 300.502(b)(2)(ii))

21. Can a parent/legal guardian or adult student seek reimbursement for travel cost the parent/legal guardian or adult student incurred in having the IEE conducted?

Yes. The parent's/legal guardian's or adult student's reasonable related travel expenses must be funded as part of the cost of the IEE. Typically, the school district will reimburse travel costs to the parent/legal guardian or adult student. The school district may need to advance travel costs if failure to do so would prevent the parent/legal guardian or adult student from obtaining the IEE. If travel cost is excessive or unnecessary in light of the availability of qualified evaluators within the geographical area reflected in the school district's IEE criteria, or an even broader geographical area, the school district may not be required to pay the parent's/legal guardian's or adult student's travel costs. It is possible that the IEE evaluator might meet all school district criteria except location and the school district would pay for the IEE, but not the travel costs of the IEE evaluator or the parent/legal guardian or adult student.

22. What if the parent/legal guardian or adult student pays for an evaluation and then requests reimbursement?

A parent/legal guardian or adult student may seek reimbursement for a privately funded evaluation that was conducted within one year of the school district's evaluation. Before reimbursement can be authorized, the parent/legal guardian or adult student must provide a copy of the evaluation, information regarding the qualifications of the independent evaluator, an itemized bill, and proof of payment. The district will determine whether the evaluation meets the district's IEE criteria.

A request for reimbursement may be denied where the evaluator or the IEE do not meet the school district's pre-established criteria. The school district may demonstrate in a due process hearing that the parent's/legal guardian's or adult student's IEE does not meet school district criteria.

The school district can also deny a request for reimbursement and file a request for due process hearing to defend its own evaluation.

23. Can a parent/legal guardian or adult student seek reimbursement when they obtain an independent evaluation without first seeking an IEE from the school district?

Yes. There is no requirement under the IDEA or state laws or regulations that a parent/legal guardian or adult student notify the school district in advance that he or she will be obtaining an independent evaluation and seeking reimbursement. If the parent-/legal guardian- or adult student-initiated evaluation is presented to the district for reimbursement and does not meet the district's criteria, the district must initiate a due process hearing to show the evaluation does not meet the district's criteria or that there were no special circumstances that justified an evaluation that did not meet the district's criteria. If the evaluation does meet the district's criteria, the district can still initiate a due process hearing to prove its evaluation is appropriate.

24. Must the school honor the IEE evaluator's request to observe and review school records?

The school district must give the independent evaluator the same opportunities to evaluate the child as given during the school district's evaluation, including an opportunity to observe in the school setting and access educational records.

25. Can the IEE evaluator bring associates, parents/legal guardians, or an attorney/advocate to the observation?

The school district can define the nature and scope of an IEE evaluator's in-school observations consistent with the opportunity provided to the school district evaluator. The school district can take steps to prevent unnecessary disruptions to the classrooms and to protect the privacy interest of other students. There is nothing in the IDEA that requires the school district to allow parents/legal guardians, attorneys/advocates, and/or associates of the evaluator who are not directly evaluating the student to observe in the classroom.

26. Can a school district deny a request for a specific evaluator because the evaluator is someone who regularly works with advocacy groups or attorneys?

No. A school district cannot deny a request for a specific evaluator solely because the requested evaluator works with advocacy groups or attorneys.

27. Can a school staff member be present for the observation on school campus by the independent evaluator?

The school district can establish procedures in which a school district staff person is present for observations on campus in the interest of student safety, confidentiality, and to prevent unnecessary disruptions. School districts should be careful not to cause unnecessary delay of the IEE due to the coordination of schedules of the school staff members who will be present during the observation.

28. Must the school honor the independent evaluator's request to speak with teachers and/or staff who work with the student?

The school district must give the evaluator the same opportunities to evaluate the child as given during the school district's evaluation, including an opportunity to interview teachers/staff working with the student. The school district can impose time constraints and restrictions to avoid any disruption to the classroom environment to the same extent as those restrictions are applicable to school staff performing a similar evaluation.

29. What is the school district's obligation after the IEE is completed?

The school district must hold an ARD committee meeting to consider the results of the IEE in any decision made with respect to the provision of a free appropriate public education. While a school district must consider the results of an IEE or a parent's/legal guardian's or adult student's

privately funded evaluation that meets school district criteria, the school district has no obligation to adopt the evaluator's recommendations or conclusions. To "consider" the IEE means to review and discuss its contents with the ARD committee.

30. Can the school district require the independent evaluator to provide the complete and final IEE report to the district prior to the ARD committee meeting?

The district can notify the parent/legal guardian or adult student and independent evaluator that the complete and final IEE report must be provided to the district a specific number of business days before the ARD committee meets so that the district will have sufficient time to review the report. If the IEE report is presented to the district for the first time at an ARD committee meeting, ARD committee may table the meeting and resume at a later time after the district has had sufficient time to review the IEE report.

31. What should the ARD committee do if the parent/legal guardian or adult student disagrees with the manner in which the ARD committee has considered the IEE?

If the ARD committee has not reached mutual agreement on the response to the IEE, the parent/legal guardian or adult student is offered an opportunity for a 10-school-day recess and for the ARD committee to convene again to attempt mutual agreement. The parent/legal guardian or adult student does not have to accept the 10-school-day recess, in which case, the meeting is concluded and the school district will provide the parent/legal guardian or adult student with a PWN. If agreement cannot be reached after the ARD committee reconvenes, the school district will provide the parent/legal guardian or adult student with a PWN and the parent/legal guardian or adult student can file for a due process hearing to complain about the district's consideration of the IEE. The recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to a placement in an alternative educational program.

32. What if the evaluator or the parent/legal guardian or adult student refuses to provide the results of the IEE to the school district?

The school district may deny payment or reimbursement for the IEE where the report is not furnished to the school district for the ARD committee's review and consideration. Requiring a report should be included in the district's IEE regulations/guidelines and any contract entered into with the IEE evaluator.

33. What if the parent/legal guardian or adult student is unsatisfied with the IEE and requests a second IEE?

The parent/legal guardian or adult student is entitled to only one IEE at public expense each time the school district conducts an evaluation with which the parent/legal guardian or adult student disagrees. (34 CFR §300.502(b)(5))

34. Can a school district require a parent/legal guardian or adult student to privately fund an IEE and seek reimbursement rather than funding the IEE directly?

No. While the parent/legal guardian or adult student retains the right to privately fund an independent evaluation and seek reimbursement from the school district, the school district cannot mandate that the parent/legal guardian or adult student pay for the evaluation initially and seek reimbursement.

35. What is the school district's obligation when it successfully proves that its assessment is appropriate through a due process hearing?

When a school district files for a due process hearing and, following the hearing, the hearing officer finds the school district's assessment is appropriate, the school district is alleviated of responsibility to fund an IEE. The parent/legal guardian or adult student still has the right to an independent evaluation but not at public expense. (34 CFR § 300.502(b)(3)) If the parent/legal guardian or adult student presents the IEE to the school district, it must be considered by the ARD committee in any decision made with respect to the provision of a free appropriate public education if it meets the IEE criteria of the school district.

36. May a hearing officer order an IEE?

A hearing officer may order an IEE as part of a due process hearing and the cost will be paid by the school district.

INDEPENDENT SCHOOL DISTRICT INDEPENDENT EDUCATIONAL EVALUATIONS OPERATING GUIDELINES

PURPOSE

The purpose of these procedures is to provide a process for responding to a parent's/legal guardian's or adult student's request for an independent educational evaluation ("IEE"). A parent/legal guardian or adult student may seek an IEE if he or she disagrees with all or part of an evaluation obtained by the school district. The school district may pay for such an IEE, if the IEE meets the district's criteria. However, the school district may choose to initiate a due process hearing to show that its own evaluation, with which a parent/legal guardian or adult student disagrees, is appropriate. If the school district prevails in the due process hearing, a parent/legal guardian or adult student still has the right to an IEE but not at public expense.

DEFINITIONS

1. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the student in question. The purpose of an IEE is to determine a student's eligibility for special education or related services and for educational planning.
2. Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to a parent/legal guardian or adult student.
3. Qualified examiner is an evaluator who is competent to perform the evaluation through criteria established by the school district responsible for the education of the student.
4. A parent-/legal guardian- or adult student-initiated evaluation means an evaluation obtained at private expense conducted by an examiner who is not employed by the school district responsible for the education of the student.

PARAMETERS FOR SEEKING AN IEE

A parent/legal guardian or adult student has a right to initiate an evaluation at any time, at the parent's/legal guardian's or adult student's own expense. A parent/legal guardian or adult student, has a right to an IEE from a qualified examiner at public expense if he or she disagrees with an evaluation obtained by the school district, unless the school district demonstrates in a due process hearing that its own evaluation of the student was appropriate. If a parent/legal guardian or adult student requests an IEE at public expense, the school district without unnecessary delay shall either file a request for due process hearing to establish that the assessment with which a parent/legal guardian or adult student disagrees is appropriate or agree to fund the IEE.

If the school district files a due process complaint and the hearing officer finds the school district's evaluation was appropriate, the school district is alleviated of responsibility to fund an IEE. A parent/legal guardian or adult student maintains the right to initiate an evaluation at his or her own expense. Under the IDEA, a parent/legal guardian or adult student has a right to one (1) IEE at public expense each time the school district conducts an evaluation with which a parent/legal guardian or adult student disagrees.

RESPONDING TO A REQUEST FOR AN IEE

The procedures for responding to a request for an IEE are set forth below and are to be followed when a parent/legal guardian or adult student makes a request for an IEE.

All requests for an IEE should be made in writing and forwarded to the school district's Director of Special Education for consideration and a response. When a parent/legal guardian or adult student makes a request for an IEE, the following documents should be provided to the parent/legal guardian or adult student:

1. *IEE Parent Request Form* (Form A) (completed)
2. *IEE Criteria* (Form I)
3. *List of IEE-Cover Letter* (Form B) with attached list of district-recommended independent educational evaluators

Responding to a Verbal Request

When a parent/legal guardian or adult student verbally requests an IEE, the school district should:

1. Document the date and time of the verbal request for an IEE;
2. Ask the parent/legal guardian or adult student to put his or her request in writing, identifying the specific evaluation with which a parent/legal guardian or adult student disagrees and expressing his or her request for an IEE (Form A-*IEE Parent Request Form*);
3. Immediately notify the Director of Special Education; and
4. If the parent/legal guardian or adult student refuses to put the request for an IEE in writing, the Director of Special Education will communicate in writing with the parent/legal guardian or adult student to determine the necessary information regarding the request for the IEE.
5. The district will provide a prior written notice ("PWN") response to the request for an IEE within a reasonable time.

Responding to a Written Request

When the school district receives a written request for an IEE, the school district should:

1. Document the date and time the request was received,
2. Immediately notify the Director of Special Education, and
3. Provide a PWN response to the request for an IEE within a reasonable time.

RESPONDING TO REQUEST FOR AN IEE (*FOR DISTRICT STAFF*)

Legal Requirements. If a parent/legal guardian or adult student requests an IEE, verbally or in writing, the school district **must**, without unnecessary delay: 1) provide the IEE at public expense or 2) request a due process hearing to show that its evaluation of the child was appropriate.

Prior Written Notice. A school district must respond to a request for an IEE with a PWN either granting or denying the request for an IEE.

Granting a Request for an IEE

1. Provide PWN that indicates the school district's decision to grant the request for the IEE. (Form D-PWN: *Granting IEE*) In addition to the basic requirements for PWN, include the following:
 - a. Indicate the evaluation with which a parent/legal guardian or adult student disagreed and type of IEE granted;
 - b. If unknown, ask a parent/legal guardian or adult student to identify the specific area of disagreement (**A parent/legal guardian or adult student is not obligated to provide this information and failure to respond to the school district's inquiry does not alleviate the school district from its obligation to provide an IEE or timely file for due process; and*
 - c. Explain options for an IEE at public expense including:
 - i. A qualified private sector evaluator or
 - ii. A qualified staff member from another school district
2. Attach the following to the letter:
 - a. The school district's list of qualified examiners in the area(s) of the IEE. Attach *List of IEE Evaluators-Cover Letter* (Form B);
 - b. An authorization to release and exchange personally identifiable information about the student with the IEE assessor;
 - c. *IEE Criteria* (Form I);
 - d. Copy of the school district's requirements for qualified examiners; and

- e. Copy of a *Notice of Procedural Safeguards* for special education.

Denying a Request for an IEE

1. Provide a PWN (Form C-PWN: *District Will Request Hearing*) to indicate the school district's decision to deny the request for an IEE that includes the following:
 - a. An explanation of why the school district is denying the request for an IEE; *(Generally, the school district asserts its assessment was valid and appropriate, was conducted by qualified assessors, and assessed the child in all areas of suspected disability.)*
 - b. A description for each evaluation procedure, assessment, record, or report the school district used as the basis for denying the request for an IEE;
 - c. A statement that a parent/legal guardian or adult student has protections under the procedural safeguards and that identifies the source a parent/legal guardian or adult student can contact to obtain assistance understanding the procedural safeguards;
 - d. A description of other factors relevant to the denial;
 - e. A description of other options considered and explain why those options were rejected; and
 - f. Notice that because the school district is denying the request for an IEE, it is mandated by federal law to file a request for due process to defend the appropriateness of its evaluation and will file for due process without unnecessary delay unless it receives a written notice from a parent/legal guardian or adult student withdrawing the request for an IEE.
2. Attach *IEE Criteria* (Form I);
3. Attach a copy of the *Notice of Procedural Safeguards*; and
4. Without unnecessary delay, file a request for due process hearing to establish the appropriateness of the school district's evaluation.

DENYING A REQUEST FOR AN IEE WITHOUT FILING FOR DUE PROCESS

If the school district denies a request for an IEE, it is required to file a request for due process without unnecessary delay unless one of the following exceptions applies.

1. No district evaluation with which to disagree

If the school district has not conducted an evaluation for a parent/legal guardian or adult student, the parent/legal guardian or adult student does not have a right to an IEE at

public expense. The school district should determine if it is appropriate to conduct an evaluation of the child in the area for which a parent/legal guardian or adult student sought an IEE. If the district is refusing the request for an IEE due to the fact that there is no district evaluation with which to disagree, send the parent/legal guardian or adult student PWN indicating that fact (Form F-PWN: *No District Evaluation, Conduct REED*).

2. Refusal to consent to evaluation

If the parent/legal guardian or adult student refused to consent to the district's request to conduct an evaluation, the parent/legal guardian or adult student does not have the right to an IEE.

3. Request is for an evaluation in an area the district has not evaluated

If a parent/legal guardian or adult student disagrees with an evaluation but seeks an IEE in an area other than the area for which the school district assessed, the school district may choose to deny the request for an IEE. The school district should determine if it is appropriate to conduct an evaluation of the child in the area for which a parent/legal guardian or adult student sought an IEE. (Form E-PWN: *No District IEE*)

4. The district has not completed its evaluation

If the school district is evaluating a student, the parent/legal guardian or adult student does not have a right to an IEE. Once the district's evaluation is completed, the parent/legal guardian or adult student has the right to request an IEE if the parent/legal guardian or adult student disagrees with the school district's evaluation.

5. IEE has previously been completed

If the parent/legal guardian or adult student has previously obtained an IEE and the school district has not conducted another evaluation with which the parent/legal guardian or adult student can disagree, the parent/legal guardian or adult student is not entitled to another IEE. (Form G-PWN: *IEE Previously Completed*)

CRITERIA FOR PUBLICLY FUNDED IEEs

The school district's criteria for IEEs cannot exceed the criteria the school district would use if it initiated the evaluation, and the criteria must be consistent with the parent's/legal guardian's or adult student's right to an IEE. The criteria should address the following:

1. Qualifications of the Examiner: A school district may set criteria regarding the qualifications of the examiner provided the qualifications for an IEE examiner do not exceed qualifications for a school district assessor.

- a. A parent/legal guardian or adult student must be given an opportunity to demonstrate exceptional circumstances that warrant a deviation from the criteria.
 - b. If a school district denies a request for a specific IEE examiner based on the examiner's failure to meet a specific criteria, it must provide PWN that notifies a parent/legal guardian or adult student that another IEE examiner must be chosen and that the parent/legal guardian or adult student has the opportunity to demonstrate any exceptional circumstances that may justify using a person to perform the IEE who does not meet the district's qualifications. (Form H-PWN: *Unqualified Evaluator*)
2. Location: A school district may establish a policy limiting the geographical area in which a parent/legal guardian or adult student must select an evaluator (*e.g., within the county; within a 25-mile radius of the school district*). A parent/legal guardian or adult student who chooses an evaluator outside the established geographical area, but who is otherwise qualified, is still entitled to an IEE but may not recoup travel cost to the location of the evaluator or for the evaluator to observe the student in the district. The parent/legal guardian or adult student has the opportunity to demonstrate any exceptional circumstances that may justify use of an IEE examiner who does not meet the district's criteria regarding location.
3. Release and Exchange: A school district may require a parent/legal guardian or adult student to provide written consent for the IEE examiner and for the school district to release and exchange information with the IEE examiner.
4. Cost: The school district may limit the cost of the IEE so long as the cap does not prevent a parent/legal guardian or adult student from obtaining an IEE. If a school district denies a request for a specific IEE examiner based on cost, it must provide PWN, which notifies a parent/legal guardian or adult student of his or her opportunity to demonstrate any exceptional circumstances that would justify an IEE in excess of the district's cost criteria.
5. Travel: Travel cost for an IEE evaluator shall not exceed the school district's rate for travel as established by state guidelines.
6. Evaluation Area: The evaluation is limited to the areas approved by the school district. The evaluation is to determine eligibility and/or for educational planning, and the examiner must conduct an educational evaluation.
7. Payment: The school district will make payment directly to the examiner upon receipt of an IEE, which meets all of the school district's criteria.
8. Post Evaluation: The school district has no obligation to pay for services the examiner provided after the IEE's completion.

REIMBURSEMENT FOR PARENT-/LEGAL GUARDIAN- OR ADULT STUDENT-INITIATED EVALUATION

A parent/legal guardian or adult student is encouraged to notify the school district of his or her desire to obtain an independent evaluation and to ask for funding prior to obtaining the evaluation. However, the school district will not necessarily deny reimbursement for a parent-/legal guardian- or adult student-initiated evaluation already obtained as long as the evaluation meets the school district's evaluation criteria.

1. The school district will consider the results of a parent-/legal guardian- or adult student-initiated evaluation in an ARD committee meeting if it meets school district criteria, but such consideration does not mean the school district will accept the IEE or its recommendations.
2. The school district may deny a request for reimbursement where the examiner did not meet the school district's minimum qualifications and criteria.
3. The school district may deny a request for reimbursement where the parent-/legal guardian- or adult student-initiated evaluation does not meet the criteria in the IDEA and its implementing regulations, the Texas Education Code, and/or the Texas Administrative Code for the specific disability identified.
4. The school district may deny a request for reimbursement for a parent-/legal guardian- or adult student-initiated evaluation that does not meet all state and federal requirements.
5. If the school district denies a request for reimbursement of a parent-/legal guardian- or adult student-initiated evaluation because it does not meet the district's criteria, the district must demonstrate in a due process hearing that the evaluation does not meet the district's criteria or there is no justification for not meeting the district's criteria.
6. The school district can deny a request for reimbursement of the parent-/legal guardian- or adult student-initiated evaluation that meets district criteria if the district requests a due process hearing to prove its own evaluation is appropriate.
7. The school district may reimburse a parent/legal guardian or adult student in accordance with the district procedures. Before reimbursement is authorized, a parent/legal guardian or adult student must provide proof that the IEE criteria are satisfied, as well as a written report, itemized bill, and proof that payment was received.

EVALUATION PROCESS

The school district must give the IEE examiner the same opportunity to evaluate the child as given during the school district's evaluation, including access to educational records and an opportunity to observe in the school setting once the evaluator has been approved for access per state law and local policy requirements.

1. The school district can define the nature and scope of an IEE examiner's in-school observations consistent with the opportunity provided to the school district examiner. To

that extent, the school district can take steps to prevent unnecessary disruptions to the classrooms and to protect the privacy interest of other students.

2. The school district can impose time constraints on observations and restrictions on the time and location of IEE examiner/staff interactions to the same extent such restrictions are imposed on school district staff who conduct the same evaluations.
3. School district staff may accompany the IEE examiner while the person is on a school district campus.

REVIEWING THE IEE

The ARD committee is mandated by law to consider a parent-/legal guardian- or adult student-initiated evaluation that meet school district criteria in any decision made with respect to the provisions of a free appropriate education. The complete and final IEE report must be provided to the school district five (5) business days before the ARD committee meeting so that there is sufficient time for the school district to review the report prior to the ARD committee meeting. If the complete and final IEE report is provided to the school district for the first time at an ARD committee meeting, the ARD committee may table the meeting and reconvene at a later time so that the school district can have adequate time to review the report and determine compliance with school district criteria for an IEE.

The ARD committee is not mandated to accept the evaluation findings, implement the recommendations, or modify the IEP unless it is necessary to provide the child with a free appropriate public education.

INDEPENDENT SCHOOL DISTRICT
Independent Educational Evaluation (IEE) Parent Request Form
(Completed by or on behalf of parent/legal guardian or adult student requesting an IEE)

Student	Parent(s)/Legal Guardian(s)/Adult Student Name
Date of Birth	Parent(s)/Legal Guardian(s)/Adult Student Address and Phone Number
Campus	Individual Completing Form (Name and Title)

Do you disagree with an evaluation conducted by the _____ Independent School District? Yes ☐ No ☐

With which school district evaluation(s) do you disagree? _____ Dated _____

Assessment	Report Date	Assessment	Report Date
Academic Achievement		Health	
Occupational Therapy		Hearing/Audiological/Otological	
Cognitive/Intellectual		Adapted Physical Education	
Speech/Language/Communication		Adaptive Behavior	
Learning Disability		Physical Therapy	
Social/Emotional		Functional Behavior	
Vocational/Postsecondary/Transition		Other:	

Why do you disagree with the school district's evaluation(s)?

In what area(s) are you seeking an independent evaluation?

Please sign and return this Independent Educational Evaluation Request Form to:

Name Title Phone Number

Requestor Signature: _____ Date: _____

**In accordance with the IDEA, the District may ask the parent/legal guardian or adult student why they object to the District's evaluation; however, the parent/legal guardian or adult students are not required to provide an explanation, and the District may not unreasonably delay providing the independent educational evaluation or filing a due process complaint if the parent/legal guardian or adult student declines to respond.*

Date Received by Special Education Director/Designee: _____

INDEPENDENT SCHOOL DISTRICT LIST OF QUALIFIED INDEPENDENT EDUCATIONAL EVALUATORS COVER LETTER

Per your request, _____ will receive an Independent Educational Evaluation (“IEE”) in the area of _____ at District expense. Attached are the names, addresses, and telephone numbers of professionals who are qualified to conduct an IEE in the area of _____. The list of individuals and agencies represent evaluators who meet the District’s criteria for an IEE and whom both parents/legal guardians or adult student and the District have found to conduct quality evaluations in their area of specialization. The evaluators are not listed in order of preference, but rather are sorted alphabetically.

This list is not exhaustive. If you select someone other than the professionals included on this list, the criteria under which an IEE is conducted or obtained, including the location and cost of the evaluation and the qualification of the evaluator, must be the same as the criteria the District uses when it conducts the same kind of evaluation.

Should you choose an evaluator who is not on the list, you must provide to the District the name and contact information for the person you wish to perform the IEE. The District will determine whether the person meets District criteria and will notify you as such. If the person does not meet District criteria, you must choose a different person. If there are special circumstances that you believe would justify use of the person to perform the IEE, even though the person does not meet District guidelines, you will have the opportunity to provide that information to the District and it will be considered.

Attached is a list of qualified independent examiners within the geographic region and their contact information.

Attachment

[ON DISTRICT LETTERHEAD]
Prior Written Notice
Denying IEE

District Will Request Hearing

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you notified the District that you disagreed with the _____ assessment dated _____. You indicated that your disagreement was based on _____. The District has reviewed the _____ assessment and believes that it meets the requirements of federal law. Therefore, the District denies your request at this time.

In making the determination to deny your request, the District considered the evaluation(s) you disagreed with as well as all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents/legal guardians. Additionally, the District has considered available and relevant assessment information and other information it possesses concerning student.

Under the IDEA, when a parent/legal guardian or adult student requests an IEE, the District is obligated to either file a request for due process to show its assessment is appropriate or ensure the IEE is provided at public expense. The District considered granting the request for an IEE. The District contends the _____ assessment was appropriate and meets the requirements of federal law. Therefore, without unnecessary delay, the District will file a request for due process hearing seeking an order establishing the _____ assessment was appropriate and establishing that if you wish to obtain IEEs in the areas of _____, you must do so at your own expense.

Please contact me immediately if you wish to withdraw your request for an IEE because the District is obligated, under federal law, to file a request for due process hearing to establish the appropriateness of the assessment unless you withdraw your request for an IEE.

Name	Position	Telephone Number
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Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me _____.

Name	Title
------	-------

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Prior Written Notice
Granting IEE

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Mrs. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you notified the District that you disagreed with the _____ assessment dated _____. You indicated that your disagreement was based on _____. The District hereby grants your request for an IEE in the area of _____ in accordance with the District's IEE guidelines.

The District considered denying your request and requesting a hearing to prove its assessment is appropriate. In making the determination to grant your request, the District considered all available and relevant information, including but not limited to information provided to the ARD committee by educator, educational service providers and assessors, and the student's parents/legal guardians. Additionally, the District considered available and relevant assessment information and other information it possesses concerning the student.

The District granted your request for an IEE so that additional evaluative information may be obtained, which may be useful in programming to meet the educational needs of the student. Options for an independent evaluator include a qualified private evaluator or a qualified evaluator employed by another school district.

Enclosed is a copy of the District's *List of Qualified Independent Educational Evaluators in the Area of _____*, the *Independent Educational Evaluations Minimum Qualifications for Evaluators*, *Independent Educational Evaluation Criteria*, and *Notice of Procedural Safeguards*.

Please contact me as soon as you have identified your preferred evaluator so that we may discuss your selection and, provided the evaluator meets the District's criteria, make the necessary arrangements for the evaluation.

Finally, please be advised that the parents/legal guardians of a child with a disability have the protection of parental rights and procedural safeguards under the IDEA. A copy of those safeguards is enclosed. The sources you may contact to obtain assistance in understanding the provisions of the procedural safeguards are listed on the back of the procedural safeguards or you may contact your local district at:

Name	Position	Telephone Number
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You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center ("SEIC").

Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me.

Very truly yours,

Name
Title

Enclosures: List of Qualified Independent Educational Evaluators in the Area of _____
Independent Educational Evaluations Minimum Qualification for Evaluator
Independent Educational Evaluation Criteria
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Prior Written Notice
No District Evaluation to Trigger IEE

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you requested an IEE in the area of _____. The District hereby denies your request for an IEE at this time. The District considered granting your request for an IEE; however, an evaluation conducted by the school district with which a parent/legal guardian or adult student disagrees is a predicate to a right to an IEE at public expense. The District has not conducted an evaluation for the student in the area of _____; therefore, you are not entitled to an IEE at this time.

In making the determination to deny your request, the District considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents/legal guardians. Additionally, the District has considered available and relevant assessment information and other information it possesses concerning student.

As a result of your request for an IEE in the area of _____, the District has reviewed the student's educational records and, at this time, the District does not have sufficient information to suspect that the student exhibits a suspected disability that would mandate a District evaluation in the area of _____. However, please contact me as soon as possible if you have information or documentation that you believe is necessary for the District to consider in determining if a District assessment is necessary.

Finally, please be advised that the parents/legal guardians of a child with a disability have the protection of parental rights and procedural safeguards under the IDEA. A copy of those safeguards is enclosed. The sources you may contact to obtain assistance in understanding the provisions of the procedural safeguards are listed on the back of the procedural safeguards or you may contact your local district at:

_____ Name	_____ Position	_____ Telephone Number
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Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me
_____.

Very truly yours,

Name
Title

Enclosures: Independent Educational Evaluation Operating Guidelines
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Prior Written Notice
IEE Denied Because No District Evaluation Was Conducted
District Will Do a REED to Consider a District Evaluation

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you requested an IEE in the area of _____. The District has considered and hereby denies your request for an IEE at this time. An evaluation conducted by the school district with which a parent/legal guardian or adult student disagrees is a predicate to a right to an IEE at public expense. The District has not conducted an evaluation of your child in the area of _____; therefore, you are not entitled to an IEE at this time.

In making the determination to deny your request, the District considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents/legal guardians. Additionally, the District has considered available and relevant assessment information and other information it possesses concerning student.

Based on a review of the student's educational records and your request for an IEE in the area of _____, the District proposes that the ARD committee meet to do a review of existing evaluation data and determine whether the District should conduct an evaluation in the area of _____. The District staff will be in contact with you to schedule an ARD committee meeting.

Finally, please be advised that the parents/legal guardians of a child with a disability have the protection of parental rights and procedural safeguards under the IDEA. A copy of those safeguards is enclosed. The sources you may contact to obtain assistance in understanding the provisions of the procedural safeguards are listed on the back of the procedural safeguards or you may contact your local district at:

Name

Position

Telephone Number

You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center (“SEIC”).

Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me
_____.

Very truly yours,

Name
Title

Enclosures: Independent Educational Evaluation Operating Guidelines
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Prior Written Notice
Student Has Been Provided IEE

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you requested an IEE in the area of _____. You indicated that your request was based on your disagreement with the District's assessment in the area of _____ dated _____. The District has considered your request for an IEE in the area of _____ and hereby denies your request at this time.

As you are aware, on or about _____, the District provided you with an IEE at public expense based on your ____ (date) _____ disagreement with the same District evaluation. In accordance with federal law, parents/legal guardians or adult students are only entitled to one (1) IEE at public expense for each District conducted assessment. Because the District has already provided you with an IEE in the area of _____ based on your disagreement with the District's _____ assessment, you are not entitled to another IEE in the area of _____ at this time.

In making the determination to deny your request, the District considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents/legal guardians. Additionally, the District has considered available and relevant assessment information and other information it possesses concerning student as well as the fact that the District already granted you an IEE after the District conducted its own evaluation.

Finally, please be advised that the parents/legal guardians of a child with a disability have the protection of parental rights and procedural safeguards under the IDEA. A copy of those safeguards is enclosed. The sources you may contact to obtain assistance in understanding the provisions of the procedural safeguards are listed on the back of the procedural safeguards or you may contact your local district at:

Name

Position

Telephone Number

You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center ("SEIC").

Website: www.spedtex.org

E-mail: inquire@spedtex.org

Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me
_____.

Very truly yours,

Name

Title

Enclosures: Independent Educational Evaluation Operating Guidelines
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Approved but Selected Evaluator Does Not Meet the Criteria

Parent(s)/Legal Guardian(s)/Adult Student Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District ("District") regarding your request that the District fund an Independent Educational Evaluation ("IEE") in the area of _____.

On or about _____, you notified the District that you disagreed with the _____ assessment dated _____. In a letter dated _____, the District granted your request for an IEE in the area of _____ in accordance with the District's IEE guidelines.

On _____, the District received your request that _____ conduct the IEE in the area of _____. The District has carefully considered your request and determined that _____ does not meet the District's Independent Educational Evaluation Criteria. Our records indicate that _____ does not _____. In coming to the determination that _____ does not meet the school district's criteria, the school district considered the qualifications of the independent evaluator, the school district's IEE criteria, the district's minimum qualifications for evaluators, and the district's operating guidelines. Please contact me immediately if you believe that the District has erred in its determination that _____ does not meet the District's independent educational evaluation criteria.

You are entitled to an opportunity to demonstrate unique circumstances that may justify the selection of an evaluator who does not meet the District's independent educational evaluation criteria. If you believe that an exceptional circumstances warrant a deviation from these criteria, please provide that information to me immediately.

Enclosed is another copy of the District's *List of Qualified Independent Educational Evaluators in the Area of _____*, the *Independent Educational Evaluation Minimum Qualifications for Evaluators*, *Independent Educational Evaluation Criteria*, and *Notice of Procedural Safeguards*. Please review the documents provided and contact me as soon as you have identified a different preferred evaluator so that we may discuss your selection and, provided the evaluator meets the District's criteria, make the necessary arrangements for the evaluation.

Finally, please be advised that the parents/legal guardian of a child with a disability have the protection of parental rights and procedural safeguards under the IDEA. A copy of those safeguards is enclosed. The sources you may contact to obtain assistance in understanding the provisions of the procedural safeguards are listed on the back of the procedural safeguards or you may contact your local district at:

_____	_____	_____
Name	Position	Telephone Number

You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center ("SEIC").

Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1-855-773-3839

If you have any questions concerning the above, please do not hesitate to call me
_____.

Very truly yours,

Name
Title

Enclosures: List of Qualified Independent Educational Evaluators in the Area of _____
Independent Educational Evaluations Minimum Qualification for Evaluator
Independent Educational Evaluation Criteria
Notice of Procedural Safeguards

cc: Student Special Education File

INDEPENDENT SCHOOL DISTRICT INDEPENDENT EDUCATIONAL EVALUATION CRITERIA

CRITERIA FOR AN INDEPENDENT EDUCATIONAL EVALUATION

These criteria are applicable to evaluations performed and/or obtained by the District.

1. The parent/legal guardian or adult student and District must mutually agree to the parameters of the IEE (i.e., the areas to be assessed).
2. The independent evaluator must be certified or licensed by an accredited professional organization or agency representing his or her profession that is recognized within the State of Texas.
3. The independent evaluator must meet the District's minimum qualifications for District personnel who perform the type of evaluation that will make up the IEE. If the independent evaluator wishes to use additional persons to perform the IEE, each one of those persons must meet the District's criteria for performing his or her part of the IEE. The independent evaluator will provide the District with the credentials and qualifications of each person who may administer a portion of the IEE.
4. The independent evaluator must meet the qualifications and training requirements to administer, score, and interpret the evaluation instrument(s) utilized during the IEE, as specified by the test publisher.
5. The independent evaluator must be located within the District's geographical area and within a _____ mile radius of the District administration building.
6. The independent evaluator must comply with all state and federal requirements, the Code of Ethics for his or her professional licensing agency, and remain fully licensed and/or certified during the evaluation and reporting process.
7. The independent evaluator must meet all state law and District policy requirements concerning criminal history record information.
8. Parents/legal guardians or adult students must provide written consent for the release and exchange of information between the District and independent evaluator, including the release to the District of the evaluation report, all protocols, and results of all assessment data collected by the independent evaluator.
9. The independent evaluator shall conduct an evaluation that provides relevant information and recommendations that directly assist the ARD committee in determining the disability and/or educational needs of the child.
10. The independent evaluator shall use only the most current version of each assessment instrument utilized for the IEE.
11. The independent evaluator shall use assessment instruments that are age and gender appropriate to the child.

12. The independent evaluator shall use assessment instruments that are chosen on the basis of their relevancy to the educational questions to be addressed by the evaluation.
13. The independent evaluator shall review the student record, including the results of evaluations conducted by the District.
14. The independent evaluator shall not knowingly utilize the same version of an assessment instrument or measure, which was used in a previous assessment of the child, sooner than recommended in the test publisher's guidelines.
15. The independent evaluator shall not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or for determining an appropriate educational program for the child.
16. The independent evaluator shall select and administer assessment instruments so as not to be discriminatory on a racial or cultural basis.
17. The independent evaluator shall provide and administer assessment instruments in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not clearly feasible to do so.
18. If the student has been exposed to a second language, the evaluation must include assessment of language dominance and proficiency, and the results must be utilized to determine the appropriate language for the remainder of the evaluation.
19. The independent evaluator shall use assessment instruments that are used for the purposes for which the assessments or measures are valid and reliable.
20. The independent evaluator shall select and administer assessment instruments or measures that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single intelligence quotient.
21. The independent evaluator shall use assessment instruments that are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
22. The District may require the IEE include an observation of the student in an educational setting and interviews with school staff if student observation and/or staff interviews would be included in an evaluation performed by the District.
23. The independent evaluator shall provide an original signed written report of findings and test protocols to the District within forty-five (45) school days from the date the public agency authorizes the IEE (Note: This date may need to be changed due to extenuating or specific circumstances.). That report shall contain:
 - a. Date(s) when evaluation activities were conducted;
 - b. A list of all information/data reviewed;

- c. A complete summary of all test scores along with subtest scores of the tests administered;
 - d. A complete summary of all information obtained or reviewed from observations, interviews, and other nonstandardized assessment instruments;
 - e. A discussion and interpretation of test results; and
 - f. Full and complete information that addresses the presence or absence of those symptoms or conditions included in the specific eligibility criteria according to federal and state regulations. The report shall include the type and severity of the impairment and the functional implications for the educational process. The report must provide the ARD committee with sufficient information to determine whether or not the student meets the federal and state eligibility criteria, whether the student has a disability that requires the provision of special education services to the student, and, if so, information that is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the student's disability category.
24. All personnel involved in the evaluation shall sign the report.
25. When determining the presence of a specific learning disability ("LD"), the independent evaluator must follow the model adopted by _____ ISD. *(Insert language that describes the model that your district follows when determining LD. See sample language below.)*
- _____ ISD has adopted the scientific, research-based model of determining a pattern of strengths and weaknesses to identify LD. This model requires multiple components including:
- a. The presence of a significant academic deficit that is supported by four sources of data (informal, criterion references, curriculum based, and norm referenced). It is assumed that supplemental interventions have been conducted in a systematic fashion and progress monitoring has shown that the student is not making sufficient academic progress consistent with age- and grade-level expectations, despite appropriate academic instruction and tiered interventions.
 - b. There must be a significant, normative cognitive processing deficit. This is usually accomplished by evaluating the cognitive areas both broad and narrow as identified in the Cattell-Horn-Carroll (CHC) model of cognitive abilities.
 - c. There is an empirical relationship between the cognitive processing disorder and the academic deficit. This linkage is important because the cognitive processing disorder is the presumed primary cause of the academic deficit.

- d. The relationships occur within the context of an adequate cognitive ability profile. Definitions of LD recognize the critical importance that the student has adequate overall cognitive ability.
- e. The academic achievement is unexpected, given the student's profile of both cognitive and academic capabilities.
- f. The processing deficit is domain specific. This reflects the importance of the cognitive impairments being different than the other cognitive areas.

In order to determine a pattern of strengths and weaknesses, a variety of data sources must be used.

(If the District has adopted a different model for assessing LD, insert the description of the model here.)

- 26. The independent evaluator will follow all evaluation guidelines in the IDEA and its implementing regulations, the Texas Education Code, and the Texas Administrative Code.
- 27. A parent/legal guardian or adult student is entitled to only one (1) IEE for each evaluation performed by the District if the parent/legal guardian or adult student disagrees with the evaluation.

COST AND FUNDING

- 1. Payment for the IEE shall occur only after the District has received the final written report of findings from the independent evaluator meeting the IEE criteria, the original protocols and work documents (i.e., observation notes, interview notes, etc.) that were utilized in the evaluation, and any other information the District needs to process payment.
- 2. The independent evaluator shall be available in person or electronically (i.e., telephone conference call, interactive video, etc.) to discuss results of the IEE with the ARD committee.
- 3. The District has no obligation to pay for assessment and/or services the independent evaluator provides after the IEE's completion.
- 4. The District has no obligation to pay for assessments outside the mutually agreed to parameters of the IEE.
- 5. If the independent evaluator has a sliding scale fee based on the parent's/legal guardian's or adult student's income or a reduced rate for privately funded evaluations, the District will pay the amount normally charged to the parent/legal guardian or adult student.
- 6. Districts can consider including the following paragraph if they want to include the estimated costs for various evaluations.

The District will pay a fee for the IEE, which allows a parent to choose from among the qualified professionals in the area and the estimated rates for IEEs as listed below:

- a. Functional Behavioral Assessments not to exceed _____

- b. Psychoeducational Evaluations (including bilingual) not to exceed _____
- c. Psychological Evaluations (including bilingual) not to exceed _____
- d. Speech and Language Evaluations (including bilingual) not to exceed _____
- e. Vocational Assessments not to exceed _____
- f. Occupational and Physical Therapy Evaluations not to exceed _____
- g. Functional Vision/Learning Media Assessment not to exceed _____

Note: District may add additional evaluations as you deem appropriate.

7. The District will not pay unreasonable charges for an IEE. An unreasonably excessive fee is one that is more than 25% above the prevailing fees in the area, as established in the *Medicaid/Medicare Service Provider Manual*, for the specific evaluation being considered.

ACCESSING THIRD-PARTY PAYMENT

When available, the District would like to access a parent's/legal guardian's or adult student's private or public health insurance to help cover the cost of the IEE.

The District will pick-up any costs (i.e., deductibles, co-pays, etc.) not covered by the parent's/legal guardian's or adult student's insurance provider, so that there will be no out-of-pocket costs to the parent/legal guardian or adult student.

CONSIDERATION OF THE RESULTS OF AN INDEPENDENT EDUCATIONAL EVALUATION

The ARD committee will consider the findings and recommendations provided by an IEE completed in accordance with these procedures. However, the ARD committee continues to be responsible for making decisions regarding the student's eligibility and need for special education services and, when the student is eligible and needs special education, for determining placement and services to be provided. A complete and final copy of the IEE report must be provided to the District five (5) business days before the ARD committee meeting to consider the report so that the District will have sufficient time to review the report. If the report is presented to the District for the first time at an ARD committee meeting, the ARD committee may table the meeting and resume at a later time after the District has had sufficient time to review the report. If the parent/legal guardian or adult student provides an evaluation to the District that was paid for by the parent/legal guardian or adult student, it will be considered by the ARD Committee if it meets the District's criteria.

EXCEPTIONAL CIRCUMSTANCES

The District's IEE criteria may be waived or modified in special circumstances where unique diagnostic expertise or exceptional circumstances warrant, provided the parent/legal guardian or adult student can demonstrate the necessity of using an evaluator outside the District's IEE criteria. The parent/legal guardian or adult student may submit a request to consider exceptional circumstances and request to grant an IEE not in compliance with District criteria to the Director of Special Education at address ; telephone
 . If the District denies the parent's/legal guardian's or adult student's request for an IEE that does not meet the District's criteria and the parent/legal guardian or adult student obtains the IEE anyway and requests reimbursement, or the District denies reimbursement for a parent-/legal guardian- or adult student-initiated evaluation because it does not meet the District's criteria, the District must demonstrate, in a due process hearing, that the evaluation does not meet the District's criteria or there was no justification for obtaining an evaluation that did not meet the District's criteria.

Independent Educational Evaluations Minimum Qualifications for Evaluators*

*Listed alphabetically**

Type of Educational Evaluation	Minimum Qualification for Evaluators
Academic Achievement	Educational Diagnostician Licensed Specialist in School Psychology Reading Specialist (when applicable) Special Education Teacher
Adapted Physical Education	Occupational Therapist Physical Education Teacher Physical Therapist Special Education Teacher
Adaptive Behavior	Educational Diagnostician Licensed Specialist in School Psychology
Assistive Technology	Assistive Technology Specialist (RESNA) Educational Diagnostician Licensed Specialist in School Psychology Occupational Therapist Physical Therapist Speech-Language Pathologist Teacher
Autism	Licensed Specialist in School Psychology Speech-Language Pathologist
Cognitive/Intellectual	Educational Diagnostician Licensed Specialist in School Psychology
Deaf or Hard of Hearing	
<ul style="list-style-type: none"> Audiological Exam 	Licensed Audiologist (Educational)
<ul style="list-style-type: none"> Functional Listening Evaluation 	Licensed Audiologist (Educational) Teacher of the Deaf
<ul style="list-style-type: none"> Otological Exam 	Licensed Otolaryngologist (Ear, Nose, and Throat)

Type of Educational Evaluation	Minimum Qualification for Evaluators
Deafblind	
<ul style="list-style-type: none"> Communication Assessment 	Teacher of Students with Visual Impairments (CTVI)
<ul style="list-style-type: none"> Hearing <ul style="list-style-type: none"> Audiological Exam 	Licensed Audiologist (Educational)
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Functional Listening Evaluation 	Audiologist (Educational) Teacher of the Deaf
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Otological Exam 	Otolaryngologist (Ear, Nose, and Throat)
<ul style="list-style-type: none"> Visual <ul style="list-style-type: none"> Functional Vision Evaluation 	Orientation and Mobility Specialists (COMS) Teacher of Students with Visual Impairments (CTVI)
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Learning Media Assessment 	Teacher of Students with Visual Impairments (CTVI)
<ul style="list-style-type: none"> <ul style="list-style-type: none"> Orientation and Mobility Evaluation 	Orientation and Mobility Specialists (COMS)
<ul style="list-style-type: none"> <ul style="list-style-type: none"> State Eye Report 	Ophthalmologist Optometrist
Dyscalculia Evaluation	Dyslexia Assessment Professional Dyslexia Teacher Educational Diagnostician Licensed Specialist in School Psychology
Dysgraphia Evaluation	Dysgraphia Assessment Professional Dysgraphia Teacher Educational Diagnostician Licensed Specialist in School Psychology
Dyslexia	Dyscalculia Assessment Professional Dyscalculia Teacher Educational Diagnostician Licensed Specialist in School Psychology
Functional Behavioral Assessment (FBA)	Behavior Specialist/Board Behavior Analyst (BCBA) Educational Diagnostician Licensed Specialist in School Psychology

Type of Educational Evaluation	Minimum Qualification for Evaluators
Functional Vocational	Educational Diagnostician General Education Teacher Licensed Professional Counselor Licensed Specialist in School Psychology School Counselor Special Education Teacher Transition Specialist
Health	Physician Registered Nurse
Occupational Therapy	Occupational Therapist
Physical Therapy	Physical Therapist
Psychoeducational	Educational Diagnostician Licensed Specialist in School Psychology
Psychological	Licensed Specialist in School Psychology
Social–Emotional	Licensed Specialist in School Psychology
Specific Learning Disability	Educational Diagnostician Licensed Specialist in School Psychology
Speech-Language/Communication	Speech-Language Pathologist
Transition	Educational Diagnostician General Education Teacher Licensed Professional Counselor Licensed Specialist in School Psychology School Counselor Special Education Teacher Transition Specialist
Visual	
<ul style="list-style-type: none"> Expanded Core Curriculum 	Teacher of Students with Visual Impairments (CTVI)
<ul style="list-style-type: none"> Functional Vision Evaluation 	Orientation and Mobility Specialists (COMS) Teacher of Students with Visual Impairments (CTVI)

Type of Educational Evaluation	Minimum Qualification for Evaluators
<ul style="list-style-type: none"> Learning Media Assessment 	Teacher of Students with Visual Impairments (CTVI)
<ul style="list-style-type: none"> Orientation and Mobility Evaluation 	Orientation and Mobility Specialists (COMS)
<ul style="list-style-type: none"> State Eye Report 	Ophthalmologist Optometrist
Visual Processing/Perception	Educational Diagnostician Licensed Specialist in School Psychology

***Disclaimer:** *This list of qualified examiners is not exhaustive. Specific qualifications should be clarified with the director of special education prior to selection of the examiner. Please reference Form I for criteria for an Independent Education Evaluation, including qualifications. Note the following excerpts from Form I:*

- The independent evaluator must be certified or licensed by an accredited professional organization or agency representing his or her profession that is recognized within the State of Texas.*
- The independent evaluator must meet the District's minimum qualifications for District personnel who perform the type of evaluation that will make up the IEE. If the independent evaluator wishes to use additional persons to perform the IEE, each one of those persons must meet the District's criteria for performing his or her part of the IEE. The independent evaluator will provide the District with the credentials and qualifications of each person who may administer a portion of the IEE.*
- The independent evaluator must meet the qualifications and training requirements to administer, score, and interpret the evaluation instrument(s) utilized during the IEE, as specified by the test publisher.*

Analysis of District Evaluation Subject to IEE Request

For Internal Use Only—Not Part of Student Records

Date parent's/legal guardian's or adult student's request for IEE was received _____

With which school district evaluation did the parent/legal guardian or adult student disagree?

Was the district's evaluation conducted less than one (1) year from the date of the IEE request?

Yes ☐ No ☐

What, if any, reason did the parent/legal guardian or adult student give for disagreeing with the district's evaluation?

The District assessment compared to IDEA assessment criteria:

1. Used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information. Yes ☐ No ☐
2. The functional, developmental, and academic information was appropriate to determine
 - a.) whether the child is a child with a disability and Yes ☐ No ☐
 - b.) the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or, for a preschool child, to participate in appropriate activities). Yes ☐ No ☐
3. Did not use any single measure or assessment as the sole criterion for determining whether a child has a disability and for determining an appropriate educational program for the child. Yes ☐ No ☐
4. Used technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. Yes ☐ No ☐
5. The assessment materials were selected and administered so as not to be discriminatory on a racial or cultural basis. Yes ☐ No ☐
6. The assessment materials were provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it was clearly not feasible to so provide or administer. Yes ☐ No ☐
7. The assessment materials were used for the purposes for which the assessments or measures are valid and reliable. Yes ☐ No ☐
8. The assessment materials were administered by trained and knowledgeable personnel. Yes ☐ No ☐

9. The assessment materials were administered in accordance with any instructions provided by the producer of the assessment. Yes ☐ No ☐
10. The assessments and other evaluation materials included those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Yes ☐ No ☐
11. The assessments were selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude, achievement level, or other factors the test purports to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). Yes ☐ No ☐
12. The child was assessed in all areas related to the suspected disability, including (if appropriate) health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. Yes ☐ No ☐
13. The evaluation was sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. Yes ☐ No ☐
14. The assessment tools and strategies provided relevant information that directly assists persons in determining the educational needs of the child. Yes ☐ No ☐

Other factors to consider:

1. Will granting the IEE build a better relationship between the district and the parent/legal guardian or adult student?
2. Will granting the IEE restore trust and repair the working relationship between the district and the family or adult student?
3. How much staff time will be diverted to a due-process hearing to defend the district's evaluation?
4. What is the estimated cost of a due-process hearing to defend the district's evaluation?
5. How many times has the parent/legal guardian or adult student requested an IEE?
6. Have IEEs obtained by the parent/legal guardian or adult student previously been beneficial in developing programming for the student?
7. Are there areas of concern in the district's evaluation?

INDEPENDENT EVALUATOR CONTRACT TERMS

*(Directions: The following terms are contained in the sample Independent Educational Evaluators (“IEE”) criteria and are applicable to the independent evaluator. The District may adopt different criteria than these. Whatever criteria are adopted, the District should consider including some or all of the criteria in the contract with the independent evaluator. The terms can be inserted into the school district’s usual contract form or included as a separate attachment to the contract. **DELETE this paragraph when attaching this document to the contract.**)*

1. The independent evaluator must be certified or licensed by an accredited professional organization or agency representing his or her profession that is recognized within the State of Texas.
2. The independent evaluator must meet the District’s minimum qualifications for District personnel who perform the type of evaluation that will make up the IEE. If the independent evaluator wishes to use additional persons to perform the IEE, each one of those persons must meet the District’s criteria for performing his or her part of the IEE. The independent evaluator will provide the District with the credentials and qualifications of each person who may administer a portion of the IEE.
3. The independent evaluator must meet the qualifications and training requirements to administer, score, and interpret the evaluation instrument(s) utilized during the IEE, as specified by the test publisher.
4. The independent evaluator must be located within the District’s geographical area and within a _____ mile radius of the District administration building.
5. The independent evaluator must comply with all state and federal requirements, the Code of Ethics for his or her professional licensing agency, and remain fully licensed and/or certified during the evaluation and reporting process.
6. The independent evaluator must meet all state law and District policy requirements concerning criminal history record information.
7. Parents/legal guardians or adult students must provide written consent for the release and exchange of information between the District and independent evaluator, including the release to the District of the evaluation report, all protocols, and results of all assessment data collected by the independent evaluator.
8. The independent evaluator shall conduct an evaluation that provides relevant information and recommendations that directly assist the ARD committee in determining the disability and/or educational needs of the child.
9. The independent evaluator shall use only the most current version of each assessment instrument utilized for the IEE.
10. The independent evaluator shall use assessment instruments that are age and gender appropriate to the child.

11. The independent evaluator shall use assessment instruments that are chosen on the basis of their relevancy to the educational questions to be addressed by the evaluation.
12. The independent evaluator shall review the student's educational records, including the results of evaluations conducted by the District.
13. The independent evaluator shall not knowingly utilize the same version of an assessment instrument or measure, which was used in a previous assessment of the child, sooner than recommended in the test publisher's guidelines.
14. The independent evaluator shall not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or for determining an appropriate educational program for the child.
15. The independent evaluator shall select and administer assessment instruments so as not to be discriminatory on a racial or cultural basis.
16. The independent evaluator shall provide and administer assessment instruments in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not clearly feasible to do so.
17. If the student has been exposed to a second language, the evaluation must include assessment of language dominance and proficiency, and the results must be utilized to determine the appropriate language for the remainder of the evaluation.
18. The independent evaluator shall use assessment instruments that are used for the purposes for which the assessments or measures are valid and reliable.
19. The independent evaluator shall select and administer assessment instruments or measures that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single intelligence quotient.
20. The independent evaluator shall use assessment instruments that are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
21. The District may require that the IEE include an observation of the student in an educational setting and interviews with school staff if student observation and/or staff interviews would be included in an evaluation performed by the District.
22. The independent evaluator shall provide an original signed written report of findings to the District within forty-five (45) school days from the date the public agency authorizes the IEE (Note: This time line may be changed depending on specific circumstances). That report shall contain:
 - a. Date(s) when evaluation activities were conducted;
 - b. A list of all information/data reviewed;

- c. A complete summary of all test scores along with subtest scores of the tests administered;
 - d. A complete summary of all information obtained or reviewed from observations, interviews, and other nonstandardized assessment instruments;
 - e. A discussion and interpretation of test results; and
 - f. Full and complete information that addresses the presence or absence of those symptoms or conditions included in the specific eligibility criteria according to federal and state regulations. The report shall include the type and severity of the impairment and the functional implications for the educational process. The report must provide the ARD committee with sufficient information to determine whether or not the student meets the federal and state eligibility criteria, whether the student has a disability that requires the provision of special education services to the student, and, if so, information that is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the student's disability category.
- 23. All personnel involved in the evaluation shall sign the report.
 - 24. When determining the presence of a specific learning disability ("LD"), the independent evaluator must follow the model adopted by _____ ISD.
(Insert district specific language to describe LD assessment.)
 - 25. The independent evaluator will follow all evaluation guidelines in the IDEA and its implementing regulations, the Texas Education Code, and the Texas Administrative Code.
 - 26. Payment for the IEE shall occur only after the District has received the final written report of findings from the independent evaluator meeting the IEE criteria and the original protocols and work documents (i.e., observation notes, interview notes, etc.) that were utilized in the evaluation. The District will provide for payment in accordance with the District's procedures for paying invoices of vendors and contractors. Payment by the District is contingent on the evaluator(s) providing all required information needed to process payment.
 - 27. The independent evaluator shall be available in person or electronically (i.e., telephone conference call, interactive video, etc.) to discuss results of the IEE with the ARD committee.
 - 28. The District has no obligation to pay for assessment and/or services the independent evaluator provides after the IEE's completion.
 - 29. The District has no obligation to pay for assessments outside the mutually agreed to parameters of the IEE.

RELEVANT CASE LAW RELATED TO INDEPENDENT EDUCATIONAL EVALUATIONS

- I. School districts have the right to conduct their own evaluations before being required to grant an IEE to a parent. This is the case if the district has not conducted the evaluation as well as if the district wants to conduct the evaluation but the parent refuses to consent to the evaluation.**
- *Houston Indep. School Dist.*, 114 LRP 9516 (SEA TX 2013)—The district was unable to complete its own evaluation of student because the parent had refused to provide necessary updated sociological information needed for determining eligibility. Therefore, the parent’s request for an IEE was premature, and the parent was not entitled to an IEE at public expense until the district could complete its own evaluation.
 - *Department of Education, State of Hawaii*, 113 LRP 36667 (SEA HI 2013)—Parents refused to authorize the district to conduct an academic and core program evaluation; therefore, parents were not entitled to an IEE at public expense. The district’s evaluation was a predicate to the parental right to an IEE, and without the predicate evaluation, the parent had no right to a publicly funded IEE.
 - *G.J. v. Muscogee Co. Sch. Dist.*, 58 IDELR 61, 668 F.3d 1258 (11th Cir. 2012)—Parents who refused to consent to school district's proposed triennial reevaluation of student's special education services under IDEA had no right to a publicly funded IEE since the district had not obtained a reevaluation with which the parents disagreed.
 - *Montgomery County Intermediate Unit*, 110 LRP 37067 (SEA Pa. 2010)—Parents were properly denied reimbursement for an IEE because they secured the evaluation before the intermediate unit had completed its own evaluation. According to the court, the parents set the IEE in motion well before the intermediate unit completed its evaluation and before the parents could have disagreed with the agency’s evaluation.
 - *D.Z. v. Bethlehem Area Sch. Dist.*, 54 IDELR 323 (Pa. Comm. Ct. 2010)—Parents refused to consent to the district’s reevaluation and subsequently sought an IEE. The court found that the parents’ right to request an IEE did not vest until the district’s evaluation was completed and the parents disagreed with the results of the evaluation.
 - *G.B. ex rel. T.B. v. San Ramon Valley Unified Sch. Dist.*, No. C-08-2805 EDL, 2008 WL 4279701 (N.D. Cal. Sept. 16, 2008)—The court rejected parents' IEE reimbursement request as premature where their disagreement concerned whether

the child needed a reevaluation rather than whether the district's reevaluation was appropriate.

- *Letter to Zirkel*, 52 IDELR 77 (OSEP 2008)—A district has no obligation to provide an IEE at public expense just because a parent objects to its use of a response-to-intervention process. Instead, the parent must wait until the district has completed an evaluation of the student to request an IEE.

II. Parents may be entitled to an IEE in an area that was not assessed by a district if the district's evaluation did not include assessment in all areas of the suspected disability.

- *Letter to Baus*, 115 LRP 8855 (OSEP 2015)—When an evaluation is conducted and a parent disagrees with the evaluation because the child was not assessed in a particular area, the parent has the right to request an IEE to assess the child in that area to determine whether the child has a disability and the nature and extent of the special education and related services the child needs. According to OSEP, if a parent requests an IEE at public expense, the public agency must, without unnecessary delay, either initiate a due process hearing to show the evaluation is appropriate or ensure the IEE is provided at public expense.
- *Letter to Carroll*, 68 IDELR 279 (OSEP 2016)—Confirmed that parents are entitled to an IEE if the complaint is that the district did not evaluate in a particular area.

III. In accordance with 34 C.F.R. § 300.502(b)(5), a parent is entitled to only one (1) IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees.

- *In re Student with a Disability*, 54 IDELR 110 (SEA N.Y. 2010)—Parents were not entitled to reimbursement for an IEE because they had already received a publicly funded IEE after they disagreed with the district's most recent evaluation.
- *Seattle Sch. Dist.*, 52 IDELR 30 (SEA WA 2008)—The district funded an IEE in response to the child's most recent evaluation; therefore, the parent was not entitled to another IEE until the district conducted a new assessment.
- *Arapahoe County School Dist. 5*, 69 IDELR 291 (SEA CO 2017)—Request for an IEE after progress monitoring was not permitted. Progress monitoring was not an evaluation by the school district.

IV. The IEE must be requested in a timely manner within the statute of limitations timeline.

- *Beaumont Indep. Sch. Dist.*, 114 LRP 7471 (SEA TX 2013)—Student's evaluations were conducted in late 2010 and early 2011, but student's parents did not seek an IEE until April 24, 2013. The district denied the request for an IEE and argued that the student was not entitled to one because the request was outside the one-year statute of limitations in Texas. The hearing officer agreed, finding that any claims

asserted by the student concerning the inadequacies of the district's evaluations conducted in 2010 and 2011 were time barred and the student was not entitled to an IEE.

- *Ottis W. vs. Brazos ISD*, 113 LRP 2098 (SEA TX 2012)—Parents did not request an IEE within one year of the student's last evaluation. The Texas one-year statute of limitations outlined in 19 TAC 89.1141(c) barred the claim seeking an IEE at public expense.
- *TP v. Bryan County Sch. Dist.*, 114 LRP 45 (S.D. Ga. 2014)—A Georgia district that evaluated a student with autism in September 2010 did not have to fund an IEE that his parents requested nearly 26 months later. The IDEA's two-year statute of limitations period barred the parents' request for a publicly funded IEE.
- *Placentia-Yorba Linda Unified Sch. Dist.*, 112 LRP 41903 (SEA CA 2012)—If the parent fails to request an IEE within the two-year limitation, the district's only legal obligation is to provide the parent with prior written notice of whether it will or will not provide the IEE. Because the parent's request was outside the two-year limitation, the district was not required to fund the requested IEE or to file for due process to defend the appropriateness of its assessment.
- *Fullerton Sch. Dist.*, 112 LRP 8549 (SEA CA 2012)—If a parent disagrees with a school district's assessment of a student, the parent may request a publicly funded IEE. There is no statutory or regulatory time limit for requesting an IEE after a school district has conducted an assessment, other than the two-year statute of limitations imposed by California law for the filing of a due process complaint.
- *Atlanta Pub. Schs.*, 51 IDELR 29 (SEA Ga. 2008)—Where the student's last evaluation occurred more than three years before the request for an IEE, the IDEA's two-year statute of limitations barred her claim seeking an IEE at public expense. To the extent the student disagrees with an evaluation conducted in 2005 and seeks an IEE in 2008 based on that disagreement, the request is untimely, as it was not made within a reasonable period of time after the district conducted its evaluation and is beyond the two-year statute of limitations.
- *Letter to Thorne*, 16 IDELR 606 (OSEP 1990)—The regulations do not establish timelines regarding how long after receiving the results of the district's evaluation a parent can wait to request reimbursement for an IEE. It would not seem unreasonable for the district to deny a parent reimbursement for an IEE that was conducted more than two years after the district's evaluation. Thus, it would not be necessary for the district to initiate a hearing in this situation.

V. Districts can have criteria for IEE's that restrict the location of the evaluation as long as the restrictions are reasonable and parents are given the opportunity to demonstrate unique circumstances justifying their need to exceed the limitations.

- *Dover City Schools*, 57 IDELR 208 (SEA Ohio 2011)—The court ordered a district to take remedial action because of the geographical restrictions imposed on the IEE. The district imposed a 30-mile radius restriction on IEEs; however, three of the five evaluators provided on the district’s list practiced outside the 30-mile radius.
- *South Coast Educ. Servs. Dist. & Central Curry Sch. Dist.*, 57 IDELR 300 (SEA Ore. 2011)—A court found two school districts in violation of the IDEA because they required parents to select from an approved list of evaluators who operated in a specific geographical area but did not allow parents the opportunity to prove extraordinary circumstances.
- *Letter to Anonymous*, 20 IDELR 1219 (OSEP 1993)—A district may require that independent evaluators be located within the same state as the district as long as there are enough evaluators to conduct the required evaluations within the state.

VI. Districts may establish a reasonable maximum dollar amount it will pay to reimburse for an IEE as long as the parents are given an opportunity to demonstrate extenuating circumstances that would warrant reimbursement or funding in excess of the maximum.

- *Shafi A. v. Lewisville Independent School District*, 69 IDELR 66 (E.D. Tex. 2016)—A Texas district's guidelines based upon the typical costs for evaluations within the geographic area, the evaluator's credentials, the unique needs of the student, and the approximations of costs up to 35 percent higher than Medicaid rates for the service helped the district establish that it applied reasonable cost criteria for IEEs. The IHO found that the district complied with the provisions of 34 CFR 300.502 (b)(2) in responding to the parents' request for an IEE that exceeded cost limits. On appeal, the court held that because the pathologist's fee significantly exceeded customary assessment rates in the area and there were no unique circumstances to justify the cost, the district was not obligated to pay for an IEE conducted by the parents' preferred evaluator.
- *Letter to Thorne*, 16 IDELR 606 (OSEP 1990)—The maximum established cannot simply be an average of the fees customarily charged in the area by professionals who are qualified to conduct the specific test. Rather, the maximum must be established so that it allows parents to choose from among the qualified professionals in the area and only eliminates unreasonably excessive fees.

When a district does not adopt cost criteria, parents are free to obtain the services of any qualified evaluator.

- *Irvington Community Schs.*, 113 LRP 29944 (SEA IN 2013)—District’s cost criteria that it would pay for an evaluation “up to rates comparable to those charged by evaluators in Marion County” was appropriate.
- *Dover City Schools*, 57 IDELR 208 (SEA Ohio 2011)—The court ordered a district to take remedial action because of the cost restrictions imposed on the IEE. The

district imposed a \$1,000 cost restriction on IEEs; however, some of the evaluators provided on the district's list charged more than the allotted amount.

- *Dunmore Sch. Dist.*, 53 IDELR 107 (SEA Pa. 2009)—A court upheld a parent's request for an IEE by a practitioner that was 100 miles away and cost \$4,200 because, among other things, the district did not maintain specific criteria for an evaluator. Instead, the district's criteria were merely "categories." For example, the district stated that it allowed for "reasonable cost," but did not specify a dollar amount or dollar range.
- *Tolar Indep. Sch. Dist.*, 22 IDELR 174 (SEA TX 1994)—The district allowed for a maximum \$1,000 for an IEE even though the prevailing rate in the area was only \$500. The district denied the parent's request for an IEE at the rate of \$4,800. The district's refusal was upheld because the district had established a reasonable cost limitation, and the parent had failed to provide any evidence of a unique circumstance justifying a waiver.

VII. In accordance with C.F.R. § 300.502(e)(1), districts may require that independent evaluators meet certain qualifications as long as the qualifications are the same as those imposed on evaluations conducted by or on behalf of the school district. In other words, the school district cannot impose more rigorous requirements for publicly funded IEEs.

- *Humble Sch. Dist.*, 55 IDELR 150 (SEA Tex. 2010)—Upheld a school district's refusal to fund parent's IEE because the evaluator did not meet the district's requirement that he be a licensed school psychologist or educational diagnostician to conduct evaluations on SLD eligibility. The school district did not limit the parent's selection to the lists provided, but did properly require the parent's selection meet its criteria. Furthermore, the parent failed to establish any unique circumstances other than her skepticism of professionals with public school experience. Such skepticism, without more, did not justify her selection.
- *Letter to Young*, 39 IDELR 98 (OSEP 2003)—A public agency may establish qualifications that require an IEE examiner to hold a particular license when it requires the same licensure for its own staff conducting the same types of evaluations.
- *Letter to Petska*, 35 IDELR 191 (OSEP 2001)—Several policies imposed by four Wisconsin school districts were found inappropriate. For example, OSEP found that criteria prohibiting an IEE examiner's association with private schools, organizations that advocate the interests of parents, organizations that advocate particular instructional approaches in the area of educating children with disabilities, and those with a history of consistently acting as an expert witness against public schools were not qualifications necessary to perform an evaluation. Such qualifications were unrelated to an examiner's ability to conduct an educational evaluation and undermined the parent's ability to obtain an independent evaluation. Also, the qualification that IEE examiners have "recent and extensive

experience in the public schools" was found inconsistent with the parent's right to an IEE. This requirement was too narrow and could prohibit examiners with the expertise necessary for a full and individual evaluation under certain circumstances.

- *School Admin. Dist. #74*, 21 IDELR 1021 (SEA ME 1994)—Parents are not entitled to public funding of an IEE performed by an out-of-state practitioner when a state has a requirement for in-state licensure for publicly contracted evaluations, absent extraordinary circumstances.
- *But see In re Etowah County Bd. of Educ.*, 20 IDELR 843 (SEA AI 1993)—When a state has no licensure requirement for performance of evaluations by psychologists, a school district cannot refuse to fund an IEE performed by a psychologist licensed outside the state on the basis of his lack of in-state licensure.
- *Humble Indep. Sch. Dist.* 55 IDELR 150 (SEA Tex. 2010)—A school district may not require all evaluators to be licensed if only those individuals employed by the school district are capable of obtaining the required license. Comment, 71 Fed. Reg. 156, p. 46689.

VIII. School districts are permitted to list the names and addresses of evaluators who meet the minimum qualifications because it can be an effective way for school districts to inform parents of where and how they might obtain an IEE. There is nothing in the IDEA that would prohibit a school district from publishing a list of examiners that meet the district's criteria.

- *Letter to Young*, 39 IDELR 98 (OSEP 2002)—A district may provide parents with a list of qualified evaluators pursuant to its right to require an evaluation that matches its own criteria, so long as the list is responsive to the child's needs and the list is exhaustive.

If a district fails to list all qualified evaluators within a given geographic area, the parents may choose qualified evaluators who are not listed.

- *Letter to Anonymous*, 56 IDELR 175 (OSEP 2010)—If the district wishes to limit parents to using examiners from a list, the list must be exhaustive; that is, all qualified examiners in a geographic location must be included. *Id*; *Humble Indep. Sch. Dist.*, 55 IDELR 150 (SEA Tex. 2010); *Letter to Young*, 39 IDELR 98 (OSEP 2002).
- *Dunmore Sch. Dist.*, 53 IDELR 107 (SEA Pa. 2009)—A court upheld a parent's request for an IEE by a practitioner that was 100 miles away and cost \$4,200 because, among other things, the district's approved list of evaluators was not complete and many of the approved evaluators had a conflict of interest or could not be reached.
- *Letter to Parker*, 41 IDELR 155 (OSEP 2004)—If the parent uses an evaluator not on the district's list, the district may seek due process to demonstrate the parent's

evaluation did not satisfy the IEE rules or that there was no justification for selecting an evaluator that did not meet the criteria. If, however, the district chooses not to initiate a hearing, it must ensure that the parent is reimbursed for the evaluation.

IX. Districts must permit evaluators who are conducting IEE's to perform classroom evaluations if the districts' evaluators conduct classroom observations as part of their evaluations.

- *Letter to Wessels*, 16 IDELR 735 (OSEP 1990)—If a district includes or permits in-class observation as part of a publicly funded evaluation, it must afford the same opportunity for observation for a person performing a privately funded IEE.
- *Letter to Mamas*, 42 IDELR 10 (OSEP 2004)—A classroom observation by an independent evaluator may be necessary where parents invoke their right to an IEE and the evaluation requires observing the student in the educational environment.
- *Manatee Co. Sch. Dist.*, 53 IDELR 149, 666 F.Supp.2d 1285 (M.D. Fla. 2009)—While the district could maintain reasonable guidelines for a private psychologist's on-campus activities, it could not prevent the independent evaluator from conducting an in-school observation of a disabled student. Thus, the district was required to allow for at least a two-hour observation.
- *Letter to Savit*, 114 LRP 50211 (OSEP 2014)—A district may not set a time limit on classroom observations by individuals conducting an outside publicly-funded evaluation unless the district sets the same time limits for its evaluators.
- *Letter to Anonymous*, 72 IDELR 251 (OSEP 2018)—It would be inconsistent with the right of a parent to have an IEE considered by the public school district to limit an independent evaluator's access in a way that would deny the evaluator the ability to conduct an evaluation in a way that meets the district's criteria. Such criteria would include the amount of time the independent evaluator spends with the child.

X. School districts may not place additional unreasonable requirements on evaluators who conduct IEE's; a district's requirement that the independent evaluator must make him or herself available for consultation either via telephone or in person was found to be appropriate.

- *Irvington Community Schs.*, 113 LRP 29944 (SEA IN 2013)—A district's requirement that the independent evaluator must make himself available for consultation either via telephone or in person was found to be appropriate.
- *Gresham-Barlow Sch. Dist.*, 113 LRP 22781 (SEA OR 2013)—A district's IEE procedures requiring that after requesting an IEE, the parent was required to attend an assessment planning meeting for the IEE was found to be an inappropriate condition on parental access to an IEE. Such requirement would force parents to plan an IEE with the very staff whose evaluation and opinion they disagreed with.

Nothing in the IDEA requires such an assessment-planning meeting and it unambiguously violated the IDEA.

- *Letter to Imber*, 21 IDELR 677 (OSEP 1994)—Districts have not been permitted to establish criteria relating to advance notice required for public funding of IEEs.
- *Letter to Anonymous*, 21 IDELR 1185 (OSEP 1994)—A school district cannot impose as a precondition to seeking a publicly-funded IEE a 30-day period after the parents disagree with an evaluation to allow the school district to cure any defects in its evaluation.

XI. There is no specific time limit during which school districts must choose one of the options of either agreeing to fund the IEE or request a hearing “without unnecessary delay.”

- *Letter to Anonymous*, 21 IDELR 1185 (OSEP 1994)—The school district must choose one of these options “without unnecessary delay.” There is no specific time limit during which a district must exercise one of its choices. Of course, ignoring the request is not an option.
- *Regional Sch. Unit #61*, 111 LRP 48320 (SEA ME. 2011); *In re Baldwin County Bd. of Educ.*, 21 IDELR 311 (SEA Ala. 1994)—School districts must respond to parental request for an IEE without undue delay and within a reasonable amount of time but not take so long as to essentially eliminate the parent’s right to an IEE.
- *Letter to Anonymous*, 56 IDELR 175 (OSEP 2010)—What constitutes an “unnecessary delay” depends heavily on the facts and circumstances involved. While the phrase “without unnecessary delay” is not defined, “it permits a reasonably flexible, though normally brief, period of time that could accommodate good faith discussions and negotiations between the parties over the need for, and arrangements for, an IEE.”

XII. While definitely not a rule of thumb, it appears that often times when a district is found to have acted unreasonable, it is because the district acted in bad faith by ignoring the request or neglecting to communicate with the parents.

Following are examples of cases in which the district’s delay in requesting a hearing or paying for the IEE was found to be reasonable:

- *Penn-Delco Sch. Dist.*, 113 LRP 25807 (SEA PA 2013)—A delay of two months was found to not constitute an unreasonable delay. The hearing officer considered and balanced the following three factors in making this determination: (1) the amount of time that passed; (2) the reason for delay; and (3) the substantive effect, if any, attributable to the delay.
- *C.W. v. Capistrano Unified Sch. Dist.*, 112 LRP 39913 (C.D. Cal. 2012)—The district did not unreasonably delay in taking 41 days to request a due process

hearing. Because the parent did not challenge any specific component of the district's evaluation report but rather told the IEP team the report was "stupid," the district had to review the entire report. "Such a detailed review obviously takes time and money . . . [The parent] could have reduced this time and money by identifying her specific objections to the disputed report."

- *Keene Sch. Dist.*, 111 LRP 63293 (SEA N.H. 2011)—The school district's delay of 130 days before filing for a due process hearing was appropriate under the circumstances of this case because the school district had a good faith belief that the IEE request was inapplicable since its original evaluations were already independent.
- *J.P. Ripon Unified Sch. Dist.*, 52 IDELR 125, 2009 WL 1034993 (E.D. Cal. 2009)—The district filed its due process request more than two months after the request for an IEE. However, during that time, the parties were communicating regarding the request and did not come to an impasse on the issue until less than three weeks before the school district's filing. Therefore, the district's request was timely.
- *L.S. & C.S. v. Abington Sch. Dist.*, 48 IDELR 244 (E.D. Pa. 2007)—The district's 10-week delay in denying request for publicly funded IEE was reasonable in light of the district's efforts to meet with the parents and resolve the issue.
- *Northside Indep. Sch. Dist.*, 39 IDELR 178 (SEA Tex. 2003)—The district's delay of nine months was found to be reasonable because after the parent requested the IEE, the parties agreed, due to the student's recent brain surgery, to allow the district to complete additional assessment before addressing the request.

Following are examples of cases in which the district's delay in requesting a hearing or paying for an IEE was found to be unreasonable, and therefore, the parents were entitled to a publicly funded IEE:

- *Brooklyn Center Indep. Sch. Dist.*, 113 LRP 28525 (SEA Minn. 2013)—The district wholly failed to respond to the parents' request for an IEE. "Once the parent requests an IEE, the proverbial ball is in the district's court and the district must take action." The district violated the IDEA because it took no action of any type.
- *Los Angeles Unified Sch. Dist.*, 111 LRP 48178 (SEA Ca. 2011)—The district did not file for due process to uphold the validity of its evaluation nor did it deny the parent's request. More than 90 days from the date the request, the student filed for due process requesting an IEE. During the 90 days, the district failed to communicate with the parents and failed to explain its reason for delay. The ALJ determined that the district's delayed response was unreasonable and ordered a district-sponsored IEE.
- *Regional Sch. Unit #61*, 111 LRP 48320 (SEA Me. 2011)—After the parents requested an IEE, the district attempted to resolve the matter. However, after the

negotiations broke down, the district failed to request a hearing or agree to pay for the IEE. The district was found to have violated the IDEA by unnecessary delaying to either provide an IEE or request a due process hearing.

- *Pajaro Valley Unified Sch. Dist. v. J.S.*, 47 IDELR 12, 2006 WL 3734289 (N.D. Cal. 2006)—The school district did not file its due process complaint until approximately 11 weeks after the request. At the hearing, the school district offered no explanation for the delay or why the delay was necessary. The court found the school's unexplained and unnecessary delay waived its right to contest the student's request for an IEE at public expense.
- *Los Angeles Unified Sch. Dist.*, 48 IDELR 293 (SEA Ca. 2007)—The ALJ determined that the district's 74-day delay in requesting a due process hearing was unnecessary and unreasonable. The district waited for the parents to file a due process hearing, and then attempted to defend the appropriateness of its evaluations during that proceeding. The ALJ explained that the district's defensive maneuver did not satisfy the district's obligation to request a due process hearing.
- *Red Clay Consolidated Sch. Dist.*, 108 LRP 52265 (SEA Del. 2005)—School district first notified parents of concerns about the evaluator's qualifications and the IEE in January 2005. By May 2005, the school district had still not resolved the issue. The district did not request a hearing for four months, which was found to constitute an unnecessary delay. The parents were, therefore, entitled to reimbursement for IEE a private expense.
- *Nicole L. v. Brownsville Indep. Sch. Dist.*, 42 IDELR 134 (SEA TX 2004)—A Texas hearing officer determined a district violated the procedural rights of the parents of a 6-year-old student diagnosed with a speech impairment when, following their request for an independent educational evaluation, it neither scheduled an IEE nor requested a hearing regarding its refusal to provide an IEE.
- *Bd. of Educ. of the Monticello Central Sch. Dist.*, 37 IDELR 143 (SEA N.Y. 2002)—The district's 20-month delay in requesting a due process hearing was found unreasonable. The district argued it acted reasonably because it filed once it realized the parents insisted on the evaluation. However, the SRO determined the district was "well aware" of the parents' request but waited until it was presented with a bill before initiating the hearing.

XIII. Since the manner of funding IEEs, either as reimbursement or advance funding, is not addressed in Part B of the regulations, it is within the discretion of the district whether to advance funds to a parent. Nonetheless, if the denial of advance funding effectively denies the right to an IEE, a parent is entitled to relief.

- *Edna Indep. Sch. Dist.*, 21 IDELR 419 (SEA TX 1994)—If the denial of advance funding effectively denies the right to an IEE, a parent is entitled to relief.

XIV. In certain circumstances, school districts may be required to pay out-of-pocket expenses associated with obtaining the IEE.

- *Letter to Anonymous*, 56 IDELR 175 (OSEP 2010)—When an out-of-district IEE is publicly funded, the parents' related travel, meal, and lodging expenses must be funded as well, even if the parents are financially able to bear these costs, subject to reasonableness for costs incurred. The district maintains the right to a due process hearing to challenge the parents' overall entitlement to funding for the IEE based upon location, qualification of the evaluator, or reasonable cost criteria.
- *Utah Schools for the Deaf and the Blind*, 113 LRP 31076 (SEA Utah 2013)—The parent failed to establish the necessity of trekking across country to obtain an IEE. The parent was not entitled to recover the costs associated with traveling to Massachusetts because there were qualified evaluators who could have conducted an appropriate evaluation in Utah. "Nowhere in the IDEA does it require a public agency to reimburse the costs of unnecessary travel expense, especially when the necessary travel expenses were available within the community."

XV. Pursuant to 34 C.F.R. 300.502 (c), the parent obtains an IEE at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation (1) must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child and (2) may be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

- *T.S. ex rel. S.S. v. Board of Educ. of the Town of Ridgefield*, 20 IDELR 889 (2d Cir. 1993)—One court has said that meaning of "considered" to reflect on or think about with some degree of care or caution seemed appropriate. The court found the district had properly "considered" the IEE at issue, despite the fact that a copy of the full report had not been distributed to every evaluation team, when the report was read in full by the director of special education at the IEP meeting and the minutes of the meeting reflected some subsequent discussion of the issues raised by the IEE.
- *Lewisville Indep. Sch. Dist.*, 113 LRP 15002 (SEA TX 2013)—The district appropriately considered the parent's IEE and observations and determined that it did not indicate autism as an issue for the student. The parent's information and IEE did not match the district's own evaluative data.
- *Plainville Board of Education v. R.N.*, 112 LRP 16721 (D. Conn. 2012)—District Court held that a Connecticut district erred in failing to consider independent reports from two psychiatrists and a neuropsychologist when determining a placement for a grade school student with bipolar disorder. The district maintained that it had no obligation to consider the IEEs, as the evaluators did not observe the student in the classroom or have formal meetings with district personnel as required by district policy. However, the court pointed out that the policy appeared to apply

only when the parent sought an IEE at public expense. Because the parent obtained the IEEs at her own expense, the court held that the plain language of the district's IEE policy required the student's IEP team to consider the evaluators' placement recommendations.

- *K.E. Indep. Sch. Dist. No. 15*, 57 IDELR 61, 647 F.3d 795 (8th Cir. 2011)—Parent's claim that the district failed to consider the reports of the IEE was rejected because the IEPs incorporated many of the recommendations discussed in the recommendations by the student's psychiatrist.
- *Garvey Sch. Dist.*, 110 LRP 44204 (SEA CA. 2010)—Parents complained that the district failed to consider the IEE because the evaluator's presentation was cut short at the meeting. The district was found to have complied with the IDEA. The agency found that the duty to consider the IEE is fairly narrow. It does not obligate a district to accept the evaluator's advice or even to discuss the evaluation report at the IEP meeting. In this case, the parent failed to show that the team did not consider the IEE. Furthermore, the speech language therapist attending the meeting testified that she developed new speech goals aimed at improving the student's ability to engage in conversation with peers and teachers and that she did so based on the independent evaluator's specific recommendations. Furthermore, the team facilitator testified that all of the reports submitted and presented by the evaluator were considered by the team. To the extent the district disagrees with the IEE, it should document the reasons why the findings and recommendations of the IEE are not accepted.
- *DiBuo v. Bd. of Educ. of Westchester County*, 35 IDELR 248 (D. MD. 2001)—The district did not even look at the expert reports submitted by the parents, much less consider them, in devising the IEP. Thus, the district court ruled the district's inaction seriously infringed on the parents' opportunity to participate in the IPE, leading to a denial of FAPE and a reimbursement award.
- *Garvey Sch. Dist.*, 110 LRP 44204 (SEA Ca. 2010)—The district's obligation to consider the IEE does not translate into a corresponding obligation to accept the IEE or its recommendations.
- *Quitman Sch. Dist.*, 111 LRP 18235 (SEA Miss. 2011)—A district has no obligation to substitute a privately obtained IEE for an evaluation of its own.

INDEPENDENT EDUCATIONAL EVALUATION

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