



Key points:

- **Stipulate in writing how you will pay independent evaluators**
- **Set comparable limits for classroom observations**
- **Respond to IEE requests in reasonable amount of time**

'HOW I ADVISE MY CLIENTS': What parameters can districts set regarding IEEs?

An independent educational evaluation is an assessment conducted by a qualified examiner who is not employed by the school district responsible for the child's education. [34 CFR 300.502](#) (a)(3)(i). Parents always have the right to obtain an IEE at their own expense. In addition, the Part B regulations allow for publicly funded IEEs in some circumstances.

So what limits can school districts set on publicly funded IEEs parents seek? What steps must districts take if they refuse to provide an IEE at public expense?

Special Ed Connection® posed these and other questions to two experts in the field. Their responses are included below, edited for length and clarity.

Peter Maher, school attorney, Shipman & Goodwin LLP:

School districts should establish written evaluation criteria applicable for IEEs. These criteria generally must be the same as the criteria the district uses when it evaluates students. In developing these criteria, consider the following:

- **Qualifications:** Districts may establish criteria for independent evaluator qualifications if those qualifications are the same as those required for district evaluators. For example, it is generally permissible to require independent evaluators to hold a particular credential if that credential is required for district evaluators. OSEP has cautioned, however, that exceptions may be necessary based on a student's particular disability or if a certain credential is only available to employees of public school districts.
- **Lists of evaluators:** Establish lists of independent evaluators who meet district criteria. Developing such a list is a good practice and may help avoid disputes about whether the independent evaluator is appropriately qualified or meets district criteria. However, current OSEP guidance suggests districts cannot limit parents' selection of evaluators to such a list.

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- **School observations:** It may be advisable for district IEE criteria to include in-school observations as part of certain evaluations to avoid situations where independent evaluators provide certain educational recommendations based only on a student's response to standardized assessments or observations in a clinical or office setting. When an independent evaluator observes a student in school, have a district staff member with the same or similar credentials accompany the independent evaluator to ensure accuracy of reporting as well as general supervision. Don't, however, limit an independent evaluator's observation time unless they impose a similar limitation on their own evaluations.

- **Cost:** Establish reasonable cost criteria for IEEs. But don't simply average customary fees in the area. Include a provision that allows parents to demonstrate that particular factors justify an IEE that exceeds the district's maximum costs to avoid an allegation that the cost criteria effectively prohibit a parent from obtaining an IEE.

- **Response to IEE request:** Under the IDEA, you must respond, without unnecessary delay, to a parent request for an IEE at public expense by either agreeing to fund the IEE or by filing for due process to defend your district's evaluations. Inform the parent that you will consider their request and make a decision within a reasonable amount of time. Use that time to carefully review your evaluation with which the parent disagrees to determine whether it meets IDEA requirements and research the parent's proposed independent evaluator to determine if he meets your criteria.

Erin H. Walz, school attorney, Udall Shumway PLC:

Long before a parent or guardian requests an IEE, a district should have written procedures and criteria for IEEs. These should be reviewed annually and updated as necessary.

Procedures may include:

- Payment for an IEE will only be made directly to the independent evaluator. Or, in exchange for payment for the IEE, the district requires the evaluator to provide it with a signed report and the evaluation protocols.
- If the district refuses to provide an IEE at public expense, it will initiate a due process hearing to show that its evaluation is appropriate.
- An IEE must be appropriate to the educational needs of the student.
- Unless your state provides a different time frame, parents must generally request an IEE within two years of the underlying district evaluation because of the IDEA two-year statute of limitations.

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Some suggestions for what to include in the IEE criteria are:

- The evaluation must take place at least partially in the classroom. Also delineate the minimum evaluation activities that must take place at the school, such as observation of the student and interviews of the teachers and related services providers, if these are areas being considered in the IEE.
- The independent evaluator must review the student's cumulative file and special education file (if the student is in special education).
- The district's requirements for a comprehensive psychoeducational evaluation, including a cognitive assessment, academic assessment, and other specific assessments depending on the suspected areas of disability (i.e., social-emotional, behavioral, and processing).
- The district's acceptable price range for comprehensive psychoeducational evaluations. I recommend districts contact the independent evaluators frequently requested by parents and find out their rates for educational evaluations.

[Cara Nissman](#) covers RTI, autism, and school psychology issues for LRP Publications.

September 8, 2016

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