



SACRAMENTO COUNTY SELPA
Special Education Local Plan Area

**Independent Educational Evaluations
Policy, Procedures and Criteria**

August 2021

INDEPENDENT EDUCATIONAL EVALUATIONS

Policy, Procedures and Criteria

A. INTRODUCTION

This document sets forth the Sacramento County SELPA Policy, Procedures and Criteria for Independent Educational Evaluations (IEE).

B. POLICY

It is the policy of all Districts in the Sacramento County SELPA to inform Parents of their right to obtain, at public expense, an Independent Educational Evaluation, if the parent disagrees with the assessment conducted by the District, subject to the provisions of this Policy, Procedures and Criteria document.

C. DEFINITIONS

“Independent Educational Evaluation” (hereafter “IEE”) means an evaluation conducted by a qualified examiner who is not employed by the District where the evaluation was completed and/or where the student is enrolled.

“District” means a Local Education Agency who is a member of the Sacramento County SELPA.

“Public expense” means that District either pays for the cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to parents, consistent with federal law and California law.

“Parent” means the holder of educational rights of a student and includes a parent, guardian or surrogate parent.

“Qualified Examiner” means an evaluator who is competent to perform evaluations through criteria established by District in accordance with California Education Code §56322.

D. RIGHT TO AN IEE AT PUBLIC EXPENSE

The Parent of a child with a disability under the IDEA has the right to an IEE at public expense if they disagree with a special education evaluation completed by District.

E. PROCEDURE FOR PARENT SEEKING AN IEE

1. The Parent should contact the District Special Education Director for assistance in requesting an IEE. Parent and District are encouraged to discuss assessment questions and options.

2. The Parent of a child with a disability has the right to request an Independent Educational Evaluation (IEE) of the child, only if the Parent disagrees with an evaluation obtained by the District.
3. LEA may ask for the parent's reason why he or she objects to the LEA's evaluation. However, an explanation by the parent may not be required.
4. If the Parent makes an oral request for an IEE during an IEP team meeting, the request shall be noted in the IEP notes.
5. If the Parent makes an oral request for an IEE outside of an IEP team meeting, the LEA may request (but not require) that parents put their request in a letter to the LEA, and include items such as:
 - a. The LEA evaluation was inappropriate
 - b. They are requesting an IEE at public expense
 - c. A list of reasons why they feel the LEA evaluation was inappropriate (although this is not required)
 - d. The kind of independent evaluation they are seeking
 - e. Requests for information about where an IEE may be obtained
6. An appropriate staff member can assist parent in writing the request, if needed.
7. The District will provide the Parent with a copy of Procedural Rights and Safeguards along with a copy of SELPA IEE Policy, Procedures and Criteria.

The Parent is encouraged, but is not required, to request the IEE within 6 months of the date the results of the District's evaluation were shared with the Parent as documented at the IEP meeting. It is in the child's best interest for the IEP team to have current and accurate information when making decisions about goals and placement. (OAH Case No. 2011061318).

The Parent is allowed only one IEE, per assessment, at public expense each time the District conducts an evaluation with which the Parents disagree.

F. EXPLANATION OF DISAGREEMENT

If the Parent requests an IEE at the expense of the District, the Parents will be asked to explain why they object to the District's evaluation. The explanation by the Parent is not required. In addition, the District may not unreasonably delay completion of a new assessment, completion of the IEE at public expense, or the initiation of due process hearing to defend its evaluation.

G. DISTRICT RESPONSE TO REQUEST FOR IEE

Upon receipt of Parent request of an IEE, the District's evaluation will be reviewed, and Parent is encouraged to participate in the review to identify areas of disagreement and a list of desired assessment areas, issues or questions to be addressed by the IEE. Parent should specify which areas of assessment they are requesting for an IEE.

The District may offer to conduct another evaluation or additional evaluation of its own with Parent consent. If the Parent does not agree to another District evaluation, the District shall respond, without unnecessary delay, to the Parent's request by either:

1. Initiating a due process hearing to show that District's evaluation is appropriate; or
2. Ensuring an IEE is provided at public expense.

The District must act promptly by either agreeing to fund an IEE, or filing for a due process hearing to validate the assessment previously completed by the District. (OAH Case No 2011061318).

If the District initiates a due process hearing to defend its assessment, it must provide the Parent with Prior Written Notice of its refusal to provide an IEE. If the hearing's final decision is that the district's assessment is appropriate, the Parent still has a right to obtain a private evaluation, but not at public expense.

If a hearing officer requests an IEE as part of the hearing on a due process complaint, the cost of the evaluation must be at public expense.

District is not responsible for providing or reimbursing Parent for an IEE when Parent's IEE request is based on their desire to have additional information about their child, as opposed to a disagreement with a previous District evaluation. Further, when multiple IEEs are obtained by the Parent in duplicative assessment areas in response to their disagreement with a District assessment, District will not reimburse Parent for, or otherwise agree to fund, more than one IEE in any one assessed area. Finally, District does not have an obligation to reimburse Parent for IEEs initiated prior to the date that the challenged District assessment is completed and discussed at an IEP team meeting.

H. DISTRICT PROCEDURES FOR ENSURING AN IEE AT PUBLIC EXPENSE**

If the District chooses not to file for a due process hearing, the following procedure should be followed to ensure an IEE at public expense:

1. The District will offer, without unnecessary delay, an alternative examiner which may include any of the following:
 - a. A qualified examiner from another school;
 - b. A qualified examiner from another District in the SELPA;
 - c. A qualified examiner from another SELPA; or
 - d. A private sector qualified examiner.
2. Parent has the right to choose the examiner. Parents are encouraged to choose an examiner for an IEE offered by the District within 15 days of receiving those options and inform the District of the selection.

- a. If Parent does not select an examiner from the list provided by District, Parent is responsible for selecting a Qualified Examiner that either:
 - i. Meets the District criteria and Parent informs the District of the selection (OAH Case no. 2015020485); or
 - ii. If the examiner does not meet criteria, Parent must explain student's unique circumstances justifying an examiner that does not meet District criteria and Parent informs the District of the selection and reasoning. (OAH Case no. 2014100277).
- b. District must, within a reasonable time:
 - i. Accept Parent's choice and contract with the Qualified Examiner for the IEE; or
 - ii. Provide a PWN refusing the request and explain why the chosen examiner does not meet District criteria and assist the Parent in choosing an examiner who does meet District criteria and Parent agrees to that examiner; or
Provide a Prior Written Notice refusing the request, and initiate a due process hearing to demonstrate: that the examiner chosen by the Parent did not meet the District's criteria for IEE and there is no justification for selecting an examiner that does not meet District's criteria; or the District's evaluation was appropriate. (Letter to Parker 41 IDELR 155 (OSEP 2004).) If the District and Parent cannot agree on the appropriate examiner for the IEE within a reasonable amount of time, the District must file for a Due Process Hearing. (Letter to Parker 41 IDELR 155 (OSEP 2004)).
3. After the Parent chooses an examiner for an IEE, Parent will sign and consent to a release of information to exchange information between the District and the examiner. The Qualified Examiner must be permitted to directly communicate and share information with all members of the IEP team, the District's Special Education Director and the Director's designees.
4. Without undue delay, the District will contract for the new evaluation with the Qualified Examiner.
5. Within 15 days of entering into the contract with the Qualified Examiner, an Assessment Plan will be drafted and sent to Parent for consent.
6. When the District receives the signed Consent for Assessment, the Qualified Examiner will be given a copy and will be expected to evaluate and report at an IEP within 60 days of the date that District received that signed consent.

As part of the contracted evaluation, the Qualified Examiner must agree to release their assessment information including protocols and results directly to the District prior to the receipt of payment of services. The Qualified Examiner's report shall be provided to the

Parent and the District (five) 5 days prior to the IEP meeting. The District shall receive the report on or before the date the Parent receives the report.

7. An IEP meeting to review and consider the IEE will be held within 60 days of receiving Parent consent for assessment, unless the Parent has asked for an extension in writing.

** Any unnecessary delay in this process can adversely affect the educational benefit of the student. Although the law frequently refers to “within a reasonable time” and does not provide specific timelines, all parties are encouraged to move as cooperatively and expeditiously to either a due process hearing or the funding of an IEE. The law does allow some “reasonable flexibility, though normally brief period of time, to accommodate good faith discussions and negotiations between the parties over the need for, and arrangements for, an IEE.” (Letter to Anonymous 56 IDELR 175 (OSEP 2010).)

I. INDEPENDENT EDUCATIONAL EVALUATION CRITERIA

- a. Overview.** The criteria under which an IEE is obtained at public expense, including the location for the evaluation, minimum qualifications of the examiner, cost limits, and use of approved instruments must be the same as the criteria the District uses when it initiates an evaluation. As part of the evaluation, the Qualified Examiner shall follow requirements for District evaluations which include, but are not limited to:
 - i. The Qualified Examiner must observe the student in an appropriate educational setting;
 - ii. The Qualified Examiner must conduct interviews with parents and staff; and
 - iii. The Qualified Examiner shall attend the IEP meeting by phone or in-person at which time the evaluation will be discussed.

- b. Location Limitations for Examiners.** Examiners must be located either within Sacramento County SELPA or within 60 miles of the Sacramento County boundary. Examiners outside of this area will be approved only on an exceptional basis if parent or the District can demonstrate there is a unique need for a specialized evaluation and that there are no Qualified Examiners within the specified area who can appropriately assess the student’s educational needs.

- c. Cost Limitation for Evaluations.** The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractor to perform a similar assessment. SELPA will maintain a list of assessments and maximum cost customarily charged in the area by professionals who are qualified to conduct the specific test. The list of assessments and cost will be updated on an ongoing basis. The maximum amount is not an average of fees charged but an amount that eliminates excessive fees. (See Attachment “A”). (OAH Case No. 2014100277). Costs beyond the IEE and attendance at IEP meeting (i.e. transportation, lodging, food, etc.) are not covered in the cost of the IEE and will not be approved, unless the Parent can document that such costs reflect factors that make the extraordinary costs necessary.

- d. Conditions Required Before Payment to Qualified Examiners.** As part of the contracted evaluation and in order to be paid or reimbursed, Qualified Examiners shall:
- I. Perform an assessment and develop a report that complies with California Educational Code §§56320 and 56327 detailing the requirements of assessments and reports;
 - II. Provide protocols of all the assessments;
 - III. Provide a written report to District and parent 5 days prior to the IEP team meeting;
 - IV. Attend either in-person or by phone the IEP meeting in which the IEE report is reviewed.

J. MINIMUM QUALIFICATIONS FOR EXAMINERS

Examiners must meet qualifications specified in California Educational Code. (E.C. 56320(b)(3); E.C. 56329). All assessments must be conducted by persons competent to perform the assessment as determined by these criteria as well as any other criteria the District uses when it conducts an assessment to the extent those criteria are consistent with the parent’s right to an Independent Educational Evaluation. All assessments must be conducted in accordance with all of the requirement of state and federal law. Examiners with credentials other than those listed below will not be approved unless the Parent can demonstrate the appropriateness or unique circumstances necessitating using an examiner meeting other qualifications to perform educational evaluations. SELPA will maintain an updated list of approved examiners who satisfy SELPA’s criteria for conducting IEEs.

Area/Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Adaptive Behavior	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Adaptive Physical Education	Adaptive Physical Education Specialist
Assistive Technology (AT)	Credentialed or Licensed Speech/Language Pathologist with documented experience in AT assessments RESNA Certified Assistive Technology Practitioner Credentialed Special Education Teacher with Additional Training in Assistive Technology

Alternative Augmentative Communication Evaluation (AAC)	Credentialed or Licensed Speech/Language Pathologist with documented experience in AAC assessments Credentialed Special Education Teacher with Additional Training in Alternative Augmentative Communication
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Area/Type of Assessment	Qualifications
Auditory Acuity	Licensed or Certified Audiologist Licensed or Credentialed Speech/Language Pathologist
Auditory Processing	Licensed or Credentialed Speech/Language Pathologist Credentialed School Psychologist Licensed or Certified Audiologist
Cognitive Functioning and Ability	Licensed Educational Psychologist Credentialed School Psychologist
Motor	Licensed Occupational Therapist Licensed Physical Therapist Adaptive Physical Education Specialist
Functional Behavior	Licensed Educational Psychologist Credentialed School Psychologist Board Certified Behavior Analyst (BCBA)
Functional Vision	Credentialed Teacher of the Visually Impaired
Health	Credentialed School Nurse Licensed Physician
Neuropsychology	Credentialed School Psychologist with training in Neuropsychological testing procedures Licensed Educational Psychologist with training in Neuropsychological testing Licensed Physician with Certification in Neuropsychology
Oral Motor	Licensed Occupational Therapist Credentialed and/or Licensed Speech and Language Pathologist
Orientation and Mobility Assessment	Teacher of the Visually Impaired Orientation and Mobility Specialist
Sensory Processing/Sensory Motor Processing	Licensed Occupational Therapist
Speech and Language	Credentialed or Licensed Speech/Language Pathologist

Social/Emotional	Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Social Worker Licensed Marriage and Family Therapist
Vision (Acuity/Developmental)	Licensed or Certificated Audiologist

Area/Type of Assessment	Qualifications
Visual Processing	Credentialed School Psychologist Credentialed Special Education Teacher/Vision Specialist Licensed Educational Psychologist
Vision Perception/Visual-Motor Integration	Credentialed Special Education Teacher Licensed Educational Psychologist Credentialed School Psychologist Licensed Occupational Therapist
Transition	Credentialed Special Education Teacher with Specialized Training in Vocational Evaluation Credentialed School Psychologist Licensed Educational Psychologist

K. CONSIDERATION OF THE INDEPENDENT EDUCATIONAL EVALUATION
IEEs either obtained at public expense or at private expense must be considered by the District, if it meets agency criteria, in any decision made with respect to the provision of a Free Appropriate Public Education (“FAPE”) to the student. “Considered” is defined as: to carefully reflect on or think about the report, its basis and its findings. 20 IDELR 889 (2nd Cir. 1993).

L. INDEPENDENT EVALUATION NOT FUNDED BY SELPA OR DISTRICT
The District is not obligated to reimburse the Parent for an IEE obtained prior to the date that the District’s evaluation is completed and discussed at an IEP meeting. The District is not obligated to reimburse the Parent for IEEs in areas of assessment where the Parent did not disagree with District’s assessment. The District is not obligated to reimburse the Parent for an IEE, if the Parent fails to first notify the District in writing of his/her disagreement with the District assessment and intention to obtain a unilateral Parent initiated IEE. The District is not obligated to reimburse or fund an IEE when a Parent merely feels the need for additional information about the student or in an area which has not been previously assessed by the District. If additional information is requested or other areas of suspected disability arise, the Parent should discuss additional assessment with the District. In all cases where the District initiates a due process hearing to show the District’s evaluation is appropriate, no reimbursement will be made unless ordered by an Administrative Law Judge pursuant to a due

process complaint. When multiple IEE reports are obtained by the Parent in the same assessment area, the District will not reimburse the cost of more than one IEE in any one area of assessment.

M. PARENT INITIATED EVALUATIONS

If the Parent wants to obtain a unilateral Parent initiated IEE and seek reimbursement, the following procedure must occur:

1. District conducted its own assessment of student;
2. Parent disagrees with the assessment;
3. Parent notifies District in writing (not required) of its disagreement of District assessment;
4. Parent notifies District in writing (not required) that Parent would be unilaterally obtaining own IEE for which reimbursement would be sought;
5. Parent provides District with the IEE report within a reasonable amount of time following the disagreement of District assessment; and
6. Parent provides a request for reimbursement for the IEE within a reasonable amount of time following receipt of the parent initiated IEE report.

The District will deny a Parent request for reimbursement for a unilateral Parent initiated IEE if:

1. The procedures listed above were not followed;
2. The IEE was in areas other than or additional to the areas of assessment by the District;
3. The Parent is not in disagreement with the District assessment;
4. The request is for more than one IEE in any area;
5. The examiner and/or the evaluation does not meet the minimum qualification and criteria defined by District, and no exceptional circumstances are proven to waive those criteria;
6. The IEE does not meet the minimum state and federal criteria for educational identification of the specific disability discussed in the IEE; or
7. The District does not receive a request for reimbursement in writing within a reasonable time after receipt of the results of the evaluation.

Reimbursement will be in accordance with District criteria and in an amount no greater than the actual cost to the Parent. Upon request for District reimbursement for a unilaterally Parent initiated IEE, the District may request a due process hearing to prove its own evaluation is appropriate or the IEE does not meet District criteria and no exceptional circumstances exist to waive those criteria. In all cases, if the District initiates a due process hearing, no reimbursement shall be made unless ordered by a Hearing Officer. If the Parent obtains an Independent Educational Evaluation at private expense, the results of the evaluation:

1. Must be considered by the IEP team, if it meets the SELPA/District's criteria, in any decision made with respect to the provisions of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding the student.

However, IEEs may not be considered if not completed by a Qualified Examiner, as determined by the District criteria and no exceptional circumstances exist to waive those criteria.

Legal Authority:

Federal Code and Regulations

20 U.S.C. 1415 (b)(1)

34 C.F.R. 300.502

34 C.F.R. 300.503

34 C.F.R. 300.504

34 CFR §300.502(b)(4).

California Education Code

Sections: 56320, 56327, 56326,
56345, 56506

Case Law and Other Guidance:

Student v. Fullerton School District, OAH Case No. 2011061318

Student v. Bellflower Unified School District, OAH Case No.

2015020485 Student v. Goleta Unified School District, OAH Case No.

2014100277 Letter to Anonymous 56 IDELR 175 (OSEP 2010)

Letter to Parker 41 IDELR 155 (OSEP 2004)

EXHIBIT “A”

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

The following table provides cost limitations based upon the types of assessment being conducted for the 2020-21 school year. Rates adjusted annually.

Type of Assessment	Maximum Allowable Rate
Augmentative & Alternative Communication (AAC)	\$4,000
Academic Achievement	\$4,000
Assistive Technology (AT)	\$4,000
Adapted Physical Education (APE)	\$2,250
Audiological Services	\$3,000
Functional Behavioral Assessment (FBA)	\$4,000
Health and Nursing	\$4,000
Educationally Related Mental Health Services (ERMHS)	\$4,000
Music Therapy (MT)	\$2,250
Orientation and Mobility (OM)	\$2,250
Occupational Therapy (OT)	\$1,200
Physical Therapy (PT)	\$1,200
Psycho-Educational	\$5,500
Speech & Language	\$4,000
Transition	\$2,250