

INTRODUCTION

This manual has been developed to assist schools in responding to a request for an independent educational evaluation (also referred to as an "IEE"). It is a step-by-step guide through the IEE process and provides recommended procedures, letters, and forms.

If you require assistance in responding to an IEE request, please contact _____ (District contact person) at _____ (phone number) or _____ (email).

LEGAL OVERVIEW

An independent educational evaluation or IEE is a procedural safeguard afforded parents under the Individuals with Disabilities Education Act ("IDEA"). A parent, as that term is defined under IDEA, has a right to an *independent educational evaluation at public expense*, subject to certain conditions, if the parent disagrees with an evaluation obtained by the public agency.

An *IEE* 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." 34 CFR 300.502(a)(3)(i). *At 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." 34 CFR 300.502(a)(3)(ii).

If a parent requests an IEE, the public agency must, without unnecessary delay, either 1) file a due process complaint to request a hearing to show that its evaluation is appropriate or 2) ensure an IEE is provided at public expense, unless the agency demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.

Under the Michigan Administrative Rules for Special Education, a parent must submit the parent's disagreement and IEE request in a written, signed, and dated form. The public agency must respond *in writing* to an IEE request **within seven (7) calendar days of receipt of the parent's request** indicating either the district's intent to 1) honor the request or 2) initiate a due process hearing to show that the public agency's evaluation is appropriate. If a hearing is initiated and the hearing officer determines that the public agency's evaluation is appropriate, then the parent still has the right to an IEE, but not at public expense. See R340.1723c(2).

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. 34 CFR 300.502(b)(5) and R340.1723c(2).

A parent is not entitled to an IEE *prior* to the completion of the public agency's evaluation. See *Letter to Anonymous*, 55 IDELR 106 (OSEP, 2010). If a parent requests an IEE at public expense after completion of the public agency's evaluation, the public agency must follow the procedure outlined in this Manual.

A parent is *not* required to notify a public agency prior to seeking an IEE at public expense. While it is reasonable for a public agency to expect prior notification, a public agency may *not* refuse to pay for an IEE solely because of a lack of notice. See *Letter to Thorne*, 16 IDELR 606 (OSEP, 1990).

A public agency must provide the parent information about where an IEE may be obtained and the agency's IEE criteria upon parent request for an IEE. 34 CFR 300.502(a)(2).

Michigan special education administrative rule R340.1723c(1) requires each public agency to provide parents with the following information about IEEs at public expense:

- (a) Criteria regarding credentials for qualified examiners;
- (b) Suggested sources and locations for an IEE;
- (c) Procedures for reimbursement;
- (d) Reasonable expected costs; and
- (e) Notification that the parent is not restricted to choosing from the sources suggested by the public agency.

Michigan special education rules also provide the following IEE requirements:

- The public agency shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent educational evaluation. R340.1723c(3).
- An independent educational evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent. R340.1723c(4).

Except for the agency's IEE criteria, a public agency may not impose conditions or timelines related to obtaining an IEE. 34 CFR 300.502(e)(2). The criteria under which the IEE 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 conducts an evaluation, to the extent the criteria are consistent with the parent's right to an IEE. See 34 CFR 300.502(e). However, a parent must be given an opportunity to demonstrate that unique circumstances justify obtaining an evaluation that does not meet agency criteria. See *Letter to Anonymous*, 56 IDELR 175 (OSEP, 2010).

If a parent obtains an IEE at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation must be *considered* by the public agency in any decision made with respect to the provision of FAPE for the student. While the public agency must consider the results of an IEE, it is not required to adopt the evaluator's recommendations or conclusions. See *T.S. v Board of Educ of the Town of Ridgefield*, 20 IDELR 889 (CA 2, 1993). The evaluation may be used by either party as evidence at a due process hearing. 34 CFR 300.502(c)(1).

IEE PROCEDURES AND TIMELINES

The following are recommended procedures for responding to an IEE request. Failure to timely respond to a parent's IEE request may result in liability for the public agency, including, but not limited to, an order to publicly fund the IEE, an order for compensatory education, and reimbursement of the parent's attorney fees and costs.

I. PROCEDURES.

- A. If a parent disagrees with the public agency's evaluation and desires an independent educational evaluation (IEE) at public expense, the parent should submit the IEE request in writing. The parent may use the Request for Independent Educational Evaluation form included in this manual at page 8 but is not required to use the district's form. State special education rules require the IEE request to be in written, signed, and dated form to the district.
- B. State special education rules require that the agency respond **in writing within seven (7) calendar days of the school's receipt of a parent's written request for an IEE** indicating either that it will grant the IEE request or that it will initiate a hearing to show that its evaluation is appropriate.
 1. ***If the public agency decides to grant the IEE request***, the agency should inform the parent, in writing, of its decision. A sample letter is included in this manual at page 9. The response also should include the information contained in C. below.
 2. ***If the public agency believes its evaluation is appropriate and decides to deny the IEE request***, the agency should inform the parent, in writing, of its decision to deny the IEE request and its intent to initiate a due process hearing to demonstrate the appropriateness of its evaluation. A sample letter is included in this manual at page 10. The agency should promptly contact its legal counsel for assistance regarding the initiation of the hearing process.
 3. ***If the public agency is unsure whether to grant the request***, the agency may contact the parent to seek additional information about the nature of the disagreement by sending the sample letter included in this manual at page 12. A parent is not required to respond to the district's request for additional information. Requesting additional information from the parent

does *not* extend the 7 calendar day timeline for responding to the parent's IEE request.

Alternatively, *if the public agency is unsure whether to grant the request*, the agency can inform the parent, in writing, that it is denying the parent's IEE request and intends to initiate a hearing but will further consider the parent's request if the parent is willing to provide the district additional information about the nature of the disagreement. A sample letter is included in this manual at page 10.

4. *If an IEE has already been conducted for the evaluation in question and the parent is seeking reimbursement*, the public agency should contact its legal counsel *immediately* to discuss the appropriate response.
5. *If an IEE is requested for an evaluation that has not been completed by the district*, the public agency should contact its legal counsel *immediately* to discuss the appropriate response.

C. Upon request for an IEE, the public agency must provide the parent information about where an IEE may be obtained and the district's criteria for IEEs. A sample IEE criteria and suggested IEE sources is included in this manual at pages 13-15. The agency's response to the parent also must include the following information:

- a. Credentials for Independent Evaluators
- b. Suggested Sources for IEE
- c. Procedures for reimbursement
- d. Reasonable expected costs
- e. Notification that the parent is not restricted to choosing from sources suggested by the agency

D. If the parent notifies the public agency before obtaining the IEE and the agency grants the IEE request, the agency may use the following process to increase the likelihood that the IEE is conducted in accordance with district criteria:

1. The public agency should contact the independent evaluator and provide the evaluator its Criteria for IEEs. The independent evaluator also should be provided Credentials for Independent Evaluators. A sample letter to the evaluator is included in this manual at page 16.

2. The public agency should ask the parent for written authorization to exchange information between the independent evaluator and the district. The release and the district's IEE criteria should be sent to the independent evaluator. A sample consent form is included in this manual at page 18. A parent is *not* required to sign the consent form or otherwise authorize the release of information between the district and the evaluator.
 3. Upon receipt of an IEE report and invoice, the public agency should render payment to the independent evaluator if the evaluation meets district criteria. If the IEE does not meet agency criteria or is otherwise not appropriate, the agency should contact its legal counsel immediately to discuss the appropriate response.
 4. The results of the IEE must be *considered* at an Individualized Education Program Team (IEPT) meeting. The IEPT meeting should be scheduled within a reasonable time following the completion of the IEE. The evaluation may also be presented as evidence at a due process hearing.
- E. If the parent seeks reimbursement for an IEE after the parent has obtained the IEE, the public agency must notify the parent in writing that the IEE request is granted or that the request is denied and the agency intends to initiate the hearing process. In making this decision, the agency should consider whether the IEE meets the agency's IEE criteria and is otherwise appropriate. The public agency must notify the parent of its decision within 7 calendar days.
- F. **Parents may also elect to obtain an independent educational evaluation at their own expense.** The results of an evaluation paid for by the parents *and* shared with the district must be considered by the district at an IEPT meeting in any decision made with respect to the provision of a free appropriate public education for the student. The evaluation may also be presented as evidence at a due process hearing.

II. IEE CRITERIA

IDEA regulations and Michigan special education rules require the district to develop criteria for IEEs, including location, evaluator credentials, reasonable cost, and procedures for reimbursement. A sample Criteria for Independent Educational Evaluations is included in this manual at pages 13-14.

A. Potential Sources for IEEs and Location

A public agency is required to provide parents information on where an IEE may be obtained. The District should develop a list of evaluators that are qualified to conduct the type of evaluations generally conducted by the District and that are located within a reasonable distance of the District. The list should be provided to the parent upon request for an IEE. The District should periodically review the list and update it as necessary to ensure its accuracy. Parents are free to select an independent evaluator of their choice and are not restricted to selecting an evaluator from the District's list of IEE sources. Nor is a parent bound to select an evaluator within the distance established by the District if unique circumstances justify selecting an evaluator outside of the geographic area.

B. Credentials of the Independent Evaluator

A public agency may establish the qualifications of the independent evaluator but the criteria must be the same as the qualifications and standards by which the District's examiners are held. However, a parent must be given the opportunity to demonstrate that unique circumstances justify the selection of an independent evaluator who does not meet District criteria.

C. Reasonable Expected Cost

A public agency may establish reasonable expected cost criteria for an IEE. The District should survey independent evaluators within a reasonable geographic area of the District who are qualified to conduct the type of IEE to be performed to determine the reasonable cost for the evaluation. While the District may establish a reasonable cost for the IEE, a parent must be given the opportunity to demonstrate that unique circumstances justify an evaluation that exceeds the reasonable cost limit established by the District.

Refer to the next section for sample letters and forms relative to procedures for obtaining an independent educational evaluation, credentials for qualified evaluators, suggested IEE sources and location, procedures for reimbursement, and reasonable costs.

SAMPLE IEE FORMS AND LETTERS

1. REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION (IEE)	8
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REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION (IEE)

Parent's Name _____

Student's Name _____

I request an independent educational evaluation (IEE) at public expense for my child. This request is made because I disagree with the following evaluations completed by the District:

(Optional): I disagree with evaluations listed above because:

Date: _____
Parent/Guardian Signature

PLEASE RETURN FORM TO:

Name, Title, Address and Phone Number of District Contact Person

For District Use Only

Date request received: _____

By: _____

Note: A parent is not required to use this form to initiate an IEE request. The District must respond within seven (7) calendar days to *any* written IEE request, regardless of whether the parent uses this form.

[District Letterhead]

Date

[Parent's Name and Address]

Re: Request for Independent Educational Evaluation (IEE) – [Student's Name]

Dear (Parent):

This letter is in response to your request for an independent educational evaluation (IEE) at public expense for (student's name), which was received by the District on (date).

The District believes its evaluation(s) of (student's name) is/are appropriate and in accordance with state special education rules and the federal regulations implementing the Individuals with Disabilities Education Act. However, in an effort to resolve this matter without resorting to a due process hearing, the District agrees to pay for an IEE conducted in accordance with the enclosed Criteria for Independent Educational Evaluations (IEEs) and Procedures for Reimbursement. Upon receipt of an IEE that meets District criteria and the evaluator's invoice, the District will process payment. If the IEE does not meet District criteria or is otherwise not appropriate, you still have the right to obtain an independent evaluation but at your own expense.

A list of suggested sources from which an IEE may be obtained is enclosed. You are not restricted to choosing an evaluator from this list but you should consider whether the independent evaluator you have chosen has the credentials required by the District and the state for conducting the evaluation you desire. Once the IEE has been completed, an individualized education program team (IEPT) meeting will be convened to consider the results of the IEE.

Please complete the enclosed parent consent form and return it to me when you have selected an independent evaluator. Please feel free to contact me if you have any questions.

Sincerely,

(District Contact Person)

Enclosures:

Criteria for Independent Educational Evaluations (IEE) At Public Expense

Suggested Sources of Independent Educational Evaluations (IEE)

Credentials for Independent Evaluators

Parent Consent

Procedural Safeguards

[District Letterhead]

Date

[Parent's Name and Address]

Re: Request for Independent Educational Evaluation (IEE) – [Student's Name]

Dear (Parent):

This letter is in response to your request for an independent educational evaluation (IEE) at public expense for (student's name), which was received by the District on (date).

Select Appropriate Option:

OPTION 1 - - INITIATE DUE PROCESS HEARING WITHOUT DISCUSSION

The District believes its evaluation(s) of (student's name) is/are appropriate and in accordance with state special education rules and the federal regulations implementing the Individuals with Disabilities Education Act. Therefore, the District denies your request for an IEE and will initiate a due process hearing to demonstrate that its evaluation(s) is/are appropriate.

OPTION 2 - - INITIATE DUE PROCESS HEARING BUT OPEN TO DISCUSSION

The District considered your request for an IEE at public expense and denies your request because it does not have sufficient information about the nature of your disagreement with the District's evaluation(s). Although the District cannot legally require you to provide this information, we are willing to reconsider your request if we have a better understanding of the nature of your concern(s). Absent additional information from you, the District will initiate a due process hearing to demonstrate that its evaluation(s) is/are appropriate. Please feel free to contact me if you wish to discuss your concerns about the District's evaluation(s) so that the District can reconsider your request.

Common Text:

A copy of the due process complaint that the District intends to file to initiate the hearing on your IEE request will be sent to you shortly. Enclosed with this letter is a copy of Procedural Safeguards for Parents, which describes the rights and obligations of parents of students with disabilities. If you need assistance in understanding these safeguards or with the hearing process, you may contact the following free or low-cost legal and non-legal resource:

[Insert Appropriate Agencies]

Mediation is also available to the parties. Mediation is a voluntary alternative dispute resolution process separate from the hearing process. Please contact me if you are interested in mediation or any other informal dispute resolution process.

Sincerely,

(District Contact Person)

Enclosures

cc: Procedural Safeguards

**CRITERIA FOR INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)
AT PUBLIC EXPENSE AND PROCEDURES FOR REIMBURSEMENT/PAYMENT**

The (insert District name) establishes the following criteria and procedures for an independent educational evaluation (IEE) at public expense:

1. The parent shall submit the parent's disagreement and request for an independent educational evaluation (IEE) at public expense in a written, signed, and dated form. To assist the District in making its decision whether to grant an IEE request, the parent is asked, but is not required, to provide the reasons why the parent disagrees with the District's evaluation(s). A request for independent educational evaluation (IEE) form is available from (insert appropriate office/contact person) but the parent is not required to use that form to initiate an IEE request.
2. An independent educational evaluation is an evaluation conducted by a qualified examiner or examiners who are not employed by the public agency responsible for the education of the child.
3. The District shall inform the parent before the evaluation if the proposed evaluator provides services to the district in addition to the independent educational evaluation (if the independent evaluator's identity is known to the District). An independent educational evaluation shall not be conducted by an independent evaluator who otherwise or regularly contracts with the District to provide services, unless the evaluator is agreeable to the parent.
4. The independent evaluator must be knowledgeable in the area of suspected disability and shall possess credentials (license, approval, certificate, etc.) which are the same, equivalent, or superior to those required by the District for special education evaluations, unless the parent demonstrates that unique circumstances justify the selection of an independent evaluator who does not meet the District's qualification criteria.
5. The independent evaluator shall perform the independent educational evaluation within ___ miles of the District, unless the parent demonstrates that unique circumstances justify the selection of an independent evaluator outside of the district's geographic area.
6. A list of suggested sources from which an independent educational evaluation may be obtained will be provided to the parent upon receipt of a request for an independent educational evaluation (IEE). The parent is not restricted to choosing an independent evaluator from this list.

7. The independent educational evaluation shall be in compliance with the provisions of the Individuals with Disabilities Education Act, its implementing regulations, and any applicable state special education rules.
8. The independent educational evaluation should be completed within thirty (30) school days of the grant of the request for an independent educational evaluation. The evaluation report shall include information needed to determine eligibility or related service needs and educational data which identifies the student's present level of academic achievement and functional performance. The information shall be drawn from a variety of sources, including parent input, teacher input, academic and achievement testing, a review of school records, *etc.*
9. The independent evaluator shall submit a signed copy of his/her report, along with a copy of any testing protocols and notes and should indicate whether the student met eligibility criteria and the test/procedure results that support that conclusion; or the present level of academic achievement and functional performance of the student with the test/procedure results that support that conclusion. The report and protocols must be submitted to: (District contact person, title and address).
10. The reasonable expected total cost of the independent educational evaluation is \$_____. If a parent can demonstrate that unique circumstances exist to exceed this amount, the independent educational evaluation may exceed this amount but the *prior written approval* of (District contact person, title, address, phone number) is required. Failure to obtain prior written approval may result in non-payment of the excess cost, if the evaluation is otherwise appropriate.
11. An invoice from the independent evaluator shall be submitted to the District within thirty (30) calendar days of the District's receipt of the evaluator's report. The invoice shall indicate the portion of the cost of the evaluation that is directly related to the eligibility or present level of performance of the student, and is not covered by third party payments. Upon determination that the IEE is in accordance with the District's criteria and appropriately a public expense, the district will process payment or reimbursement of the independent evaluation to the evaluator.
12. Any independent evaluation that fails to meet the above criteria may not be eligible for payment at public expense. The parent or independent evaluator will be notified if any of the conditions listed above are not met.
13. Evaluations appropriately conducted by a qualified evaluator will be considered by the district at an Individualized Education Program Team (IEPT) meeting.

**SUGGESTED SOURCES
FOR INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)**

The following is a list of suggested sources from which to obtain an independent educational evaluation (IEE). A parent is not required to select an evaluator from this list but a parent should consider whether the independent evaluator chosen has the credentials required by the District to conduct the desired evaluation. This list is intended to be a resource for parents and does not constitute a recommendation or endorsement of any listed individual by the District.

[Insert List of Potential Independent Evaluators and Their Evaluation Area(s) –
See Instructions on Page 6 of this Manual]

Psychological Evaluations

Dr. Jane Smith
Licensed Psychologist
123 IEE St.
Anywhere, MI
(517) 555-1234

Dr. John Doe
Clinical Psychologist
4321 Doctors Lane
Anywhere, MI
(517) 555-1222

Speech and Language Evaluations

Jill Johnson, CCC-SLP
Speech Pathologist
567 CVC Drive
Anywhere, MI
(517) 555-5678

[District Letterhead]

Date

[Independent Evaluator's Name and Address]

Re: Independent Educational Evaluation (IEE) – [Student's Name]

Dear (Independent Evaluator):

[Parent's name] has requested that you conduct an independent educational evaluation of (student's name). It is our understanding that the purpose of the evaluation is to _____
_____.

Enclosed for your review is the Parent Consent for an Independent Educational Evaluation (IEE) and the District's Criteria for Independent Educational Evaluations (IEE) and Procedures for Reimbursement/Payment. The criteria describe the conditions that must be met for your evaluation to be paid by the District. Upon completion of your evaluation, please forward a copy of your final report along with an invoice for services rendered to:

[Name]
[Address]
[Phone number]

Please feel free to contact me if you have questions about the IEE or the District's criteria, or if you need access to the student's education records, teachers, or service providers.

Sincerely,

(District Contact Person)

Enclosures:

Parent Consent
Criteria for IEE

CREDENTIALS FOR INDEPENDENT EVALUATORS

The independent evaluator(s) must possess credentials which are the same, equivalent or superior to those credentials required of public school employees. The following are the credentials established by the state for special education personnel, including evaluators:

EXAMINER	LICENSE, CERTIFICATE, APPROVAL, REGISTRATION REQUIRED
School Psychologist	MDE Certification
Psychologist	Fully Licensed Psychologist by the State of Michigan
School Social Worker	MDE Approval
Teacher of the Speech and Language Impaired	MDE Certification
Speech Pathologist	Master's degree, Speech and Language Pathology
Occupational Therapist	Registration with the American Occupational Therapy Association and State of Michigan
Physical Therapist	Licensed by the State of Michigan
Audiologist	Certified by the American Speech-Language-Hearing Association (ASHA)
Music Therapist	Certified by the Certification Board for Music Therapist
Orientation & Mobility Specialist	District for Certification of Vision Rehabilitation & Education Professionals
Recreational Therapist	Certified by the National Council for Therapeutic Recreation Certification
Art Therapist	Certified by Art Therapy Credentials Board (ATCB)

Other types of evaluators must meet criteria or licensing as established by their professions. These may include, but are not limited to: psychiatrist, neurologist, orthopedic surgeon, internist, pediatrician, ophthalmologist, optometrist, otolaryngologist, and otologist.

**PARENT CONSENT FOR INDEPENDENT EDUCATIONAL EVALUATION (IEE)
AND AUTHORIZATION FOR RELEASE AND EXCHANGE OF INFORMATION**

Parent's Name: _____

Student's Name: _____

I have been informed of my rights to an independent educational evaluation and have received a copy of the District's Criteria for Independent Educational Evaluation (IEE) and Procedures for Reimbursement/Payment. I consent to an independent educational evaluation (IEE) to be conducted by the independent evaluator named below. I consent to the District providing the independent evaluator access to the student's education records and consent to the release of the evaluation report and test protocols to the District.

(Signature of Parent)

(Date)

(Name of Independent Evaluator)

(Title)

(Address)

(City, State, and Zip Code)

(Phone Number)

Please attach a copy of the evaluator's license, certificate, approval or brief statement of the evaluator's credentials.