



INDEPENDENT EDUCATIONAL EVALUATIONS

McKinney ISD

043907

Legal Framework: INDEPENDENT EDUCATIONAL EVALUATION

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Broad Category: EVALUATION

XI. INDEPENDENT EDUCATIONAL EVALUATION (IEE)

§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) The 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.

The parents of a child with a disability have the right to obtain an independent educational evaluation (IEE) of the child at public expense if the parent disagrees with an evaluation completed by the district.

Information on where an IEE may be obtained will be provided to parents on request. A list of individuals who can provide an IEE is available from the Special Populations Department. The district criteria (State/Federal requirements) for all evaluations must also be followed for the IEE. Evaluator Requirements are listed below. Contract evaluation personnel (which includes personnel who complete evaluations for Independent Educational Evaluations) must provide assessment results, recommendations and a written report to MISD prior to or at the same time the information is provided to parents.

(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.**

If the parent requests an IEE from any staff member or campus Principal, the parent will be provided the contact information of the Special Education Director and asked to notify that administrator immediately so that proper steps may be taken to address their request for an IEE. The Special Education Director, in consultation with



INDEPENDENT EDUCATIONAL EVALUATIONS

McKinney ISD

043907

appropriate McKinney Independent School District staff, will determine whether to pay for the IEE or file for a due process hearing. The Special Education Administration will respond to the parent regarding the IEE request within 15 school days.

District Special Populations employees disseminate information about District practices regarding IEEs to appropriate district staff, such as campus level administrators. District staff also point parents to the Procedural Safeguards, which includes information about how to request an IEE.

- (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the public 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.**

If the parent requests an IEE during an ARD/IEP meeting, the minutes will document that the parent was asked to provide reasons why they object to the public agency evaluation. If the parent does not provide any specific reason, that also will be documented in the minutes. The ARD Administrator or designee will immediately notify the Special Education Administrator of the parent request for an IEE in order to determine the district's response to the request. The district will not delay and will respond within the determined school days noted above.

(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, the public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.**

District Steps as Soon as Notified of IEE Request

Special Education Administration will notify parent the IEE request is received. Inform the parent that within 15 school days a decision will be made to either request a Due Process Hearing to defend district evaluation or pay parent for an IEE. If decision is to pay for an IEE, Special Education Administration will:

1. Provide the parent with Procedural Safeguards.



INDEPENDENT EDUCATIONAL EVALUATIONS

McKinney ISD

043907

2. Designate the local district contact person for the parents to coordinate the IEE process. Encourage the parent to pay close attention to the Evaluator Requirements and the district process for payment of the IEE.
3. Provide the parent a list of qualified examiners in the area.
4. Once the parent has selected the independent evaluator they will provide the district with contact information for the evaluator.
5. The district will contact the independent evaluator chosen by the parent and provide a written contract with IEE criteria and Evaluator Requirements. Once the contract is signed the Special Education Administrator will ensure that the Purchase Order Procedures for the district are followed to ensure payment once the evaluation is completed and provided to the district with an invoice for services.

Evaluator Requirements

1. The independent evaluator will coordinate activities with the district designee whose name was provided to the parent by the Special Education Administration.
2. The independent evaluator will have the same qualifications as the McKinney Independent School District assessment personnel (e.g., psychologist, associate psychologist, Licensed Specialist in School Psychology, or educational diagnostician) and as required by Texas law and also described in Section 8)
3. Each independent evaluator must provide to the district a copy of his or her license(s) or certificate(s).
4. The independent evaluator may be requested to complete a conflict of interest form provided by the McKinney Independent School District indicating whether the examiner has a personal monetary interest in any service or program recommended by the examiner.
5. The independent evaluator will be provided access to the student's cumulative and special education records upon request.
6. The independent evaluator may meet with district by appointment to gather information about a student prior to the assessment or to share information following the completion of the evaluation by contacting the special education administrator or designee.
7. The independent evaluator will follow federal and state assessment regulations and rules, reporting requirements and established eligibility criteria for the identification of students with disabilities.
8. The independent evaluator will consider data obtained from the student's teacher or service provider through consultation and/or interview.
9. Prior to or upon submission of invoice for payment, the independent evaluator will also provide a written assessment report to the District designee that shall address the presence or absence of eligibility criteria for specific disability(ies)/services for which the student is being assessed. 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 has a disability condition(s) and is in need of specially designed instruction/special education services.
10. The independent evaluation may be restricted to one assessment area upon mutual agreement by the McKinney Independent School District and parent.
11. The independent evaluator must be located within a 100 mile radius of the McKinney Independent School District.
12. If the independent evaluator is going to be conducting the evaluation, including observation(s), on school property then Per Senate Bill 9, they must complete a state and national criminal history background search and the district must receive those results through the DPS criminal history clearinghouse (Fingerprint-based Applicant Clearinghouse of Texas –FACT prior to the assessment. Additionally, a district designee must accompany the independent evaluator while on school property.
13. The evaluator must provide information in the same timely manner as required by McKinney Independent School District personnel including an original typed report to the McKinney Independent School District within a reasonable amount of time from the date that an IEE is approved by McKinney



INDEPENDENT EDUCATIONAL EVALUATIONS

McKinney ISD

043907

Independent School District, not to exceed a calendar year. In addition, the report should be provided to the District at least 10 days prior to the scheduled ARD meeting. Protocols must be available for review and the report must include an original signature and title of all assessment personnel involved in the evaluation. The report must comply with all requirements of state and federal regulations.

14. The IEE report must be completed by the end of a calendar year as noted in the contract agreement between the District and independent evaluator or a new contract with the evaluator will need to be completed.
15. The parent will work with the independent evaluator to schedule dates/times for the evaluation unless the evaluation is to take place on school property.
16. Upon completion of the evaluation, the written report will be submitted to the parent and the district along with the Invoice for payment.

Reimbursement or Payment

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets the District's criteria. If parents select an examiner that is not on the District's list of qualified examiners, they should submit the name and vitae of the examiner with copies of certificates and/or licenses in advance of conducting the IEE in order that the District may confirm and notify the parents whether the examiner is qualified to perform the IEE. If the parents fail to submit the name and vitae of the examiner prior to conducting the IEE, the evaluator will not be paid if they do not meet the District's criteria. The parent and evaluator are taking an unnecessary risk of nonpayment. This should be determined prior to the IEE being conducted.

Reimbursement/payment will be made directly to the evaluator upon receipt of an invoice and the IEE which meets all of the McKinney Independent School District assessment criteria. Parents obtaining an IEE without following these procedures risk payment. Whenever an IEE is at public expense, the criteria under which the IEE is obtained, must be the same as the criteria which the school uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's rights to an IEE.

Criteria for Fee Setting

1. The McKinney Independent School District will pay a fee for the IEE which allows a parent to choose from among the qualified professionals in the area.
2. The McKinney Independent School District will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is above the average rate in the local area for the services required to complete the IEE. Thirty-five percent above the Medicaid rate is an acceptable rate.
3. Upon receipt of an invoice for payment of an unreasonably excessive fee, the McKinney Independent School District will notify the parent of the unreasonable rate.
4. Parents will be allowed the opportunity to demonstrate to an ARD committee that unique circumstances justify an IEE that does not fall within the McKinney Independent School District fee criteria. However, the payment decision will remain with the District.
5. When service providers have a sliding scale fee based on parent income, the McKinney Independent School District will pay the amount charged to the parent.
6. In the event that a parent pursues an IEE independently, an original billing form must be submitted to the McKinney Independent School District prior to payment. Before reimbursement or direct payment is authorized, criteria must be met not only regarding the fee, but also the evaluator criteria and the written report received by the District and the evaluation meet the District's IEE criteria.
7. Any travel costs for examiner and/or parents will not exceed McKinney Independent School District rates for travel as established by state guidelines.

Parents Seeking Reimbursement for a Unilaterally Obtained IEE



INDEPENDENT EDUCATIONAL EVALUATIONS

McKinney ISD

043907

1. The McKinney Independent School District will not consider a parent request for payment for a unilaterally parent-initiated IEE unless the request is made within a reasonable time after receipt of the results of the evaluation. A reasonable time is defined as 90 calendar days.
2. The McKinney Independent School District can request a due process hearing to prove its own evaluation is appropriate. This can occur before an IEE is conducted or, in this scenario, after the parent has obtained the IEE and is seeking reimbursement.
3. Parent must submit Invoice for payment, the evaluator's name and qualifications, the completed IEE that meets all criteria.
4. The McKinney Independent School District will review all information submitted by the parent.
5. The McKinney Independent School District will deny payment of an IEE conducted by an evaluator who does not meet minimum qualifications.
6. The McKinney Independent School District will deny payment of an IEE which does not meet minimum Texas Education Agency criteria for the specific disability identified.
7. The McKinney Independent School District will deny payment of an IEE which does not meet substantial compliance with all state and federal requirements.
8. The McKinney Independent School District will deny payment of an IEE that exceeds the maximum cost criteria.

Consideration of Parent Initiated IEE

The results of a parent-initiated IEE obtained at private expense will be considered by the ARD committee in any decision made with respect to the provision of a free appropriate public education to the student (if the IEE meets federal and state criteria). Such consideration does not make the McKinney Independent School District liable for payment of the evaluation.

Number of IEEs

A parent is entitled to only one IEE for each evaluation performed by the District, if the parent disagrees with the evaluation. This would include the three year reevaluation or reevaluations conducted more frequently. A parent is not entitled to multiple IEEs at public expense without an intervening reevaluation. OSEP Policy Letter, EHRL 213.259 (1989); Hudson v. Wilson , 828 F.2d 1059, 1965 (4 th Cir. 1989).

STAFF RESPONSIBLE:

District Level: Special Populations Department
Campus Level: Campus administrator and staff

TIMELINES FOR IEEs:

Formal response to IEE request
Schedule fee for IEEs
ARD review of IEE

EVIDENCE OF PRACTICE:

Approved list of independent evaluators
Receipts for payment
IEE parent letters
Forms and checklists used in the IEE process
Training artifacts
Contracts with IEE providers