

Independent Education Evaluations in Minnesota

A Fact Sheet from the Minnesota Disability Law Center

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INTRODUCTION

This fact sheet reviews the basic legal parameters of independent educational evaluations (IEEs) and discusses the experience of Minnesota school districts and parents with IEEs in complaints and hearings. IEEs are defined and explained in the federal regulations to IDEA.¹

In general, the basic idea behind IEEs is to give parents the opportunity to have an adequate evaluation conducted by someone outside the district if the parents do not agree with the district's evaluation or simply want to have a second perspective on their child's needs. Parents of students in private schools have the right to an IEE if the parents disagree with the special education eligibility evaluation conducted by the public school.²

Legal Requirements

There are a number of legal requirements for IEEs. First, districts must inform parents of their right to an IEE in their notice of procedural safeguards.³ Second, IEEs can only be conducted by a "qualified examiner" who is not employed by the district.⁴ This means that this person could conceivably be from an agency or organization, a university, in private practice, or, from a different district.

Third, districts must have information on hand about where an IEE may be obtained and what criteria the IEEs must fulfill, for when parents request this information. The criteria (which includes location and examiner qualifications, e.g.) must be the same criteria the district uses in its own evaluations, to the extent the qualifications allow parents to obtain an IEE.⁵ The district's IEE information may contain "reasonable cost criteria."⁶

The federal Office for Special Education Programs (OSEP) has stated that while districts may provide specific names in addition to the criteria for IEEs, parents are not bound to selecting a name from the district's list. Instead, if the choice of the parents meets the district criteria, the district must pay for the IEE.⁷ Moreover, OSEP has noted that the district must allow the parents an opportunity to show that an IEE can be at district

expense even if the examiner does not meet district criteria if “unique circumstances” exist.

IEE Payment

The law allows the IEE to be at district expense if the parent disagrees with the district’s evaluation.⁸ Districts may choose to pay for the IEE directly or reimburse the parents (or ensure the parent’s insurance maximums are not negatively affected). Further, if a hearing officer as a part of a hearing requests an IEE, it must be completed at district expense.

IEE Requests and District Responsibility

If an IEE request is made, the district must either seek a due process hearing to demonstrate the adequacy of its own evaluation or grant the parent’s request. Districts may also inquire about the reasons for parental disagreement over the district’s evaluation, but the IEE (or hearing request) cannot be delayed or denied if the parents do not respond to the inquiry. It should be noted that if a district adopts or relies on an evaluation from a different district in the case of transfer students, the prior district’s evaluation becomes the current district’s evaluation, and, if the parents challenge it, the district must choose to defend it or grant the IEE request.

Timelines

Federal law does not contain a specific timeline for providing IEE criteria to parents. Instead, a “reasonableness” standard is used.

Consideration of Different Types of IEEs

If a parent obtains an IEE at private expense, the district must consider it if it meets district criteria.⁹ The duty is consideration, not acceptance, of the IEE. The consideration standard can be met if a district can show in meeting minutes or other documentation or evidence that it examined the IEE and considered its contents. The district can document its consideration and its acceptance or rejection in a formal written notice to the parents.¹⁰ Also, there may be some timelines for consideration.

If a district refuses to adopt the IEE in part or whole, the district must provide notice of its explanation of refusal to the parents.¹¹ Additionally, a privately funded IEE may be presented at a due process hearing.¹²

SUMMARY

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¹ 34 CFR §300.502

² 34 CFR §300.502 (a)(1)

³ 34 CFR §300.504 (c)(1)

⁴ 34 CFR §300.502 (a)(3)(i)

⁵ 34 CFR §300.502 (e)

⁶ Letter to Parker, OSEP Policy Letter, 2/20/04, available at:

<http://www.ed.gov/policy/speced/guid/idea/letters/2004-1/parker022004iee1q2004.pdf>

⁷ Letter to Parker, OSEP, 2/20/04

⁸ 34 CFR §300.502 (b)

⁹ 34 CFR §300.502 (c)

¹⁰ 34 CFR §300.503

¹¹ 34 CFR §300.503

¹² 34 CFR §300.502 (c)