

Independent Educational Evaluations

Resources for Implementation



Region 4 Education Service Center
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Preface

Under federal (34 CFR §300.502) law, the parents of a child with a disability have the right to obtain an independent educational evaluation of their child. The resources in this manual were developed in 2015 by Region 4 Education Service Center, Houston, Texas, and Thompson and Horton, LLP, Houston, Texas, to provide school districts and charter schools with information to implement the Independent Educational Evaluation (IEE) process under 34 CFR §300.502. Included in this manual are sample program operating guidelines, forms, and a question-and-answer document. The use of these resources does not create an attorney-client relationship between the user and Thompson and Horton, LLP, or any of its agents or employees.

The user should contact an attorney for legal advice on any questions arising from the documents. It is possible that specific laws or regulations that could affect your legal rights have been adopted by local public school districts or charter schools or by federal and state regulatory agencies and legislatures. It is also possible that these laws have been changed, clarified, or updated by courts, agencies, public school districts, charter schools, or legislatures since these materials were prepared.

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34 CFR 300.502—Independent Educational Evaluation

§ 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) Each 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.

(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.

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

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

(Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A))

INDEPENDENT EDUCATIONAL EVALUATIONS QUESTIONS AND ANSWERS

What is an Independent Educational Evaluation (IEE)?

Independent educational evaluation means an evaluation conducted by a qualified evaluator who is not employed by the school district responsible for the education of the child in question. (34 CFR §300.502(a)(3)(i))

Who can request an IEE?

A parent or legal guardian has the right to request an IEE at public expense when the parent or legal guardian disagrees with an evaluation conducted by the school district. (34 CFR § 300.502)

Is there a timeline for requesting an IEE?

The evaluation with which the parent or legal guardian disagrees must have been conducted within one (1) year of the date the parent or legal guardian request an IEE. (TAC § 89.1151 (c))

How does a parent or legal guardian request an IEE?

Most often, a parent or legal guardian will verbally request an IEE during an ARD meeting. Other times, a parent or legal guardian or their attorney/advocate will make a request verbally or in writing to the student's teacher, principal, case manager, or special education staff.

What do I do if I receive a request for an IEE?

It is important to note the date the request for an IEE is received because the school district must respond within a reasonable amount of time.

Collect pertinent information from the parent or legal guardian, such as with which school district evaluation the parent or legal guardian disagrees, the reason for the disagreement with the district's evaluation, and what type of IEE is being requesting.

A parent or legal guardian may not be able or willing to explain the reason for disagreement with the school district's assessment, and the school district may not require an explanation or unreasonably delay either in providing the IEE at public expense or filing a request for a due-process hearing to defend the public evaluation. (34 CFR § 300.502(b)(4))

Without delay, forward the request, pertinent information collected, and the date you received the request to the responsible school district staff. Generally, the director of special education is responsible for considering and responding to requests for IEEs.

Can a parent or legal guardian require the school district to rely on the parent or legal guardian's IEE rather than the school district's own evaluation?

The parent or legal guardian cannot require the school district to use the parent or legal guardian's IEE rather than the school district's own evaluation. The school district has the right to conduct its evaluation using personnel of its choice subject to the requirement to obtain informed parental or legal guardian consent.

What if the school district's assessment is appropriate?

If the school district determines that the school district assessment with which the parent or legal guardian disagrees is appropriate, it may file a request for a due-process hearing to defend the validity of its assessment or it may grant the request for an IEE.

What if the school district has not conducted an evaluation?

If the school district has not conducted an evaluation for the parent or legal guardian to disagree with, the parent or legal guardian's request for an IEE is premature. The district may deny the request for an IEE without filing for due process. (34 CFR § 300.502(b)(5))

What if a parent or legal guardian disagrees with a school district assessment in one area but seeks an IEE in another area?

Under most circumstances, a parent or legal guardian is not entitled to an IEE in an area other than the area that the school district assessed. However, the parent or legal guardian may be entitled to an IEE if the school district's assessment is insufficient because the assessor failed to assess in all areas of suspected disability for the field. For example, if an evaluation is performed in a case where only a learning disability is suspected and a parent or legal guardian later requests an IEE for an emotional disturbance (ED), the school district would have the right to perform an evaluation for ED first. If a learning disability and ED are both areas of suspected disability and the school district's assessment only examines the learning disability, the parent or legal guardian's IEE request would be justified because the district's evaluation did not address all areas of suspected disability.

Can a parent or legal guardian disagree with a school district evaluation before the evaluation is completed?

A parent or legal guardian must wait until the school district has completed an evaluation of the student to request an IEE. (34 CFR § 300.502(b)(5))

What is the school district's obligation when a parent or legal guardian requests an IEE?

If a parent or legal guardian request an IEE at public expense, the school district must, without unnecessary delay, provide the IEE at public expense or request a due-process hearing to show that its evaluation of the student was appropriate.

Upon request for an IEE, each school district must provide to a parent or legal guardian information about where an IEE may be obtained and the school district's criteria for IEEs. (34 CFR § 300.502(a)(2))

How long does the school district have to respond to the request for an IEE?

The law states that the school district must respond without unnecessary delay but does not establish a specific timeframe. It is best practice for the school district to respond in writing as soon as possible but no later than 30 calendar days. (34 CFR § 300.502(b)(2))

Which school district personnel make the decision to grant or deny a request for an IEE?

The Individuals with Disabilities Education Act (IDEA) and state regulations do not specify which school district personnel are responsible for making the determination to grant or deny a parent or legal guardian's request for an IEE. Generally, the Director of Special Education is responsible for considering and responding to a request for an IEE. When the request is made to the ARD committee, the committee should refer the parent or legal guardian to the director of special education and forward the request to the director of special education or the designated district staff member.

What should a school district do when it grants a request for an IEE?

The school district must provide a prior written notice (PWN) response to the parent or legal guardian's request and ensure that its letter responding to the parent or legal guardian's request meets the legal requirements for a PWN. The school district must provide information to the parent or legal guardian about where an IEE may be obtained and the school district's criteria for an IEE. The school district should provide the parent or legal guardian an authorization to release and exchange information with the IEE evaluator, a copy of district guidelines for IEEs, a copy of the school district's criteria for IEE assessments, and a copy of the IDEA procedural safeguards document. The school district may provide the parent or legal guardian a list of evaluators the district has determined to be qualified to perform an IEE.

What are the legal requirements for PWN?

A PWN consists of the following:

- A description of the action proposed or refused
- An explanation of why the district proposed or refused the action
- A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposal or refusal
- Other options considered and why they were rejected

- Other factors relevant to the decision
- A statement that the parent or legal guardian and student have procedural protections and where they can obtain a copy of the procedural protections (or include an attached copy)
- A source to contact for assistance in understanding their procedural protections

The PWN must be written in understandable language and be in the parent or legal guardian's native language or preferred mode of communication (e.g., Braille) unless it is clearly not feasible to do so. If the parent or legal guardian's native language is not a written one, it must be documented that the PWN was translated orally or by other means into the parent or legal guardian's native language and steps were taken to ensure the parent or legal guardian understands.

PWN is provided any time the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education (FAPE) to a student.

What should a school district do when it denies a request for an IEE?

The school district is obligated to provide the parent or legal guardian a PWN response when the school district denies a request for an IEE. The school district must ensure that its letter responding to the parent or legal guardian's request meets the legal requirements for a PWN. Additionally, barring very narrow exceptions, the school district must without unnecessary delay file a request for due-process hearing to defend the appropriateness of its evaluation.

Who selects the IEE evaluator?

The parent or legal guardian has the right to select an IEE assessor who meets the same criteria that the school district uses for its district evaluations.

Can the school district recommend evaluators?

Maintaining a list of qualified evaluators is one way a school district may provide parents or legal guardians with information on how and where to obtain an IEE. The school district may restrict parental or legal guardian selection of the evaluator to the persons on the list only if the child's needs can be appropriately evaluated by the persons on the list and the list exhausts the availability of qualified persons within the specified geographic area. However, if the list does not exhaust the number of minimally qualified persons, parents or legal guardians are free to select an evaluator who meets other school district criteria but is not on the list.

The list of qualified evaluators may include private sector assessors, staff from other school districts in the region, and staff from other regions.

Can the school district establish criteria for IEEs?

Yes. The school district can establish board policies and administrative procedures that establish criteria for IEE assessments, including qualifications of the evaluator, geographical proximity of the evaluator, provision of an original written report, willingness to contract with the school district for the IEE, and cost guidelines. The criteria that are established must be the same requirements as if the school district performed the evaluation.

What if the parent or legal guardian chooses an evaluator that does not meet the school district’s criteria?

The school district should give to the parent or legal guardian PWN that the chosen evaluator does not meet school district criteria, explain what criteria are not met, and advise the parent or legal guardian of the right to choose another evaluator who meets school district criteria. The school district must explain to the parent or legal guardian that the he or she has the opportunity to provide information to the school district about any unique or unusual circumstances that would justify the use of the IEE evaluator who does not meet school district criteria, and the school district will consider the information and determine whether the IEE should be allowed. A parent or legal guardian’s wish to use a particular evaluator does not amount to unique circumstances that would warrant an IEE outside the criteria. Each case should be analyzed on its own circumstances.

Can a parent or legal guardian seek reimbursement for travel costs incurred in having the IEE conducted?

Yes. The parent or legal guardian’s reasonable related travel expenses must be funded as part of the cost of the IEE. Typically, the school district will reimburse travel costs to the parent or legal guardian. The school district may need to advance travel costs if failure to do so would prevent the parent or legal guardian from obtaining the IEE. If travel cost is excessive or unnecessary in light of the availability of qualified evaluators within the geographical area reflected in the school district’s IEE criteria or an even broader geographical area, the school district may not be required to pay the parent or legal guardian’s travel costs. It is possible that the IEE evaluator might meet all school district criteria except location, and the school district would pay for the IEE but not the travel costs of the IEE evaluator or the parent or legal guardian.

What if the parent or legal guardian pays for an evaluation and then requests reimbursement?

A parent or legal guardian may seek reimbursement for a privately funded evaluation that was conducted within 1 year of the school district’s evaluation. Before reimbursement can be authorized, the parent or legal guardian must provide a copy of the evaluation, information regarding the qualifications of the independent evaluator, an itemized bill, and proof of payment. The district will determine whether the evaluation meets the district’s IEE criteria.

A request for reimbursement may be denied where the evaluator or the IEE do not meet the school district's previously established criteria. The school district may demonstrate in a due-process hearing that the parent or legal guardian's IEE does not meet school district criteria.

The school district can also deny a request for reimbursement and file a request for due-process hearing to defend its own evaluation.

Can a parent or legal guardian seek reimbursement when they obtain an independent evaluation without first seeking an IEE from the school district?

Yes. There is no requirement under IDEA or state laws or regulations that a parent or legal guardian notify the school district in advance that he or she will be obtaining an IEE and seeking reimbursement. If the parent- or legal-guardian-initiated evaluation is presented to the district for reimbursement and does not meet the district's criteria, the district must initiate a due-process hearing to show the evaluation does not meet the district's criteria or that there were no special circumstances that justified an evaluation that did not meet the district's criteria. If the evaluation does meet the district's criteria, the district can still initiate a due-process hearing to prove its evaluation is appropriate.

Must the school honor the IEE evaluator's request to observe and review school records?

The school district must give the independent evaluator the same opportunities to evaluate the child as given during the school district's evaluation, including an opportunity to observe in the school setting and access educational records.

Can the IEE evaluator bring associates, parents or legal guardians, or the parent or legal guardian's attorney/advocate to the observation?

The school district can define the nature and scope of an IEE evaluator's in-school observations consistent with the opportunity provided to the school-district evaluator. The school district can take steps to prevent unnecessary disruptions to the classrooms and to protect the privacy interest of other students. There is nothing in IDEA that requires the school district to allow parents or legal guardians, attorneys/advocates, or associates of the evaluator who are not directly evaluating the student to observe in the classroom.

Can a school district deny a request for a specific evaluator because the evaluator is someone who regularly works with parent or legal guardian advocacy groups or parent or legal guardian attorneys?

No. A school district cannot deny a request for a specific evaluator solely because the requested evaluator works with parent or legal guardian advocates/attorneys.

Can a school staff member be present for the observation on school campus by the independent evaluator?

The school district can establish procedures in which a school district staff person is present for observations on campus in the interest of student safety, confidentiality, and to prevent unnecessary disruptions.

Must the school honor the independent evaluator's request to speak with teachers and/or staff who work with the student?

The school district must give the evaluator the same opportunities to evaluate the child as given during the school district's evaluation, including an opportunity to interview teachers/staff working with the student. The school district can impose time constraints and restrictions to avoid any disruption to the classroom environment to the same extent as those restrictions are applicable to school staff performing a similar evaluation.

What is the school district's obligation after the IEE is completed?

The school district must hold an ARD committee meeting to consider the results of the IEE in any decision made with respect to the provision of an FAPE. While a school district must consider the results of an IEE or a parent or legal guardian's privately funded evaluation that meets school district criteria, the school district has no obligation to adopt the evaluator's recommendations or conclusions. Considering an IEE means reviewing and discussing its contents with the ARD Committee.

Can the school district require the independent evaluator to provide the complete and final IEE report to the district prior to the ARD committee meeting?

The district can notify the parent or legal guardian and independent evaluator that the complete and final IEE report must be provided to the district a specific number of business days before the ARD committee meeting so that the district will have sufficient time to review the report. If the IEE report is presented to the district for the first time at an ARD committee meeting, the ARD committee may table the meeting and resume at a later time after the district has had sufficient time to review the IEE report.

What should the ARD committee do if the parent or legal guardian disagrees with the manner in which the ARD committee has considered the IEE?

If the ARD committee has not reached mutual agreement on the response to the IEE, the parent or legal guardian is offered an opportunity for a 10 school-day recess and for the ARD committee to convene again to attempt mutual agreement. The parent or legal guardian does not have to accept the 10 school-day recess, in which case the meeting is concluded and the school district will provide the parent or legal guardian with a PWN. The recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the

student has committed an expellable offense or an offense that may lead to a placement in an alternative educational program (AEP).

What if the evaluator or the parent or legal guardian refuses to provide the results of the IEE to the school district?

The school district may deny payment or reimbursement for the IEE if the report is not furnished to the school district for the ARD committee's review and consideration.

What if the parent or legal guardian is unsatisfied with the IEE and requests a second IEE?

The parent or legal guardian is only entitled to one IEE at public expense each time the school district conducts an evaluation with which the parent or legal guardian disagrees. (34 CFR §300.502(b)(5))

Can a school district require a parent or legal guardian to privately fund an IEE and seek reimbursement rather than funding the IEE directly?

No. While parents or legal guardians retain the right to privately fund an IEE and seek reimbursement from the school district, the school district cannot mandate that parents or legal guardians initially pay for the IEE and seek reimbursement.

What is the school district's obligation when it successfully proves that its assessment is appropriate through a due-process hearing?

When a school district files for a due-process hearing and the hearing officer finds the school district's assessment appropriate, the school district is alleviated of responsibility to fund an IEE. The parent or legal guardian still has the right to an IEE, but not at public expense. (34 CFR § 300.502(b)(3)) If the parent or legal guardian presents the IEE to the school district, it must be considered by the ARD committee in any decision made with respect to the provision of an FAPE if it meets the IEE criteria of the school district.

May a hearing officer order an IEE?

A hearing officer may order an IEE as part of a due-process hearing, and the cost will be paid by the school district.

INDEPENDENT SCHOOL DISTRICT INDEPENDENT EDUCATIONAL EVALUATIONS OPERATING GUIDELINES

PURPOSE

The purpose of these procedures is to provide a process for responding to a parent or legal guardian's request for an independent educational evaluation (IEE). A parent or legal guardian may seek an IEE if he or she disagrees with all or part of an evaluation obtained by the school district. The school district may pay for such an IEE if the IEE meets the district's criteria. However, the school district may choose to initiate a due-process hearing to show that its own evaluation, with which a parent or legal guardian disagrees, is appropriate. If the school district prevails in the due-process hearing, a parent or legal guardian still has the right to an IEE, but not at public expense.

DEFINITIONS

1. Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question. The purpose of an IEE is to determine a student's eligibility for special education or related services and for educational planning.
2. Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to a parent or legal guardian.
3. Qualified examiner is an evaluator who is competent to perform the evaluation through criteria established by the school district responsible for the education of the child.
4. A parent- or legal-guardian-initiated evaluation means an evaluation obtained at private expense conducted by an examiner who is not employed by the school district responsible for the education of the child.

PARAMETERS FOR SEEKING AN IEE

A parent or legal guardian has the right to obtain at his or her own expense a parent- or legal-guardian-initiated evaluation of his or her child at any time. If he or she disagrees with an evaluation obtained by the school district, a parent or legal guardian has the right to an IEE of his or her child from a qualified examiner at public expense unless the school district demonstrates in a du- process hearing that its own evaluation of the child was appropriate. If a parent or legal guardian requests an IEE at public expense, the school district without unnecessary delay shall either file a request for a due-process hearing to establish that the assessment with which a parent or legal guardian disagrees is appropriate or agree to fund the IEE.

If the school district files a due-process complaint and the hearing officer finds the school district's evaluation was appropriate, the school district is alleviated of responsibility to fund an IEE. A parent or legal guardian maintains the right to a parent- or legal-guardian-initiated evaluation at his or her own expense. Under IDEA, a parent or legal guardian has a right to one IEE at public expense each time the school district conducts an evaluation with which the parent or legal guardian disagrees.

RESPONDING TO A REQUEST FOR AN IEE

The procedures for responding to a request for an IEE are set forth below and are to be followed when a parent or legal guardian makes a request for an IEE.

All parent or legal guardian requests for an IEE should be made in writing and forwarded to the school district's director of special education for consideration and a response. When a parent or legal guardian makes a request for an IEE, the following documents should be provided to the parent or legal guardian:

1. *IEE Parent or Legal Guardian Request Form* (Form A) (completed)
2. *Independent Educational Evaluation Criteria* (Form I)
3. *List of Independent Educational Evaluators: Cover Letter* (Form B) with attached list of district-recommended independent educational evaluators

Responding to a Verbal Request

When a parent or legal guardian verbally requests an IEE, the school district should do the following:

1. Document the date and time of the verbal request for an IEE.
2. Ask the parent or legal guardian to put his or her request in writing identifying the specific evaluation with which the parent or legal guardian disagrees and expressing his or her request for an IEE (Form A—*IEE Parent or Legal Guardian Request Form*).
3. Immediately notify the director of special education.
4. If the parent or legal guardian refuses to put the request for an IEE in writing, the director of special education will communicate in writing with the parent or legal guardian to determine the necessary information regarding the request for an IEE.
5. Provide a prior written notice (PWN) response to the request for an IEE within a reasonable time.

Responding to a Written Request

When the school district receives a written request for an IEE, the school district should do the following:

1. Document the date and time the request was received.
2. Immediately notify the director of special education.
3. Provide a PWN response to the request for an IEE within a reasonable time.

RESPONDING TO A REQUEST FOR AN IEE (FOR DISTRICT STAFF)

Legal Requirements

If a parent or legal guardian requests an IEE verbally or in writing, the school district **must** without unnecessary delay 1) provide an IEE at public expense or 2) request a due-process hearing to show that its evaluation of the child was appropriate.

Prior Written Notice

A school district must respond to a parent or legal guardian's request for an IEE with a PWN either granting or denying the request for an IEE.

Granting a Request for an IEE

1. Provide PWN that indicates the school district's decision to grant the request for the IEE. (Form D—*PWN: Granting IEE*) In addition to the basic requirements for PWN, include the following:
 - a. Indicate the evaluation with which the parent or legal guardian disagreed and type of IEE granted.
 - b. If unknown, ask the parent or legal guardian to identify the specific area of disagreement. (*The parent or legal guardian is not obligated to provide this information, and failure to respond to the school district's inquiry does not alleviate the school district from its obligation to provide an IEE or timely file for due process.*)
 - c. Explain options for an IEE at public expense, including the following:
 - i. A qualified private sector evaluator
 - ii. A qualified staff member from another school district
2. Attach the following to the letter:
 - a. The school district's list of qualified examiners in the area(s) of the IEE. Attach *List of IEE Evaluators—Cover Letter* (Form B)

- b. Authorization to release and exchange personally identifiable information about the student with the IEE assessor
- c. *Independent Educational Evaluation Criteria* (Form I)
- d. Copy of the school district's requirements for qualified examiners
- e. Copy of a *Notice of Procedural Safeguards* for special education

Denying a Request for an IEE

1. Provide a PWN (Form C—*PWN: District Will Request Hearing*) to indicate the school district's decision to deny the request for an IEE that includes the following:
 - a. An explanation of why the school district is denying the request for an IEE (*Generally, the school district asserts its assessment was valid and appropriate, was conducted by qualified assessors, and assessed the child in all areas of suspected disability.*)
 - b. A description for each evaluation procedure, assessment, record, or report the school district used as the basis for denying the request for an IEE;
 - c. A statement that the parent or legal guardian has protections under the procedural safeguards (identify the source the parent or legal guardian can contact to obtain assistance understanding the procedural safeguards)
 - d. A description of other factors relevant to the denial
 - e. A description of other options considered and explain why those options were rejected
 - f. Notice that because the school district is denying the request for an IEE, it is mandated by federal law to file a request for due process to defend the appropriateness of its evaluation, and the district will file for due process without unnecessary delay unless it receives a written notice from the parent or legal guardian withdrawing the request for an IEE
2. Attach *Independent Educational Evaluation Criteria* (Form I)
3. Attach a copy of the *Notice of Procedural Safeguards*.
4. Without unnecessary delay, file a request for due-process hearing to establish the appropriateness of the school district's evaluation.

DENYING A REQUEST FOR AN IEE WITHOUT FILING FOR DUE PROCESS

If the school district denies a request for an IEE, it is required to file a request for due process without unnecessary delay unless one of the following exceptions applies.

1. No district evaluation with which to disagree

If the school district has not conducted an IEE for a parent or legal guardian to disagree with, the parent or legal guardian does not have a right to an IEE at public expense. The school district should determine if it is appropriate to conduct an IEE of the child in the area for which the parent or legal guardian sought an IEE. If the district is refusing the request for an IEE due to the fact that there is no district evaluation with which to disagree, send the parent or legal guardian PWN of that fact (Form F—PWN: *No District Evaluation, Conduct REED*).

2. Refusal to consent to evaluation

If the parent or legal guardian refused to consent to the district’s request to conduct an evaluation, the parent or legal guardian does not have the right to an IEE.

3. Request is for an evaluation in an area the district has not evaluated

If a parent or legal guardian disagrees with an evaluation and seeks an IEE in an area other than the area for which the school district assessed, the school district may choose to deny the request for an IEE. The school district should determine if it is appropriate to conduct an evaluation of the child in the area for which the parent or legal guardian sought an IEE. (Form E—PWN: *No District Evaluation to Trigger IEE*)

4. The district has not completed its evaluation

If the school district is evaluating a student, the parent or legal guardian does not have a right to an IEE. Once the district’s evaluation is completed, the parent or legal guardian has the right to request an IEE if the parent or legal guardian disagrees with the school district’s evaluation.

5. IEE has been completed previously

If the parent or legal guardian has obtained an IEE previously and the school district has not conducted another evaluation with which the parent or legal guardian can disagree, the parent or legal guardian is not entitled to another IEE. (Form G—PWN: *IEE Previously Completed*)

CRITERIA FOR PUBLICLY FUNDED IEEs

The school district’s criteria for IEEs cannot exceed the criteria the school district would use if it initiated the IEE, and the criteria must be consistent with the parent or legal guardian’s right to an IEE. The criteria should address the following:

1. Qualifications of the examiner: A school district may set criteria regarding the qualifications of the examiner, provided the qualifications for an IEE examiner do not exceed qualifications for a school district assessor.
 - a. The parent or legal guardian must be given an opportunity to demonstrate exceptional circumstances that warrant a deviation from the criteria.
 - b. If a school district denies a request for a specific IEE examiner based on the examiner's failure to meet a specific criteria, it must provide PWN that notifies the parent or legal guardian that another IEE examiner must be chosen and that the parent or legal guardian has the opportunity to demonstrate any exceptional circumstances that may justify using a person to perform the IEE who does not meet the district's qualifications. (Form H—PWN: *Unqualified Evaluator*)
2. Location: A school district may establish a policy limiting the geographical area in which the parent or legal guardian must select an evaluator. (*e.g., within the county; within a 25-mile radius of the school district*). The parent or legal guardian who chooses an evaluator who is outside the established geographical area but otherwise qualified is still entitled to an IEE but may not recoup travel costs. The parent or legal guardian has the opportunity to demonstrate any exceptional circumstances that may justify use of an IEE examiner who does not meet the district's criteria regarding location.
3. Release and Exchange: A school district may require the parent or legal guardian to provide written consent for the IEE examiner and the school district to release and exchange information.
4. Cost: The school district may limit the cost of the IEE so long as the cap does not prevent the parent or legal guardian from obtaining an IEE. If the school district denies a request for a specific IEE examiner based on cost, it must provide PWN that notifies the parent or legal guardian of his or her opportunity to demonstrate any exceptional circumstances that would justify an IEE in excess of the district's cost criteria.
5. Travel: Travel cost for an IEE evaluator shall not exceed the school district's rate for travel as established by state guidelines.
6. Evaluation Area: The IEE is limited to the areas approved by the school district. The IEE is to determine eligibility for educational planning, and the examiner must conduct an IEE.
7. Payment: The school district will make payment directly to the examiner upon receipt of an IEE that meets all of the school district's criteria.
8. Post Evaluation: The school district has no obligation to pay for services the examiner provided after the IEE's completion.

REIMBURSEMENT FOR PARENT- OR LEGAL-GUARDIAN-INITIATED EVALUATION

The parent or legal guardian is encouraged to notify the school district of his or her desire to obtain an IEE and ask for funding prior to obtaining the IEE. However, the school district will not

necessarily deny reimbursement for a parent- or legal-guardian-initiated evaluation already obtained as long as the evaluation meets the school district's evaluation criteria.

1. The school district will consider the results of a parent- or legal-guardian-initiated evaluation in an ARD committee meeting if it meets school district criteria, but such consideration does not mean the school district will accept the IEE or its recommendations.
2. The school district may deny a request for reimbursement where the examiner did not meet the school district's minimum qualifications and criteria.
3. The school district may deny a request for reimbursement where the parent- or legal-guardian-initiated evaluation does not meet the criteria in IDEA, its implementing regulations, the Texas Education Code, or the Texas Administrative Code for the specific disability identified.
4. The school district may deny a request for reimbursement for a parent- or legal-guardian-initiated evaluation that does not meet all state and federal requirements.
5. If the school district denies a request for reimbursement of a parent- or legal-guardian-initiated evaluation because it does not meet the district's criteria, the district must initiate a due-process hearing to demonstrate that the evaluation does not meet the district's criteria or there is no justification for not meeting the district's criteria.
6. The school district can deny a request for reimbursement even though the parent- or legal-guardian-initiated evaluation meets district criteria and request a due-process hearing to prove its own evaluation is appropriate.
7. The school district may reimburse the parent or legal guardian in accordance with the district procedures. Before reimbursement is authorized, the parent or legal guardian must provide proof that the IEE criteria are satisfied, a written report, an itemized bill, and proof that payment was received.

EVALUATION PROCESS

The school district must give the IEE examiner the same opportunity to evaluate the child as given during the school district's evaluation, including access to educational records and an opportunity to observe in the school setting once the evaluator has been approved for access per state law and local policy requirements.

1. The school district can define the nature and scope of an IEE examiner's in-school observations consistent with the opportunity provided to the school-district examiner. To that extent, the school district can take steps to prevent unnecessary disruptions to the classrooms and to protect the privacy interest of other students.
2. The school district can impose time constraints on observations and restrictions on the time and location of IEE examiner/staff interactions to the same extent such restrictions are imposed on school district staff who conduct the same evaluations.

3. School district staff may accompany the IEE examiner while the person is on a district campus.

REVIEWING THE IEE

Consideration by the ARD committee of an IEE or a parent- or legal-guardian-initiated evaluation that meets school district criteria is mandated by law. The ARD committee is required to consider the evaluation in any decision made with respect to the provision of a free, appropriate public education.

The complete and final IEE report must be provided to the school district five business days before the ARD committee meeting to consider it so that there is sufficient time for the school district to review the report prior to the ARD committee meeting. If the complete and final IEE report is provided to the school district for the first time at an ARD committee meeting, the ARD committee may table the meeting and reconvene at a later time so that the school district can have adequate time to review the report and determine compliance with school district criteria for an IEE.

The ARD Committee is not mandated to accept the evaluation findings, implement the recommendations, or modify the IEP unless it is necessary to provide the child with a free, appropriate public education.

**_____ INDEPENDENT SCHOOL DISTRICT
LIST OF QUALIFIED INDEPENDENT EDUCATIONAL
EVALUATORS: Cover Letter**

Per your request, your child will receive an independent educational evaluation (IEE) in the area(s) of _____ at school district expense. Attached are the names, addresses, and telephone numbers of professionals who are qualified to conduct an IEE in the area(s) of _____. The list of individuals and agencies represents evaluators who meet the district's criteria for an IEE and whom both parents and the district have found to conduct quality evaluations in their areas of specialization. The evaluators are listed alphabetically, not in order of preference.

This list is not exhaustive. If you select someone other than the professionals included on this list, the criteria under which an IEE is conducted or obtained (including the location and cost of the evaluation and the qualifications of the evaluator) must be the same as the criteria the school district uses when it conducts the same kind of evaluation.

Should you choose an evaluator who is not on the list, you must provide to the district the name and contact information for the evaluator you wish to perform the IEE. The district will determine whether the evaluator meets district criteria and notify you. If the evaluator does not meet district criteria, you must choose a different evaluator. If there are special circumstances that you believe would justify use of the evaluator to perform the IEE even though he or she does not meet district guidelines, you will have the opportunity to provide that information to the district and it will be considered.

[ON DISTRICT LETTERHEAD]
Prior Written Notice
District Will Request Hearing

Parent's Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of IDEA and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District (the district) regarding your request that the district fund an independent educational evaluation (IEE) in the area of _____.

On or about _____, you notified the district that you disagreed with the _____ assessment dated _____. You indicated that your disagreement was based on _____. The district has reviewed the _____ assessment and believes that it meets the requirements of federal law. Therefore, the district denies your request at this time.

In making the determination to deny your request, the district considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents or legal guardians. Additionally, the district has considered available and relevant assessment information and other information it possesses concerning the student.

Under the Individuals with Disabilities Education Act (IDEA), when a parent requests an IEE, the district is obligated to either file a request for due process to show its assessment is appropriate or ensure the IEE is provided at public expense. The district considered granting the request for an IEE. The district contends the _____ assessment was appropriate and meets the requirements of federal law. Therefore, without unnecessary delay, the district will file a request for a due-process hearing seeking an order establishing the _____ assessment was appropriate and establishing that if you wish to obtain IEEs in the area(s) of _____, you must do so at your own expense.

Please contact me immediately if you wish to withdraw your request for an IEE, because the district is obligated under federal law to file a request for a due-process hearing to establish the appropriateness of the assessment unless you withdraw your request for an IEE.

[ON DISTRICT LETTERHEAD]
Prior Written Notice
Granting IEE

Parent's Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Mrs. _____:

In accordance with the provisions of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District (the district) regarding your request that the district fund an independent educational evaluation (IEE) in the area(s) of _____.

On or about _____, you notified the district that you disagreed with the _____ assessment dated _____. You indicated that your disagreement was based on _____. The district hereby grants your request for an IEE in the area(s) of _____ in accordance with the district's IEE guidelines.

The district considered denying your request and requesting a hearing to prove its assessment is appropriate. In making the determination to grant your request, the district considered all available and relevant information, including but not limited to information provided to the ARD committee by educator, educational service providers and assessors, and the student's parents or legal guardians. Additionally, the district considered available and relevant assessment information and other information it possesses concerning the student. The district granted your request for an IEE so that additional evaluative information may be obtained that may be useful in programming to meet the educational needs of the student. Options for an independent evaluator include a qualified private evaluator or a qualified evaluator employed by another school district.

Enclosed is a copy of the District's *List of Qualified Independent Educational Evaluators in the Area of _____*, the *Independent Educational Evaluations Minimum Qualifications for Evaluators*, *Independent Educational Evaluation Criteria*, and *Notice of Procedural Safeguards*. Please contact me as soon as you have identified your preferred evaluator so that we may discuss your selection and, provided the evaluator meets the district's criteria, make the necessary arrangements for the evaluation.

[ON DISTRICT LETTERHEAD]

Prior Written Notice
No District Evaluation
To Trigger IEE

Parent's Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District (the district) regarding your request that the district fund an independent educational evaluation (IEE) in the area(s) of _____.

On or about _____, you requested an IEE in the area(s) of _____. The district hereby denies your request for an IEE at this time. The district considered granting your request for an IEE; however, an evaluation conducted by the school district with which a parent disagrees is a predicate to a right to an IEE at public expense. The district has not conducted an evaluation of your child in the area(s) of _____. Therefore, you are not entitled to an IEE at this time.

In making the determination to deny your request, the district considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents or legal guardians. Additionally, the district has considered available and relevant assessment information and other information it possesses concerning the student.

In light of your request for an IEE in the area(s) of _____, the district has reviewed your child's educational records and, at this time, the district does not have sufficient information to suspect that your child exhibits a suspected disability that would mandate a district evaluation in the area(s) of _____. However, please contact me as soon as possible if you have information or documentation that you believe is necessary for the district to consider in determining if a district assessment is necessary.

Enclosed is a document that describes your parental rights and procedural safeguards under IDEA. The source you may contact to obtain assistance in understanding the provisions of the procedural safeguards is

Name

Position

Telephone Number

You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center (SEIC).

Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1.855.773.3839

If you have any questions concerning the above, please do not hesitate to call me at _____.

Sincerely,

Name
Title

Enclosure: Independent Educational Evaluation Operating Guidelines
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Prior Written Notice
IEE denied because no District Evaluation was conducted
District will do a REED to consider a District Evaluation

Parent's Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District (the district) regarding your request that the District fund an independent educational evaluation (IEE) in the area(s) of _____.

On or about _____, you requested an IEE in the area(s) of _____. The district has considered and hereby denies your request for an IEE at this time. An evaluation conducted by the school district with which a parent disagrees is a predicate to a right to an IEE at public expense. The district has not conducted an evaluation of your child in the area(s) of _____. Therefore, you are not entitled to an IEE at this time.

In making the determination to deny your request, the district considered all available and relevant information, including but not limited to information provided to the ARD committee by educators, educational service providers and assessors, and the student's parents or legal guardians. Additionally, the district has considered available and relevant assessment information and other information it possesses concerning student.

Based on a review of your child's educational records and your request for an IEE in the area(s) of _____, the district proposes that the ARD committee meet to do a review of existing evaluation data and determine whether the district should conduct an evaluation in the area(s) of _____. District staff will be in contact with you to schedule an ARD committee meeting.

You may also obtain information about parental rights, procedural safeguards, and special education issues from the Special Education Information Center (SEIC).

Website: www.spedtex.org
E-mail: inquire@spedtex.org
Telephone: 1.855.773.3839

If you have any questions concerning the above, please do not hesitate to call me at _____.

Sincerely,

Name
Title

Enclosure: Independent Educational Evaluation Operating Guidelines
Notice of Procedural Safeguards

cc: Student Special Education File

[ON DISTRICT LETTERHEAD]
Approved, but Selected Evaluator Does Not Meet the Criteria

Parent's Name
Address

Re: Student's Name; Date of Birth

Dear Mr./Ms. _____:

In accordance with the provisions of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 C.F.R. Part 300.503, this letter shall serve as prior written notice by _____ Independent School District (the district) regarding your request that the district fund an independent educational evaluation (IEE) in the area(s) of _____.

On or about _____, you notified the district that you disagreed with the _____ assessment dated _____. In a letter dated _____, the district granted your request for an IEE in the area(s) of _____ in accordance with the district's IEE guidelines.

On _____, the district received your request that _____ conduct the IEE in the area(s) of _____. The district has carefully considered your request and determined that _____ does not meet the district's IEE criteria. Our records indicate that _____ does not _____. In coming to the determination that _____ does not meet the district's criteria, the district considered the qualifications of the independent evaluator, the district's IEE criteria, the district's minimum qualifications for evaluators, and the district's operating guidelines. Please contact me immediately if you believe that the district has erred in its determination that _____ does not meet the district's IEE criteria.

You are entitled to an opportunity to demonstrate unique circumstances that may justify the selection of an evaluator who does not meet the district's IEE criteria. If you believe that exceptional circumstances warrant a deviation from these criteria, please provide that information to me immediately.

Enclosed is another copy of the district's *List of Qualified Independent Educational Evaluators in the Area of _____*, *Independent Educational Evaluation Minimum Qualifications for Evaluators*, *Independent Educational Evaluation Criteria*, and *Notice of Procedural Safeguards*. Please review the documents provided and contact me as soon as you have identified a different preferred evaluator so that we may discuss your selection and, provided the evaluator meets the district's criteria, make the necessary arrangements for the evaluation.

INDEPENDENT SCHOOL DISTRICT INDEPENDENT EDUCATIONAL EVALUATION CRITERIA

CRITERIA FOR AN INDEPENDENT EDUCATIONAL EVALUATION

These criteria are applicable to evaluations performed and/or obtained by the district.

1. The parent(s) or legal guardian(s) and district must mutually agree to the parameters of the IEE (i.e., the areas to be assessed).
2. The independent evaluator must be certified or licensed by an accredited professional organization or agency that is recognized within the State of Texas representing his or her profession.
3. The independent evaluator must meet the district's minimum qualifications for district personnel who perform the type of evaluation that will make up the IEE. If the independent evaluator wishes to use additional persons to perform the IEE, each one of those persons must meet the district's criteria for performing his or her part of the IEE. The independent evaluator will provide the district with the credentials and qualifications of each person who may administer a portion of the IEE.
4. The independent evaluator must meet the qualifications and training requirements to administer, score, and interpret the evaluation instrument(s) utilized during the IEE as specified by the test publisher.
5. The independent evaluator must be located within the district's geographical area and within a _____ mile radius of the district administration building.
6. The independent evaluator must comply with all state and federal requirements, the Code of Ethics for his or her professional licensing agency, and remain fully licensed and/or certified during the evaluation and reporting process.
7. The independent evaluator must meet all state law and district policy requirements concerning criminal history record information.
8. Parents or legal guardians must provide written consent for the release and exchange of information between the district and independent evaluator, including the release to the district of the evaluation report, all protocols, and results of all assessment data collected by the independent evaluator.
9. The independent evaluator shall conduct an evaluation that provides relevant information and recommendations that directly assist the ARD committee in determining the disability and/or educational needs of the child.
10. The independent evaluator shall use only the most current version of each assessment instrument utilized for the IEE.

11. The independent evaluator shall use assessment instruments that are age and gender appropriate to the child.
12. The independent evaluator shall use assessment instruments that are chosen on the basis of their relevancy to the educational questions to be addressed by the evaluation.
13. The independent evaluator shall review the student record, including the results of evaluations conducted by the district.
14. The independent evaluator shall not knowingly utilize sooner than recommended in the test publisher's guidelines the same version of an assessment instrument or measure that was used in a previous assessment of the child.
15. The independent evaluator shall not use any single measure or assessment as the sole criterion for determining whether a child has a disability or for determining an appropriate educational program for the child.
16. The independent evaluator shall select and administer assessment instruments so as not to be discriminatory on a racial or cultural basis.
17. The independent evaluator shall provide and administer assessment instruments in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it is not clearly feasible to do so.
18. If the student has been exposed to a second language, the evaluation must include assessment of language dominance and proficiency, and the results must be utilized to determine the appropriate language for the remainder of the evaluation.
19. The independent evaluator shall use assessment instruments that are used for the purposes for which the assessments or measures are valid and reliable.
20. The independent evaluator shall select and administer assessment instruments or measures that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single intelligence quotient.
21. The independent evaluator shall use assessment instruments that are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude, achievement level, or other factors the test purports to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
22. The district may require the IEE include an observation of the student in an educational setting and interviews with school staff if student observation and/or staff interviews would be included in an evaluation performed by the district.

23. The independent evaluator shall provide an original signed written report of findings and test protocols to the district within forty-five (45) school days from the date the public agency authorizes the IEE. That report shall contain the following:
- a. Date(s) when evaluation activities were conducted
 - b. A list of all information/data reviewed
 - c. A complete summary of all test scores along with subtest scores of the tests administered
 - d. A complete summary of all information obtained or reviewed from observations, interviews, and other nonstandardized assessment instruments
 - e. A discussion and interpretation of test results
 - f. Full and complete information that addresses the presence or absence of those symptoms or conditions included in the specific eligibility criteria according to federal and state regulations. 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 meets the federal and state eligibility criteria, whether the student has a disability that requires the provision of special education services to the student, and if so, information that is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the student's disability category.
24. All personnel involved in the evaluation shall sign the report.
25. When determining the presence of a specific learning disability (LD), the independent evaluator must follow the model adopted by _____ ISD. (*Insert language that describes the model that your district follows when determining LD. See sample language below.*)

_____ ISD has adopted the scientific, research-based model of determining a pattern of strengths and weaknesses to identify LD. This model requires multiple components, including the following:

- a. The presence of a significant academic deficit that is supported by four sources of data (informal, criterion references, curriculum based, and norm referenced). It is assumed that supplemental interventions have been conducted in a systematic fashion and progress monitoring has shown that the student is not making sufficient academic progress consistent with age and grade-level expectations despite appropriate academic instruction and tiered interventions.

- b. There must be a significant, normative cognitive processing deficit. This is usually accomplished by evaluating the cognitive areas both broad and narrow as identified in the Cattell–Horn–Carroll (CHC) model of cognitive abilities.
- c. There is an empirical relationship between the cognitive processing disorder and the academic deficit. This linkage is important because the cognitive processing disorder is the presumed primary cause of the academic deficit.
- d. The relationships occur within the context of an adequate cognitive ability profile. Definitions of LD recognize the critical importance that the student has adequate overall cognitive ability.
- e. The academic achievement is unexpected given the student’s profile of both cognitive and academic capabilities.
- f. The processing deficit is domain specific. This reflects the importance of the cognitive impairments being different from the other cognitive areas.

In order to determine a pattern of strengths and weaknesses, a variety of data sources must be used.

(If the ISD has adopted a different model for assessing LD, insert the description of the model here.)

- 26. The independent evaluator will follow all evaluation guidelines in IDEA, its implementing regulations, the Texas Education Code, and the Texas Administrative Code.
- 27. A parent or legal guardian is entitled to only one IEE for each evaluation performed by the district if the parent or legal guardian disagrees with the evaluation.

COST AND FUNDING

- 1. Payment for the IEE shall occur only after the district has received the final written report of findings from the independent evaluator meeting the IEE criteria and the original protocols and work documents (observation notes, interview notes, etc.) that were utilized in the evaluation.
- 2. The independent evaluator shall be available in person or electronically (e.g., telephone conference call, interactive video) to discuss results of the IEE with the ARD Committee.
- 3. The district has no obligation to pay for assessment and/or services the independent evaluator provides after the IEE’s completion.
- 4. The district has no obligation to pay for assessments outside the mutually agreed to parameters of the IEE.

5. If the independent evaluator has a sliding scale fee based on the parent or legal guardian's income or a reduced rate for privately funded evaluations, the district will pay the amount normally charged to the parent or legal guardian.
6. The district will not pay unreasonable charges for an IEE. An unreasonably excessive fee is one that is more than 25% above the prevailing fees in the area as established in the Medicaid/Medicare Service Provider Manual for the specific evaluation being considered.

ACCESSING THIRD PARTY PAYMENT

When available, the district would like to access a parent or legal guardian's private or public health insurance to help cover the cost of the IEE.

The District will pick-up any costs (e.g., deductibles, co-pays) not covered by the parent or legal guardian's insurance provider so that there will be no out-of-pocket costs to the parent or legal guardian.

CONSIDERATION OF THE RESULTS OF AN INDEPENDENT EDUCATIONAL EVALUATION:

The ARD committee will consider the findings and recommendations provided by an IEE completed in accordance with these procedures. However, the ARD committee continues to be responsible for making decisions regarding the student's eligibility and need for special education services and, when the student is eligible and needs special education, for determining placement and services to be provided. A complete and final copy of the IEE report must be provided to the district five business days before the ARD committee meeting to consider the report so that the district will have sufficient time to review the report. If the report is presented to the district for the first time at an ARD committee meeting, the ARD committee may table the meeting and resume at a later time after the district has had sufficient time to review the report. If the parent or legal guardian provides to the district an evaluation that was paid for by the parent or legal guardian, it will be considered by the ARD committee if it meets the district's criteria.

EXCEPTIONAL CIRCUMSTANCES

The district's IEE criteria may be waived or modified in special circumstances where unique diagnostic expertise or exceptional circumstances warrant, provided the parent or legal guardian can demonstrate the necessity of using an evaluator outside the district's IEE criteria. The parent or legal guardian may submit a request to consider exceptional circumstances and grant an IEE not in compliance with district criteria to the director of special education at address _____; telephone _____. If the district denies the parent or legal guardian's request for an IEE that does not meet the district's criteria and the parent or legal guardian obtains

the IEE anyway and requests reimbursement, or the district denies reimbursement for a parent- or legal-guardian-initiated evaluation because it does not meet the district's criteria, the district must initiate a due-process hearing to demonstrate the evaluation does not meet the district's criteria or there was no justification for obtaining an evaluation that did not meet the district's criteria.

Independent Educational Evaluations Minimum Qualifications for Evaluators*

<u>Type of Assessment</u>	<u>Qualifications</u>
Academic Achievement	Certified Special Education Teacher Licensed Specialist in School Psychology Educational Diagnostician Reading Specialist (when applicable)
Adaptive Behavior	Licensed Specialist in School Psychology Educational Diagnostician
Functional Behavioral Assessment (FBA)	Licensed Specialist in School Psychology Educational Diagnostician Behavior Specialist/BCBA
Functional Listening Evaluation	Licensed Audiologist (educational) Certified Teacher of the Deaf
Cognitive/Intellectual	Licensed Specialist in School Psychology Educational Diagnostician
Health	Licensed Physician Registered Nurse
Hearing/Audiological	Licensed Audiologist
Adaptive Physical Education	Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist
Social/Emotional	Licensed Specialist in School Psychology
Speech/Language/Communication	Licensed Speech/Language Pathologist
Visual Processing/Perception	Licensed Specialist in School Psychology Educational Diagnostician Licensed Occupational Therapist

Visual Acuity

Ophthalmologist or Optometrist

Physical Therapy

Licensed Physical Therapist

Learning Disability

Licensed Specialist in School Psychology
Educational Diagnostician

***Disclaimer:** *This list of qualified examiners is not exhaustive. Specific qualifications should be clarified with the director of special education prior to selection of the examiner.*

Analysis of District Evaluation Subject to IEE Request

For Internal Use Only—Not Part of Student Records

Date parents' or legal guardians' request for IEE was received _____
With which school district evaluation did the parents or legal guardians disagree?

Was the district's evaluation conducted less than one (1) year from the date of the IEE request?

Yes No

What, if any, reason did the parent(s) or legal guardian(s) give for disagreeing with the district's evaluation?

The District assessment compared to IDEA assessment criteria:

1. Used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information. Yes No
2. The functional, developmental, and academic information was appropriate to determine
 - a.) whether the child is a child with a disability and Yes No
 - b.) the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or, for a preschool child, to participate in appropriate activities). Yes No
3. Did not use any single measure or assessment as the sole criterion for determining whether a child has a disability and for determining an appropriate educational program for the child. Yes No
4. Used technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. Yes No
5. The assessment materials were selected and administered so as not to be discriminatory on a racial or cultural basis. Yes No
6. The assessment materials were provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it was clearly not feasible to so provide or administer. Yes No
7. The assessment materials were used for the purposes for which the assessments or measures are valid and reliable. Yes No
8. The assessment materials were administered by trained and knowledgeable personnel. Yes No
9. The assessment materials were administered in accordance with any instructions provided by the producer of the assessment. Yes No

10. The assessments and other evaluation materials included those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Yes No
11. The assessments were selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude, achievement level, or other factors the test purports to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). Yes No
12. The child was assessed in all areas related to the suspected disability, including (if appropriate) health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. Yes No
13. The evaluation was sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. Yes No
14. The assessment tools and strategies provided relevant information that directly assists persons in determining the educational needs of the child. Yes No

Other factors to consider:

1. Will granting the IEE build a better relationship between the district and the parents?
2. Will granting the IEE restore trust and repair the working relationship between the district and the family?
3. How much staff time will be diverted to a due-process hearing to defend the district's evaluation?
4. What is the estimated cost of a due-process hearing to defend the district's evaluation?
5. How many times has the parent requested an IEE?
6. Have IEEs obtained by the parent previously been beneficial in developing programming for the student?
7. Are there areas of concern in the district's evaluation?

INDEPENDENT EVALUATOR CONTRACT TERMS

*(Directions: The following terms are contained in the sample IEE criteria and are applicable to the independent evaluator. The school district may adopt different criteria than these. Whatever criteria are adopted, the school district should consider including some or all of the criteria in the contract with the independent evaluator. The terms can be inserted into the school district's usual contract form or included as a separate attachment to the contract. **DELETE this paragraph when attaching this document to the contract.**)*

1. The independent evaluator must be certified or licensed by an accredited professional organization or agency that is recognized within the State of Texas representing his or her profession.
2. The independent evaluator must meet the district's minimum qualifications for district personnel who perform the type of evaluation that will make up the IEE. If the independent evaluator wishes to use additional persons to perform the IEE, each one of those persons must meet the district's criteria for performing his or her part of the IEE. The independent evaluator will provide the district with the credentials and qualifications of each person who may administer a portion of the IEE.
3. The independent evaluator must meet the qualifications and training requirements to administer, score, and interpret the evaluation instrument(s) utilized during the IEE as specified by the test publisher.
4. The independent evaluator must be located within the district's geographical area and within a _____ mile radius of the district administration building.
5. The independent evaluator must comply with all state and federal requirements and Code of Ethics for his or her professional licensing agency and remain fully licensed and/or certified during the evaluation and reporting process.
6. The independent evaluator must meet all state law and district policy requirements concerning criminal history record information.
7. Parents must provide written consent for the release and exchange of information between the district and independent evaluator, including the release to the district of the evaluation report, all protocols, and results of all assessment data collected by the independent evaluator.
8. The independent evaluator shall conduct an evaluation that provides relevant information and recommendations that directly assist the ARD committee in determining the disability and/or educational needs of the child.
9. The independent evaluator shall use only the most current version of each assessment instrument utilized for the IEE.
10. The independent evaluator shall use assessment instruments that are age and gender appropriate to the child.

11. The independent evaluator shall use assessment instruments that are chosen on the basis of their relevancy to the educational questions to be addressed by the evaluation.
12. The independent evaluator shall review the student record, including the results of evaluations conducted by the district.
13. The independent evaluator shall not knowingly utilize sooner than recommended in the test publisher's guidelines the same version of an assessment instrument or measure that was used in a previous assessment of the child.
14. The independent evaluator shall not use any single measure or assessment as the sole criterion for determining whether a child has a disability or for determining an appropriate educational program for the child.
15. The independent evaluator shall select and administer assessment instruments so as not to be discriminatory on a racial or cultural basis.
16. The independent evaluator shall provide and administer assessment instruments in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it is not clearly feasible to do so.
17. If the student has been exposed to a second language, the evaluation must include assessment of language dominance and proficiency, and the results must be utilized to determine the appropriate language for the remainder of the evaluation.
18. The independent evaluator shall use assessment instruments that are used for the purposes for which the assessments or measures are valid and reliable.
19. The independent evaluator shall select and administer assessment instruments or measures that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single intelligence quotient.
20. The independent evaluator shall use assessment instruments that are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude, achievement level, other factors the test purports to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
21. The district may require the IEE include an observation of the student in an educational setting and interviews with school staff if student observation and/or staff interviews would be included in an evaluation performed by the district.
22. The independent evaluator shall provide an original signed written report of findings to the district within forty-five (45) school days from the date the public agency authorizes the IEE. That report shall contain the following:
 - a. Date(s) when evaluation activities were conducted
 - b. A list of all information/data reviewed

- c. A complete summary of all test scores along with subtest scores, of the tests administered
 - d. A complete summary of all information obtained or reviewed from observations, interviews, and other nonstandardized assessment instruments
 - e. A discussion and interpretation of test results
 - f. Full and complete information that addresses the presence or absence of those symptoms or conditions included in the specific eligibility criteria according to federal and state regulations. 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 meets the federal and state eligibility criteria, whether the student has a disability that requires the provision of special education services to the student, and if so, information that is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the student's disability category.
23. All personnel involved in the evaluation shall sign the report.
 24. When determining the presence of a specific learning disability (LD), the independent evaluator must follow the model adopted by _____ ISD.
 25. *(Insert district-specific language to describe LD assessment.)*
 26. The independent evaluator will follow all evaluation guidelines in IDEA, its implementing regulations, the Texas Education Code, and the Texas Administrative Code.
 27. Payment for the IEE shall occur only after the district has received the final written report of findings from the independent evaluator meeting the IEE criteria and the original protocols and work documents (e.g., observation notes, interview notes) that were utilized in the evaluation.
 28. The independent evaluator shall be available in person or electronically (e.g., telephone conference call, interactive video.) to discuss results of the IEE with the ARD committee.
 29. The district has no obligation to pay for assessment and/or services the independent evaluator provides after the IEE's completion.
 30. The district has no obligation to pay for assessments outside the mutually agreed to parameters of the IEE.