

TULARE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA

Policy No.: 8040

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Policy Title: Independent Educational Evaluations (IEE)

Please read this entire document before obtaining or paying for an IEE. This document may limit your right to reimbursement.

The Tulare County Special Education Local Plan Area ("SELPA") has developed this policy and the corresponding procedures and criteria which govern independent educational evaluations ("IEEs") in accordance with federal and state special education law. (*See* 20 U.S.C. § 1415; 34 C.F.R. § 300.502; California Education Code §§ 56506(c) and 56329(b).) Parents¹ should read this entire document carefully. The policies, procedures, and criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about IEEs should contact the school district from which you are requesting an IEE ("District")². Before obtaining an IEE, please contact the District to discuss your questions and options. If your questions are not resolved by the District, you may contact the SELPA for assistance in communicating with the District. Note that the District will not automatically reimburse parents who unilaterally obtain IEEs. This SELPA policy applies to all SELPA members whose local school boards have adopted this Policy. Some LEAs within Tulare County SELPA may have separate policies. Please consult with your local District regarding this option. Please review this document for further information about a parent's right to obtain IEEs at public expense.

¹ Parent means any of the following: (1) a biological or adoptive parent of a child; (2) a foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations; (3) a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the California Welfare and Institutions Code; (4) an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare; (5) a surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the California Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code. The biological or adoptive parent, when attempting to act as the parent when more than one party is qualified to act as a parent, shall be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent." Parent does not include the state or any political subdivision of government. Parent does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

² For purposes of this policy, District also includes the Tulare County Office of Education (TCOE) as a local educational agency where applicable. It does not include TCOE if TCOE is only the service provider or assessor that completed an assessment on behalf of the student's District of Residence.

I. DEFINITIONS

Independent educational evaluation or IEE means an evaluation conducted by a qualified evaluator who is not employed by the District.

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 the parent.

II. POLICIES AND PROCEDURES

IEE Requests

Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the District. Parents may only request one publicly-funded IEE for each evaluation completed by the District with which they disagree. The request for an IEE must be received within **less than two years** from the date of the District's evaluation. If the request for an IEE is received one year or more from the date of completion of the District's evaluation, or if conditions warrant, the District may ask to complete a reevaluation in addition to responding to the parent's request for an IEE.

To initiate an IEE request, a parent must indicate to the District that the parent:

1. Disagrees with a District evaluation; and
2. Requests an IEE at public expense.

If the parent does not put this in writing, the District must document the parent's disagreement and request including the areas assessment the parent disagrees with.

The District may ask for the parent's reason(s) for disagreeing with the District's evaluation. However, the District may not require the parent to provide an explanation regarding his or her disagreement, and may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation because the parent has not provided such an explanation..

Responding to an IEE Request

Once the parent communicates his or her disagreement with the District's evaluation and requests an IEE at public expense, either in writing or at an IEP team meeting, District staff will notify the District's administrator responsible for special education. The District will provide the parent with a copy of this IEE policy, or the District's own IEE policy, and a copy of the District's notice of parental rights and procedural safeguards. And the District will, without unnecessary delay, either initiate a due process hearing to establish the appropriateness of its evaluation or proceed with providing an IEE at public expense unless the District demonstrates in a due process hearing that the evaluation obtained by the parent did not meet the agency criteria contained in this policy.

The LEA Director will provide Prior Written Notice stating whether the LEA is providing or denying the IEE Assessment. This notice shall be provided to parent/guardian within 15 days of receipt of the request. If they are denying the assessment, the LEA shall notify the parent/guardian of its decision in writing and file for Due Process to defend its own report.

If the District determines that it will initiate a due process hearing to establish the appropriateness of its evaluation, the District will notify the parent of such decision in writing prior to filing a due process hearing complaint. This written notice shall include all of the elements of prior written notice as required by section 300.503(b) of Title 34 of the Code of Federal Regulations.

If the District agrees to provide an IEE at public expense, the District will provide information to the parent regarding a possible list of IEE assessors. The list is not intended to be exhaustive, and it is not intended to limit the parent's options in obtaining an IEE from other qualified professionals who meet the agency criteria outlined in this policy.

Once an IEE evaluator has been selected, the parent must sign a release and exchange of information authorizing the District to communicate directly with the parent's chosen independent evaluator. Upon receipt of the release and exchange information the District will contract with the evaluator to arrange for completion of the IEE.

In the event the parents select an examiner who does not meet the District's criteria as outlined in the policy, the District shall provide parents the opportunity to demonstrate that there are unique circumstances to justify their selection of such an examiner. The District will then make a determination if the use of the requested examiner that does not meet the criteria is warranted and respond in writing.

If the District initiates a due process hearing and the hearing officer issues a final decision finding that the District's evaluation is appropriate, the parent will still have the right to obtain an IEE, but not at the District's expense.

If a hearing officer orders an IEE as part of a due process hearing decision, the costs of the IEE must be at District's expense.

If the parent obtains an IEE at private expense or through an agency other than the District and shares the IEE with the District, the results of the IEE:

1. Must be considered by the District, if the evaluation meets the agency criteria set forth in Section III below, in any decision made with respect to the provision of a free appropriate public education ("FAPE") to the student; and
2. May be presented as evidence at a due process hearing or other proceeding regarding the student.

III. AGENCY CRITERIA

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the evaluator, cost limitations, and use of approved instruments must be the same as the criteria that the District uses when it initiates its own evaluation of the student.

Parents shall have the opportunity to demonstrate that unique circumstances justify a waiver of the agency criteria, as noted below.

Location Limitations for Evaluators

Evaluators must be located within 180-mile radius of the LEA. Evaluators outside of this area will be approved only on an exceptional basis, provided the parent can demonstrate the necessity of using personnel outside the specified area. Any expenses beyond the evaluation and attendance of the evaluator at the subsequent IEP team meeting at which the IEE is considered (e.g., food, lodging, transportation, etc.) will not be covered by the District in the cost of the IEE.

Minimum Qualifications of Independent Evaluators

Independent evaluators must have the following minimum credentials. All licenses and credentials must be issued by the appropriate agency or board with the State of California:

Type of Assessment	Qualifications
Academic Achievement	<ul style="list-style-type: none"> • Credentialed Special Education Teacher • Credentialed School Psychologist; or • Licensed Educational Psychologist
Assistive Technology/Augmentative Alternative Communication (AAC)	<ul style="list-style-type: none"> • Credentialed or Licensed Speech/Language Pathologist; • Credentialed Assistive Technology Specialist; or • Credentialed Special Education Teacher
Adaptive Behavior	<ul style="list-style-type: none"> • Credentialed School Psychologist • Licensed Clinical Psychologist • Licensed Educational Psychologist
Audiology/Deaf of Hard and Hearing	<ul style="list-style-type: none"> • Licensed Educational Audiologist; or • Licensed or Credentialed Speech/Language Pathologist • Credentialed Deaf/Hard of Hearing Teacher
Auditory Processing	<ul style="list-style-type: none"> • Credentialed/licensed Speech/Language Pathologist • Credentialed School Psychologist
Cognitive, Psycho-Educational	<ul style="list-style-type: none"> • Credentialed School Psychologist • Licensed Educational Psychologist
Functional Behavior Assessment	<ul style="list-style-type: none"> • Credentialed Special Education Teacher; • Credentialed School Psychologist; • Licensed Educational Psychologist; • Board Certified Behavior Analyst (BCBA)
Functional Vision	<ul style="list-style-type: none"> • Credentialed Teacher of the Visually Impaired
Health	<ul style="list-style-type: none"> • Licensed Physician/Nurse or Credentialed School Nurse
Motor	<ul style="list-style-type: none"> • Licensed/Registered Occupational Therapist • Licensed Physical Therapist • Credential Adapted PE Teacher
Neuro-psychological Educational	<ul style="list-style-type: none"> • Neuropsychologist • Licensed Psychologists • Credentialed School Psychologists with education, training and experience in administration and interpretation of neuro-psychological assessment instruments
Occupational Therapy	<ul style="list-style-type: none"> • Registered Occupational Therapist
Physical Therapy	<ul style="list-style-type: none"> • Licensed Physical Therapist
Social Emotional/Behavioral	<ul style="list-style-type: none"> • Credentialed or Licensed School Psychologist • Licensed Social Worker • Licensed Psychiatrist

Speech and Language	<ul style="list-style-type: none"> • Credentialed or Licensed Speech/Language Pathologist
Transition/Vocational Assessment	<ul style="list-style-type: none"> • Licensed or Credentialed School Psychologist • Credentialed Education Specialist

The parent may request a list of suggested IEE assessors who meet the agency criteria; but the parent is not required to select from the list provided.

In-Class Observations

If the District observed the student in a setting other than the test setting as part of the evaluation with which the parent disagrees, or if the District’s evaluation procedures make it permissible to have in-class observations of a student, the independent evaluator shall receive an equivalent opportunity to observe the student in his or her current educational placement and setting and to observe the District’s proposed educational setting, if any. This opportunity shall also be provided regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

The District shall define the nature and scope of an independent evaluator’s in-class observations consistent with the evaluator’s right to an equivalent opportunity to observe, but also consistent with the District’s obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. These obligations may include, but are not limited to:

1. Specifying the time constraints of the observation;
2. Identifying District personnel who will be present during the observation; and
3. Imposing restrictions on interactions with the student, teacher, and/or classroom staff.

COST LIMITATIONS FOR IEEs

Reasonableness of IEE Costs

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar evaluation. Such costs include:

1. Observations;
2. Administration and scoring of tests;
3. Report writing; and
4. Attendance in person or by phone at an IEP team meeting.

The following is a list of evaluations and their associated costs that the District has determined to be reasonable. In the event the parent requests an IEE that exceeds the cost limitations specified below, the parent must demonstrate that unique circumstances justify a waiver of such cost limitations.

Types of Assessment	Cost Limitations
Academic Achievement	\$1,100
Adaptive Behavior	\$1,100
Assistive Technology	\$3,750
Audiology/Deaf or Hard of Hearing	\$650
Functional Behavior Assessment	\$3,500
Occupational Therapy	\$5,500
Physical Therapy	\$2,700

Speech and Language	\$4,000
Functional Vision	\$750
Orientation and Mobility	\$750
Transition – Post Secondary	\$750
Social-emotional/Behavioral	\$1,500
Educationally Related Mental Health Assessment	\$3,500

Based on the cost limitations contained in this chart, the cost limitation for a psycho-educational IEE is \$6,000. Any cost in excess of these cost limitations must be discussed with the District to obtain prior approval.

District Payment of IEE Costs

The District will issue payment to the independent evaluator for the costs of the IEE following the District’s receipt of:

1. A written IEE assessment report prepared by the independent evaluator;
2. A copy of any and all assessment protocols utilized to conduct the IEE; and
3. Detailed invoice(s), including dates of assessment, observation, hourly rates, and other elements customary in the field of practice identifying the costs associated with the IEE.

Insurance Coverage

When insurance will cover all, or a portion of, the costs of the IEE, the District will request that parents voluntarily ask their insurance carrier to pay the costs of the IEE covered by their insurance policy. However, the District will not ask parents to have their insurance carrier cover the costs of the IEE if it will result in a financial cost to the parents including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy;
2. A increase in premiums or the discontinuance of the policy; or
3. An out-of-pocket expense, such as payment of a deductible amount incurred in filing a claim, unless the parent is willing to have the District provide reimbursement for the amount of the deductible.

Obligations of Independent Evaluator and IEP Team’s Consideration of IEE Results

As part of the costs of the IEE, the independent evaluator must do all of the following:

1. Provide a written IEE assessment report prepared by the independent evaluator to the parent and District.
2. Attend an IEP team meeting by phone or in person to consider his or her IEE assessment report.

The IEP team will consider the results of the IEE, whether obtained at public or private expense, when making a determination regarding the student’s eligibility for special education and related services, educational placement, and other components of the student’s educational program, as required by federal and California special education laws and regulations. However, the results of an IEE will not control the District’s determinations and may not be considered if not completed by a qualified professional, as determined by the District.