

SPECIAL EDUCATION – INDEPENDENT EDUCATIONAL EVALUATIONS

When assessments of a pupil have been conducted by or on behalf of the Franklin Lakes School District (“District”) to determine initial or continuing eligibility for special education and related services as part of an initial evaluation or reevaluation by the Child Study Team (“CST”), the student’s parents are entitled by law to request an independent educational evaluation (“IEE”) of the student if there is disagreement with any assessment conducted by the District.

To request an IEE, the parents must send a signed writing to the student’s case manager. Upon receipt of a request for an IEE, the Franklin Lakes School District has the option to either provide the independent evaluation at no cost to the parent or to initiate a due process hearing to show that the CST’s evaluation or reevaluation of the student is appropriate.

Upon receipt of a parental request for an IEE, the School District shall either 1) provide the parent(s) with information about where an IEE may be obtained at no cost to them, the criteria for IEEs according to applicable New Jersey regulations and the additional criteria specified below in this Policy, or 2) not later than twenty (20) calendar days after receipt of the parental request for an IEE, request a due process hearing in accordance with the provisions of N.J.A.C. 6A:14-2.7 et seq. to show that the CST’s evaluation or reevaluation of the student is appropriate.

**Criteria for Independent Evaluations at District Expense:**

1. Any IEE paid for with public funds shall:
  - a. Be conducted according to the provisions of N.J.A.C. 6A:14-3.4; and
  - b. Be obtained from another public school district, educational services commission, jointure commission, a clinic or agency approved under N.J.A.C. 6A:14-5, or private practitioner who is appropriately certified and/or licensed, where certification or a license is required.
2. An independent medical evaluation may be obtained according to N.J.A.C. 6A:14-5.1(e).
3. The Board will only pay for an IEE which meets the following additional criteria, unless the parent can demonstrate to the Board’s satisfaction that unique circumstances warrant deviation from these criteria when the parent seeks to utilize an evaluator who is not on the list provided by the District. These criteria are the same as those used by the District in selecting evaluators for District-initiated assessments:
  - a. Where certification or licensure is required, the evaluator must possess the appropriate certification or license issued by an agency or other applicable licensing body of the State of New Jersey. Where certification or licensure is not required, the parents must provide the Board with documentation demonstrating that the independent evaluator has appropriate education, training and experience to perform the particular evaluation they are requesting; and
  - b. The costs of the independent evaluation are reasonable and customary in accordance with 4. below; and

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- c. The independent evaluator must be free from any conflict of interest; and
  - d. The parents must authorize and permit the independent evaluator and members of the Child Study Team to directly communicate and share information with each other. The independent evaluator must also agree to release the assessment information, results, and report(s) to the School District prior to receipt of payment for services and prior to or contemporaneous with the submission of the report to the parents; and
  - e. For any independent evaluation, whether paid for with public or private funds, the School District will permit the evaluator to observe the pupil in the classroom or other educational setting, as applicable. The observation may not ordinarily exceed two hours and the evaluator will be accompanied by a District staff person for the duration of the observation. Parents or the evaluator may request a longer observation period through the Case Manager when they believe the child's individual needs require additional observation time by the evaluator. It is expected that the evaluator will not disrupt the learning process during the observation. The evaluator may ask staff following the evaluation to clarify as to whether the day was typical of the student/class. Other questions the evaluator may have about the student as a result of the observation may be made to the case manager in writing, who will follow up and respond as appropriate; and
  - f. The independent evaluator shall communicate at least once with the pupil's case manager for the purpose of obtaining the District's perspective on how the pupil is progressing in his/her current program; and
  - g. The evaluator is located within a 20-mile radius of the Franklin Lakes School District. (This is the same restriction applied to evaluators hired by the District.) Evaluators outside of this area will be approved only on an exception basis and the parent or legal guardian must demonstrate the necessity of using personnel outside the approved geographic area. If the District does not agree with the parents' justification for utilizing an evaluator outside of the established area, the District will file for due process.
5. The maximum allowable cost for an independent evaluation will be limited to the reasonable and customary rate in the Franklin Lakes School District area as determined and approved by the Board annually. This rate shall be in the range of what it would cost the Board to provide the same type of assessment through either another public school district, educational services commission, jointure commission, a clinic or agency approved under N.J.A.C. 6A:14-5, or an appropriately certified or licensed private practitioner. The maximum fee will not simply be an average of the fees customarily charged in the area but will be established so that it allows parents to choose from among the qualified professionals in the District area while eliminating unreasonably excessive fees. This Board-approved rate shall be provided to the parent with the District's response agreeing to the request for an IEE.
- a. The parents may provide documentation to the Board demonstrating unique circumstances to justify their request for an IEE that exceeds the maximum allowable cost established by the Board. If in the judgment of the Board or its designated administrator there is no justification for the excess cost, the Board will fund the IEE up to the District's maximum allowable cost. If the

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parents do not agree to assume the remaining costs, the Board will without unnecessary delay initiate a due process hearing to demonstrate that the evaluation requested by the parents did not meet the Board's cost criteria.

**Additional Considerations**

Parents are entitled to only one IEE paid for by the Board each time the School District's Child Study Team conducts an evaluation or reevaluation that contains an assessment with which the parent disagrees.

One IEE may include multiple assessments, but the parents must specify all independent assessments sought at the time they request the IEE and are not permitted to add to the list of desired assessments after the IEE request is submitted or make another request for independent evaluations until after the CST has conducted another evaluation or reevaluation of the student.

Parents who desire an IEE are encouraged to request it reasonably promptly and preferably within twelve months from the date of the eligibility conference at which the District-initiated assessments leading to the request for the IEE were utilized.

If a parent requests an IEE, the District may ask the parent to explain why he or she objects to the District's evaluation. However, the District shall not require such an explanation and shall not delay either providing the IEE or initiating a due process hearing to defend the District's evaluation.

Any IEE submitted to the District, including an IEE obtained by the parent at private expense, shall be considered in connection with a student's education and in making decisions regarding special education and related services for the student.

If an Administrative Law Judge orders that an IEE be conducted, the IEE shall be obtained by the District in accordance with the decision or Order of the Administrative Law Judge and the provisions of this Policy. The IEE shall meet the criteria set forth in this Policy, unless judicially ordered otherwise.

N.J.A.C. 6A:14-2.5; 6A:14-2.7  
34 C.F.R. § 300.502

Adopted: April 2020