ELSINBORO township bOARD OF EDUCATION File Code: 6171.6

**Salem, New Jersey**

Policy

independent educational evaluation

When assessments of a student have been conducted by or on behalf of this district to determine initial or continuing eligibility for special education and related services as part of an initial evaluation or reevaluation, the student’s parents/guardians 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. Upon receipt of a request for an IEE the district has the option of to either provide the IEE at no cost to the parents/guardians or to initiate a due process hearing to demonstrate that its evaluation is appropriate.

Upon receipt of a parental request for an IEE, the district shall either provide the parents(s)/guardian(s) with information about where an IEE may be obtained and the criteria specified below in this policy or not later than 20 calendar days after receipt of the parental request for an IEE, request a due process hearing in accordance with the provisions of NJAC 6A:14-2.7, et seq. to show that its evaluation is appropriate.

Criteria for Independent Evaluations at District Expense

1. An IEE paid for with public funds shall:
	* 1. Be conducted in accordance with the provisions of N.J.A.C. 6A:14-3.4; and
		2. Be obtained for another public school district, educational services commission, jointure commission, a clinic or agency approved in accordance with the provisions of N.J.A.C. 6A:14-5, or private practitioner who is certified and/or licensed, where certification or a license is required.
2. An independent medical evaluation may be obtained in accordance with the provisions of N.J.A.C. 6A:14-5.1(c).
3. The Board of Education will only pay for an IEE that meets the following additional criteria, unless the parent/guardian can demonstrate to the satisfaction of the Board of Education, that unique circumstances warrant deviation from these criteria when the parent/guardian 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:
	1. 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/guardians must provide the Board of Education with documentation demonstrating that the independent evaluator has appropriate education, training and experience to perform the particular evaluation;
	2. The costs of the IEE are reasonable and customary in accordance with item D below;
	3. The independent evaluator must be free from any conflict of interest (by way of illustration and not limitation, former employees of this district will not meet this criterion, except where the separation from employment was due to retirement);
	4. The parents/guardians 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 this district prior to receipt of payment for services and prior to or contemporaneous with the submission of the report to the parents/guardians;
	5. For an independent evaluation, whether paid for with public or private funds, this district will permit the evaluator to observe the student in the classroom or other educational setting as applicable. The observation may not exceed 2 hours and a district staff person shall accompany the evaluator for the duration of the observation. The evaluator shall not disrupt the learning process during the observation. The evaluator may clarify following the observation as to whether the day was typical of the student/class. Other questions the evaluator may have as, as a result of the observation may be made to the case manager in writing and the case manager shall follow up and respond as appropriate;
	6. The independent evaluator shall communicate at least once with the student’s case manager for the purpose of obtaining the district’s perspective on how the student is progressing in his/her current program; and,
	7. The evaluator should be located within a 40 mile radius of this district. Evaluators outside of this area will be approved only on an exception basis and the parent/guardian must demonstrate the necessity of using personnel outside of the approved geographic area.
4. The maximum allowable cost for an IEE will be limited to the reasonable and customary rate within the district or as determined by the Board of Education annually. This rate shall be in the range of what it would cost the Board of Education to provide the same type of assessment through either another public school district, educational services commission, jointure commission, a clinic or agency in accordance with the provisions of N.J.A.C. 6A:14-5 or an appropriately certified or licensed private practitioner. The maximum fee shall not be an average of the fees customarily charged in this area, but they shall be established so as to allow parents/guardians to choose from among the qualified professions in this area, while eliminating unreasonably excessive fees. The Board-approved rate shall be provided to the parents/guardians with the district’s response to the request for an IEE. The Board of Education shall not be responsible for any costs beyond the IEE, such as transportation, lodging, food, etc.

Parents may provide documentation the Board of Education, demonstrating unique circumstances in order to justify and IEE that exceeds the maximum allowable cost established by the Board of Education. If, in the judgment of the Board of Education or the Superintendent of Schools/designee, there is no justification for the excess cost, the Board of Education will fund the IEE up to the district’s maximum allowable cost and, if the parents/guardians do not agree to assume the remaining costs, the Board of Education will initiate a due process hearing as soon as possible, in order to demonstrate that the evaluation obtained by the parents/guardians did not meet the Board of Education’s cost criteria.

Additional Considerations

Parents/guardians are entitled to only one (1) IEE paid for by the Board of Education each time the district conducts an evaluation or reevaluation that contains an assessment with which the parents/guardians disagree. One IEE may include multiple assessments, but the parents/guardians must specify all independent assessments sought at the time they request the IEE and the parents/guardians shall not add to the list of desired assessments after the IEE request is submitted.

It the parents/guardians request an IEE, the district may request that the parent explain why they object to the district evaluation. However, the district shall not require such an explanation and shall not delay either provide the IEE or initiating ta due process hearing to defend the district evaluation.

Any IEE submitted to the district, including an IEE obtained by the parents/guardians at private expense, shall be considered in making decisions requiring special education and related services.

If an Administrative Law Judge orders that an IEE be conducted, the district, in accordance with the decision or Order of the Administrative Law Judge shall obtain the IEE, and the Board of Education shall pay the cost of the IEE in accordance with the provisions of this policy.

Adopted: February 9, 2018

NJSBA Review/Update: June 2022

Radopted:

Key Words

IEE, Independent Educational Evaluation, Reasonable Cost, Cost Containment

**Legal References:** N.J.S.A. 10:5-1 et seq. Law Against Discrimination

 N.J.S.A. 18A:46-1 et seq. Classes and Facilities for Handicapped Children

 See particularly:

 N.J.S.A. 18A:46-13

 N.J.S.A. 18A:46A-1 et seq. Auxiliary Services

 N.J.A.C. 6A:7-1.7 Equality in school and classroom practices

 N.J.A.C. 6A:8-1.2 Scope

 N.J.A.C. 6A:8-1.3 Definitions

 N.J.A.C. 6A:8-3.1 Curriculum and instruction

 N.J.A.C. 6A:14-1.1 et seq. Special Education

 See particularly: procedures

 N.J.A.C. 6A:14-2.5(c) Independent evaluation

 N.J.A.C. 6A:14-3.4 Evaluation

 N.J.A.C. 6A:14-5.1 General requirements

 N.J.A.C. 6A:15-1.4 Bilingual programs for limited English proficient

 students

 N.J.A.C. 6A:23A-1.1 et seq. Fiscal accountability, efficiency and budgeting

 See particularly: procedures

 N.J.A.C. 6A:23A-17.4 to -17.7,

 -18.1 et seq.

 N.J.A.C. 6A:26-6.1 et seq. Planning and Construction Standards for School

 Facilities

 N.J.A.C. 6A:30-1.1 et seq. Evaluation of the Performance of School Districts

 N.J.A.C. 6A:32-7.1 et seq. Student Records

 N.J.A.C. 6A:32-8.3 School attendance

 Every Student Succeeds Act, Pub. L. 114-95, 20 U.S.C.A. 6301 et seq.

 20 U.S.C.A. 1400 et seq. - 1990 Individuals With Disabilities Education Act,

 P.L. 101‑476 (formerly Education for All Handicapped Children Act‑‑Part B)

 29 U.S.C.A. 794 et seq. - Section 504 of the Rehabilitation Act of 1973

 34 CFR 76.1 et seq. - General Administrative Regulation EDGAR

 34 CFR 77.1 et seq. - General Administrative Regulation EDGAR

 34 CFR 300 - Assistance to States for the Education of Children with Disabilities

 (IDEA Regulations)

 34 CFR 300.502 - Independent Educational Evaluation

**Possible**

**Cross References:** \*1120 Board of education meetings

 \*4112.2 Certification

 \*4131/4131.1 Staff development; inservice education/visitations/conferences

\*5114 Suspension and expulsion

 \*5120 Assessment of individual needs

 \*5125 Student records

 \*5131 Conduct/discipline

 \*5200 Nonpublic school students

 \*6121 Nondiscrimination/affirmative action

 \*6145 Extracurricular activities

 \*6151 Class size

 \*6164.2 Guidance services

 \*6164.4 Child study team

 \*9322 Public and executive sessions

\*Indicates policy is included in the Critical Policy Reference Manual.