



Independent Educational Evaluation (IEE)

November 2019

1) **Myth:** An IEE is an evaluation conducted by the school district.

Fact: An IEE is an evaluation conducted by a qualified examiner who is not employed by the school district or other public agency responsible for the education of the student in question. Parents have the right to an independent educational evaluation at public expense for any agency evaluation with which the parents disagree. 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. (Missouri State Plan for Special Education, Regulation V)

2) **Myth:** When a parent requests an IEE the LEA does not need to follow any specific procedures.

Fact: 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 information about where an IEE may be obtained and the school district's criteria for IEEs. (34 CFR § 300.502(a)(2))

3) **Myth:** An LEA must comply with every parent request for an IEE at public expense.

Fact: If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either— file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an independent educational evaluation is provided at public expense. (34 CFR § 300.502 (b)(2)(i)(ii)) The parent can obtain an IEE at their own expense at any time during their student's school career.

4) **Myth:** The LEA can require a parent to put in writing the reasons why they object to the public evaluation before providing an IEE at public expense.

Fact: The LEA may ask the parents for the reasons why they object to the LEA's evaluation, however, the LEA cannot require the parent to provide an explanation. (Missouri State Plan for Special Education, Regulation V)

5) **Myth:** The parent has requested an IEE prior to the completion of the LEA's evaluation. The LEA has to provide the parent with the IEE without delay.

Fact: The parent or legal guardian's request for an IEE is premature if the school district has not conducted an evaluation with which the parent or legal guardian may disagree. A parent or legal guardian must wait until the school district has completed an evaluation of the student to request an IEE. The district may deny the request for an IEE in this situation without filing for due process. (34 CFR § 300.502(b)(5))

6) **Myth:** The parent is entitled to multiple IEEs at public expense.

Fact: A parent is entitled to an IEE at public expense for any agency evaluation with which the parent disagrees. (Missouri State Plan for Special Education, Regulation V)

7) Myth: Prior Written Notice (PWN) is not required when responding to a parent's request for an IEE.

Fact: The LEA must respond to a parent or legal guardian's request for an IEE with a PWN when denying the request for an IEE. PWN should state the LEA is requesting a Due Process. Likewise, PWN is provided when district grant request for IEEs.

8) Myth: The LEA cannot establish any criteria under which an IEE can be obtained at public expense.

Fact: The public agency may set criteria under which an IEE can be obtained at public expense, including the location of the evaluation and the qualifications of the examiner, which must be the same as the criteria the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. 34 CFR §300.502(e)(1).

9) Myth: The LEA can set a policy that limits the amount the LEA will pay for any IEE requested.

Fact: The LEAS may only impose limitations on the cost of an IEE if the agency uses those same limitations when conducting an evaluation. If a public agency uses such cost limitations, it must ensure that its policies require payment for an IEE at a higher rate if an appropriate IEE cannot, in light of the student's unique needs and other unique circumstances, be obtained within those cost limitations. If the cost of an IEE at public expense exceeds the LEA's cost limitations, the LEA must either initiate a due process hearing or pay the full cost of the IEE. If the responsible LEA has no policy that sets maximum allowable charges for IEEs then the parents will be reimbursed for the services rendered by the qualified evaluator. (Missouri State Plan for Special Education, Regulation V).

10) Myth: The LEA selects which evaluator completes the IEE.

Fact: The parent or legal guardian has the right to select the IEE evaluator.

11) Myth: Parents can only select an evaluator that appears on the LEA's list of IEE evaluators.

Fact: 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 field of qualified persons, parents or legal guardians are free to select an evaluator who meets other school district criteria but is not on the list.

Letter to Young, (OSEP, 2003) states "...there is nothing in IDEA that would prohibit a public agency from publishing a list of examiners that meet the agency criteria as set out in 34 CFR §300.502(e)(2), and the qualifications of examiners per 34 CFR §300.532 (g-j). Further, this Office believes it is not inconsistent with IDEA for the district to maintain, and require parents to use, a list of qualified examiners that meet the same 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 IEE. Specifically, if the child's needs can be appropriately evaluated by the persons on the list *and* the list exhausts the availability of qualified people within the geographic area specified, then an agency can restrict parents to selecting from among those persons on the list. If such a list is maintained and parents are required to use it, the LEA must include in its policy that parents have the opportunity to demonstrate that unique circumstances justify selection of an IEE examiner who does not meet the agency's qualification criteria and do not appear on the agency's list of examiners."

12) Myth: The LEA can restrict an outside evaluator from completing classroom observations.

Fact: 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. 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

13) Myth: The parent can require the LEA to use the IEE results instead of the LEA's evaluation results in any FAPE related decisions.

Fact: A school district must consider the results of an IEE obtained by the parents at public expense or a parent's privately funded IEE. The school district has no obligation to adopt the evaluator's recommendations or conclusions. Considering an IEE means reviewing and discussing its contents in any matters related to the provision of FAPE. The IEE results may also be presented by any party in a due process hearing (Missouri State Plan Regulation V).