

Independent Evaluations

Parents have a legal right to an independent educational evaluation (IEE) of their child, at public expense, if they disagree with an evaluation completed by their school district. There are nuances to exercising this right, though, that leave some parents and even some school districts perplexed.

First, an IEE is testing that is conducted by a person who does not work for the school district, and the testing is paid for by the school district. While the school district must “*provide parents information about where an independent educational evaluation may be obtained*” [34 CFR 300.502(a)(2)] parents are not restricted to choosing from only those evaluators on a school supplied list. Parents may choose any evaluator they please as long as that person holds acceptable professional credentials.

Second, in Massachusetts a parent may seek an IEE pursuant to relevant federal regulations, or may seek an IEE pursuant state regulations which utilize a sliding fee scale. In short, a parent can ask for an IEE pursuant to either federal or state guidelines. Knowing the requirements that attach to each is important.

State Guidelines for IEEs

When parents request an IEE pursuant to state guidelines the school district pays for a portion of the cost of the evaluation. How much depends on the family’s income. If the student is eligible for free or reduced cost lunch, the school will pay for the full cost of the IEE. Otherwise the family must provide their financial information to the school who will review it to determine what portion of the evaluation’s cost will be paid for by the district (100%, 75% or 50%.)

While the district may not challenge the parent’s request (i.e., may not refuse to pay for the IEE) certain restrictions apply to this sliding fee scale option. The parent must make their request within 16 months of the date of the school’s evaluation with which they disagree. The parents may only request an evaluation in an area that has already been evaluated by the school district. For example: if the district did not do its own neuropsychological evaluation, the parent may not pursue an independent neuropsychological evaluation pursuant to state guidelines. If 20 months have passed since the school’s speech evaluation the parent cannot request an independent speech evaluation pursuant to state guidelines.

Federal Guidelines for IEEs

When a parent requests an IEE pursuant to federal guidelines the school district must either agree to pay 100% of the cost or, if they wish to challenge the parent’s request they must file for a hearing before the Bureau of Special Education Appeals to prove that they should not be required to fund the evaluation. The request for hearing must be filed within five school days of the district’s receipt of the parent’s request for the IEE.

The following IEE chart may be useful:

	<u>State</u>	<u>Federal</u>
Time Limit	16 mos	None
Area to be assessed	Only an area previously assessed by the school	Any area
Financial Info	Must disclose	Not required
Can school refuse?	No	Yes
Amount Paid	0-100% of total	100% of total

“Rate Setting” Rates

The Massachusetts Division of Health Care Finance and Policy sets the rates which districts are required to pay for various IEEs. Unfortunately these rates are generally far lower than those charged by clinicians in private practice. Hospital based clinicians, however, do accept these lower rates. Rates can be found at http://www.mass.gov/Eeohhs2/docs/dhcfp/g/regs/114_3_30.doc

Other Important Points

In order to avoid potential confusion parents should clearly tell their school district which guidelines (state or federal) they are using to make their request. This way, if the district fails to respond appropriately, there will be no question as to what the parent intended when making their request.

Finally, Massachusetts law at 603 CMR 28.04(5)(f) requires that “(f) *Within ten school days from the time the school district receives the report of the independent education evaluation, the Team shall reconvene and consider the independent education evaluation and whether a new or amended IEP is appropriate.*”

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