**Independent****Educational Evaluations:  
What? Why? How? Who Pays?  
by Wayne Steedman, Esq.**

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Parents and school personnel are often confused about what constitutes an independent educational evaluation (IEE) and how the evaluation is to be used. This article addresses what constitutes an IEE, the value of an IEE, what the law requires of school districts, and who is financially responsible for an IEE.

**What is an IEE?**

Federal regulations state unequivocally that parents of a child with a disability have a right to obtain an IEE. 34 C.F.R. 300.502(a)(1). An IEE is broadly defined as "an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question." 34 C.F.R. 300.502(a)(3)(i). An IEE may be obtained by parents at their own expense or at public expense as explained later in this article.

An IEE is not limited to evaluating only a child's academic or cognitive skills, but may include the evaluation of any skill related to the child's educational needs. Evaluations of neurological functioning, adapted physical education, sensory needs, behavior, aquatics, even music therapy, are but a few examples of the types of IEEs covered under the IDEA. Parents may obtain an IEE, for virtually any purpose if it impacts the child's education.

**What is the Value of an IEE?**

In amending the IDEA, Congress noted that the education of children with disabilities can be made more effective, in part, by strengthening the role of parents in the educational decision-making process. 20 U.S.C. §1400(c)(5)(B). An IEE provides parents added authority at the IEP meeting. One court held:

"[T]he failure to receive and consider parental information, including evaluations they may obtain, directly denies parents the pivotal role they should enjoy in the development of their child's placement. This role includes not only providing evaluations or other information, but discussing such information. Consideration of such outside information also ensures that a program is individualized and provides a check on the judgments being made by school officials regarding the child."

*Community Consolidated Sch. Dist. No. 180*, 27 IDELR 1004, 1005-06.

Parent participation in the decision-making process is mandated by the Act. It constitutes a denial of a free appropriate public education if a school system significantly impedes the parents’ participation in the decision-making process. 34 C.F.R. §300.513(a)(2)(ii). In many cases, independent evaluations provide support for the parents' opinions and requests. When a school district refuses to consider an independent evaluation, it not only denies equal and meaningful input from the parents, but it also prevents important information from being considered by the IEP team that develops the IEP.

Parents are not the only ones to find IEEs valuable. Sometimes, school districts request IEEs when they lack the personnel or expertise to conduct a particular type of evaluation. In other instances, a school district may seek an IEE to assuage parental concerns about the fairness or accuracy of the school’s evaluation.

**What is Required of School Districts?**

The federal regulations direct school districts to inform. parents of their right to obtain an IEE, where they may obtain an IEE, and the agency criteria applicable to the IEE. 34 C.F.R §300.502(a)(2).

Consideration of parentally obtained evaluations by the IEP team is not discretionary, it is mandatory. 34 C.F.R. §300.502(c)("If the parent obtains an independent educational evaluation at private expense, the results of the evaluation (1) **Must be considered** by the public agency if it meets the agency criteria."). (Emphasis added). This does not mean that the school district must accept the findings or recommendations in the IEE. It does mean that the IEP team must review the IEE, and discuss it as appropriate. In this regard, the requirements placed on school districts are fairly minimal.

**Who is Financially Responsible for an IEE?**

Parents may obtain an IEE at their own expense and, as noted above, the school district must consider it in making decisions regarding the child’s educational needs. However, the IDEA also has procedures which allow parents to obtain at IEE at public expense.

If the school district does not have the personnel or resources to conduct an evaluation that an IEP team has identified is needed, the school district must obtain a private evaluation at its own expense. Or, if the school district determines that an IEE is needed or should be conducted for any reason, in most situations, the school district has to pay for the evaluation. A hearing officer may also order an IEE in which case it will be at public expense. 34 C.F.R §300.502(d).

**Who is Financially Responsible when Parents & School Staff Disagree?**  
When the student’s parents disagree with the school district’s evaluation and request an IEE at public expense, the school district must pay for the IEE or, request a due process hearing. 34 C.F.R §300.502(b)(2). In other words, the school district cannot simply refuse or ignore the parents' request for an independent evaluation. If the school district decides to request a due process hearing, it must do so “without unnecessary delay.” 34 C.F.R §300.502(b)(2). Failure to request a due process hearing in a timely manner, may result in a waiver by the school district to challenge the parents’ request for an IEE. *See Pajaro Valley Unified School District v. J.S.*, 2006 U.S. Dist. LEXIS 90840 \*10(N.D. Cal. 2006). If the school district requests a due process hearing, it has the burden of proof and must prove to a hearing officer that the school evaluation was sufficient. Even if the school district does not conduct an evaluation, the student’s parents may be entitled to an IEE at public expense if the school district refused to conduct evaluations. *Haddon Township Sch. Dist. v. New Jersey Dept. of Edu.*, 67 IDELR 44 (N.J.S.C. 2006). Finally, if a hearing officer orders an IEE during the course of a due process hearing, it will be conducted at public expense. *Id*.

**Who can Conduct An IEE?**

The criteria under which an IEE is conducted, including the qualifications of the examiner, must be the same as the criteria that the school district uses for its evaluations. 34 C.F.R. §300.502(e). However, a school district cannot impose requirements for the private evaluator that could deny the parents’ right to the IEE. *See Letter to Petska*,35 IDELR 191 (OSEP 2001). A school district may provide a list of qualified examiners to parents, but the parents are not restricted to that list. *See Letter To Parker*, 41 IDELR 155 (OSEP,2004).

**Conclusion**

Independent educational evaluations can be a valuable tool for parents and school staff when used to determine a child's educational needs. The burden placed on school systems to consider a parentally obtained IEE is not severe. But, failure to give due consideration to a parentally obtained IEE can result in an invalid IEP.

One way that parents can act as equal participants in educational decision-making for their child is to obtain additional information from an IEE. School districts that welcome a parentally obtained IEE, rather than viewing it with suspicion or hostility, will benefit from the additional information the IEE provides. Parents and school personnel working together is always in the child's best interest.  
  
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Mr. Steedman has written many articles about special education law and advocacy, including:

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