



# How to Obtain an Independent Educational Evaluation at Public Expense

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This publication provides information on how to obtain an independent educational evaluation at public expense from a school district. Another way that you can obtain an independent educational evaluation is to pay for the evaluation on your own. You may want to have an independent education evaluation of your child if:

- (1) you disagree with the school district's most recent special education assessment of your child,
- (2) if the school district conducted an initial evaluation or re-evaluation but did not fully identify all areas that need to be evaluated and if the you disagree with the evaluation, or
- (3) if the school district has denied your child special education eligibility or a necessary service or support based on the recommendations of a poorly-done school district assessment.

## **The Law**

Federal regulations to the Individuals with Disabilities Education Act say that, subject to certain conditions:

**“A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency [like a school district] ...”<sup>1</sup>**

An independent educational evaluation (“IEE”) means that the evaluation is conducted by a qualified person who is not employed by the school district that serves the student.<sup>2</sup> A parent/guardian can request an IEE at public expense from a school district. When the school district receives this request, it has only two options:

- (1) pay for the IEE or
- (2) file for due process to prove that its own assessment was appropriate.<sup>3</sup>

School districts will oftentimes pay for the IEE. It is less expensive to pay for the IEE. It is more expensive to the school district to file for due process against you to prove that its assessment was appropriate. **The school district cannot legally simply ignore you or just tell you “no.”**

## **How to Request an IEE**

Here are the steps you need to take to request an IEE at public expense for your child:

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<sup>1</sup> 34 C.F.R. § 300.502(b); see also Cal Educ. Code § 56329(b). [“Return to Main Document”](#)

<sup>2</sup> 34 C.F.R. § 300.502(a)(3)(i). [“Return to Main Document”](#)

<sup>3</sup> 34 C.F.R. § 300.502(b)(2). [“Return to Main Document”](#)

### **Step 1: Send a Written Request for an IEE at Public Expense**

If you disagree with the school district's assessment of your child, you should write a letter/email to your child's case manager or district's Special Education Director. In the letter/email, you should state that you disagree with the school district's assessment. You should also state that you are requesting an IEE at public expense.

While the law does not say that an IEE request has to be in writing, writing a letter/email to the school district is important. A school district is not required to fund an IEE if you did not provide the school district with notice that you disagreed with its assessment and requested an IEE at public expense. Writing a letter/email can show that you gave the school district notice, if there is a dispute later. Keep a copy of the letter/email for your records.

After it receives your letter, the school district may ask you to explain why you disagree with its assessment. You do not have to give any reasons for your disagreement to the school district. Also, the school district cannot use your refusal as an excuse for delaying its response to your request.<sup>4</sup>

### **Step 2: Wait for a Response**

After you send your letter/email to the school district, the school district must respond to your request "without unnecessary delay".<sup>5</sup> The law does not state how much time a school district is allowed to take to respond. The law does allow a reasonable but short period of time to allow the parent/guardian and the school district to talk and negotiate about the IEE

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<sup>4</sup> 34 C.F.R. § 300.502(b)(4). ["Return to Main Document"](#)

<sup>5</sup> 34 C.F.R. § 300.502(b)(2). ["Return to Main Document"](#)

request.<sup>6</sup> Whether a delay is reasonable depends on the specific situation. For example,

- In *J.P. v. Ripon Unified School District*, a school district filed a due process request more than two months after parents requested an IEE. The court found that the school district timely filed for due process. The parents and school district were communicating about the IEE request during the two months before the school district filed for due process.<sup>7</sup>
- In *Pajaro Valley Unified School District v. J.S.*, the school district did not give an explanation as to why it delayed filing for due process for 11 weeks. The court found that the school district violated the law.<sup>8</sup>

Generally, a reasonable time to wait might be 15 school days since school districts are required to give a parent/guardian an assessment plan within 15 days of a parent's/guardian's request for assessment.

Once you submit your letter/email, the following could occur:

- If the school district does not respond at all, it has failed to follow the law. If you do not receive any response from the school district, please go directly to Step 4 in this publication.
- If the school district agrees to fund the IEE, then you can work with the school district to select your Independent Evaluator.
- If the school district files for due process, be prepared to go to hearing. You will need to explain to the judge why you think the

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<sup>6</sup> Letter to Anonymous, 56 IDELR 175 (OSEP 2010), available at: <https://www2.ed.gov/policy/speced/guid/idea/letters/2010-3/redacteda081310iee3q2010.pdf>. [“Return to Main Document”](#)

<sup>7</sup> 2009 WL 1034993, at \*7-8 (E.D. Cal. Apr. 15, 2009). [“Return to Main Document”](#)

<sup>8</sup> 2006 WL 3734289, at \*5 (N.D. Cal. Dec. 15, 2006). [“Return to Main Document”](#)

school district's evaluation is inappropriate. You will also need to explain why you need an IEE. Please refer to Chapter 6, Information Due Process Hearings/Compliance Procedures, of the Special Education Rights and Responsibilities Manual for more information on how to prepare for the hearing.

### **Step 3: Don't Take "No" for an Answer**

If the school district has not responded to your request or has denied your request without filing for due process, you should write another letter to the school district. In this letter, you should tell the school district that it has violated your rights under the following federal special education regulation: 34 C.F.R. Section 300.502(b).

If you do not receive a response from the school district, you should also tell the school district that you are taking their inaction to mean that the school district agrees to fund the IEE. Also, you can tell the school district either:

- (1) You will notify the school district that you will pay for an IEE and then send the bill for the IEE to the school district for reimbursement, or
- (2) You will ask the school district to directly pay the provider you have selected to conduct your IEE.

If you decide to move forward with an IEE without the school district's response, make sure that the Independent Evaluator meets all of the school district's IEE guidelines, including qualification criteria and cost. You could also choose not to write anything to the school district and go directly to Step 4 in this publication.

### **Step 4: If All Else Fails, File a Compliance Complaint with the California Department of Education**

If the school district has still not approved the IEE or filed for due process against you, you can file a compliance complaint with the California Department of Education ("CDE"). In this complaint, you should say that the school district has violated your procedural rights under 34 C.F.R. Section 300.502(b) and request CDE to order the school district to provide you with an IEE immediately.

Please refer to Chapter 6, Information Due Process Hearings/Compliance Procedures, of the Special Education Rights and Responsibilities Manual for more information about how to file compliance complaints.

## **Frequently Asked Questions**

### **1. Who can I choose to conduct my child's IEE?**

The school district must provide you with information about IEEs. This includes a list of potential providers, a pricing guideline, and the school district's requirements for IEEs.<sup>9</sup> You are not required to use the assessors in the school district's list.<sup>10</sup> If you select a provider not on the school district's list, make sure the assessor you choose meets all of the school district's requirements for IEEs.

If the school district limits your choices of a provider so much that the assessment would not be independent or separate from the school district, then you can file a compliance complaint with CDE.

### **2. What if I don't have enough money to pay for an IEE up front and the school district insists that reimbursement is the only option available?**

Special education laws and regulations do not specify the manner in which a school district must provide an IEE at public expense. However, if you cannot afford to pay for an IEE up front and be reimbursed for it later, then the school district should make other arrangements. This can include paying the Independent Evaluator directly. If the school district refuses to work out reasonable arrangements, then you should file a compliance complaint with CDE. In this complaint, you can say that the school district's

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<sup>9</sup> 34 C.F.R. § 300.502(a)(2). ["Return to Main Document"](#)

<sup>10</sup> Letter to Anonymous, 56 IDELR 175 (OSEP 2010), available at: <https://www2.ed.gov/policy/speced/guid/idea/letters/2010-3/redacteda081310iee3q2010.pdf>. ["Return to Main Document"](#)

requirement that you must pay up front for an IEE stops you from obtaining an IEE.

**3. If I can pay for the assessment, should I pay now and then seek reimbursement from the school district?**

As a parent/guardian, you always have the right to obtain an IEE at your own expense and have the school district consider that assessment in developing your child's IEP.<sup>11</sup>

Before paying for an independent assessment on your own, you should first request the school district to provide an IEE at public expense. If you pay for an independent assessment before requesting the school district to fund this assessment, the school district is not obligated to reimburse you.

**4. What type of assessment can I request as an IEE at public expense?**

You can request an IEE at public expense for any assessment the school district has already conducted, if you disagree with that assessment. A request for an IEE at public expense can be for any type of assessment that the school district has performed to assess special education eligibility or the educational needs of your child in a suspected area of disability. This can include a psycho-educational assessment, an assistive technology assessment, a speech and language assessment, or a transition assessment.

If a parent/guardian obtains an IEE at public expense or shares an evaluation that they privately paid for, then the school district must consider that evaluation when making decisions regarding the student.<sup>12</sup>

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<sup>11</sup> 34 C.F.R. §§ 300.502(a), (c)(1). ["Return to Main Document"](#)

<sup>12</sup> 34 C.F.R. § 300.502(c)(1). ["Return to Main Document"](#)

**5. Can a school district restrict the Independent Evaluator from assessing my child on school grounds, including the classroom environment?**

No. If the school district observed your child in-class as part of its assessment or if the school district's assessment procedures allow in-class observations, then the school district must provide the Independent Evaluator with the same opportunity. If the school district refuses to permit the Independent Evaluator from conducting an in-class observation, then you can file a compliance complaint with CDE. In this complaint, you can say that the Independent Evaluator cannot complete their evaluation because the school district is not providing the Independent Evaluator with the same opportunity to observe your child as it did with its school staff.

Please refer to Chapter 6, Information Due Process Hearings/Compliance Procedures, of the Special Education Rights and Responsibilities Manual for more information about how to file compliance complaints with CDE.

**6. How often can I request an IEE at public expense?**

You can request only one IEE at public expense for each school district evaluation that you disagrees with.<sup>13</sup> That means, if you are unhappy with an IEE obtained at public expense, you will have to wait for the school district to reassess your child before you can request another IEE at public expense.

Please refer to Chapter 2, Information on Evaluations/Assessments, of the Special Education Rights and Responsibilities Manual for more information.

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<sup>13</sup> 34 C.F.R. § 300.502(b)(5); Cal. Ed. Code § 56329(b). ["Return to Main Document"](#)