

## **POLICY 6162.54**

### **YOLO COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)**

#### **INDEPENDENT EDUCATIONAL EVALUATIONS**

##### **POLICY:**

The Yolo County Special Education Local Education Local Plan Area (SELPA) and the school districts within the SELPA have developed this policy, corresponding procedures and criteria which govern Independent Educational Evaluations (IEE). (20 USC 1415; EC 56506(c) and 56329(b), (c); 34 CFR 300.502.) For purposes of this Policy, the term SELPA also includes the appropriate school district and/or administrative unit responsible for your child's education. Parents should be sure to read this entire Policy carefully. The Policy, Procedures and Criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about IEEs should contact the (SELPA or their district of residence).

##### Reference:

Legal Authority: 20 U.S.C. 1414(a) – (c) -Evaluations and re-evaluations; 20 U.S.C. 1415(b)(1)-Right to independent educational evaluations; 34 CFR 300.301 – 300.306-Re-evaluations,; 34 CFR 300.502-Independent Educational Evaluations; Comments to 34 CFR 300.502 Independent education evaluations; Education Code section 56327; 34 CFR 300.300-Parent Consent-Evaluation; 34 CFR 300.304-306 Procedures for evaluations and Determination of eligibility; Education Code 56329-Independent educational assessments; Education Code 56381-Reassessments.

Superintendents' Council

Revised Approval Dates: April 18, 2007, March 28, 2012

Approval Date: January 18, 2006

Second Reading: January 18, 2006

First Reading: December 16, 2005

## PROCEDURES 6162.54

### YOLO COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)

#### INDEPENDENT EDUCATIONAL EVALUATIONS

#### PROCEDURES:

#### DEFINITIONS

1. *Independent Educational Evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the Local Educational Agency (LEA or District).
2. *Qualified Examiner* is an evaluator who is competent to perform the evaluations through criteria established by the LEA in accordance with Education Code, Section 56322.
3. *Public Expense* means the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
4. *Parent Initiated Evaluation* is an educational evaluation obtained by the parent at private expense.

#### PARAMETERS FOR SEEKING INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a child with a disability has the right to obtain an independent educational evaluation of the child if the parent disagrees with an evaluation obtained by the District, subject to the following:

1. If the parent disagrees with an evaluation completed by the District and seeks an IEE at public expense, the District will without unnecessary delay either:
  - a. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
  - b. Ensure that an IEE is provided at public expense in accord with this policy, unless the District demonstrates in a due process hearing that the evaluation parents obtained did not meet the District's criteria.

2. If the District requests a due process hearing and the final decision is that the District's assessment is appropriate, the parent still has the right to an IEE, but not at public expense.

### **EXPLANATION OF DISAGREEMENT**

If parents request an IEE at the expense of the District, the parents will be asked for the reasons why they object to the District evaluation. An explanation by the parent is not required. In addition, the District may not unreasonably delay completion of a new assessment, completion of the IEE at public expense, or the initiation of a due process hearing to defend its evaluation.

### **DISTRICT'S RESPONSE TO A REQUEST FOR AN INDEPENDENT EVALUATION**

If the parents request an IEE at public expense, and the District agrees to provide the assessment, the District will provide an IEE without unnecessary delay.

Provide options for an IEE at public expense (option 1, 2 or 3 below) as follows:

1. A staff member from another LEA in the SELPA;
2. A staff member from another SELPA;
3. A private sector provider.

Once the parent chooses an option, the District will arrange for the alternative evaluator, contract with an independent examiner, or otherwise ensure that an IEE is provided at public expense.

If the District disagrees with the request for an IEE and initiates a due process hearing and the final decision is that the District's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense.

### **IN-CLASS OBSERVATIONS**

“If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding” (EC §56329(b)).

The District will make arrangements for a new evaluation, or contract with a qualified independent examiner who is able to provide a written report for an IEP meeting within a reasonable time period after the date of the contract for the IEE. If the selected examiner cannot complete the IEE report within a reasonable period of time, the District will inform the parent and ask for agreement to an extension of the time or select another option.

As clarified in the Federal Regulations released in October 2006:

- (1) a parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

### **INFORMATION PROVIDED TO PARENTS**

Upon parent request for an IEE, the District will provide the parents with a copy of its Policy, Procedures and Criteria for IEEs.

### **PARENT INITIATED EVALUATIONS**

If the parents obtain an educational evaluation at private expense, the results of the evaluation:

1. Will be considered by the District, if the assessor and the evaluation meet the District criteria, in any decision made with respect to the provisions of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding that student. 34 CFR §300.502 (c) (1)(2).

The parents will communicate to the School District, preferably in writing, their choice. If the School District agrees to provide an IEE and the parent has chosen an evaluator:

1. The School District will document in writing its agreement with the parent regarding choice of IEE evaluator and area(s) to be assessed.
2. Parents will also be required to sign a release and exchange of information between the IEE evaluator(s) and the School District. Refusal to sign this document will cause unnecessary delay by the parent.

### **EVALUATIONS ORDERED BY HEARING OFFICERS**

If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at the District's expense.

## **DISTRICT'S CRITERIA**

1. If an IEE is at the District's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications of the examiner, costs containment criteria, payment criteria, and must be the same as the criteria that the District uses when it initiates an evaluation. The contents of the evaluation must meet the criteria set forth in 34 CFR § 300.301 through § 300.311 and, as applicable, 34 CFR § 300.502(c)(1).
2. If the District observed the student in conducting the evaluation with which the parent disagrees or if its assessment procedures allow in-class observations, the independent examiner will be provided with an equivalent opportunity to observe the student in the current educational setting, and/or in the District's proposed setting, if applicable.
3. The District will define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligation to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, District personnel who will participate in the observation and restrictions on student/teacher interactions.

## **PARAMETERS OF PROVIDERS**

It is the policy of the SELPA that IEEs be focused on student needs and avoid any possible conflict of interest. Therefore, any private practitioner who provides an IEE shall not be used as a provider for any services required in the resultant IEP. It is further acknowledged that a student may have a need for which no other qualified provider may be available. Under this circumstance, the District Special Education Director or the SELPA Assistant Superintendent, shall certify that no other qualified provider can be identified, and shall authorize any exception to this provision.

In all cases, if the District initiates a due process hearing to show that the District's evaluation is appropriate, no reimbursement shall be made unless ordered by a Hearing Officer.

## **EVALUATOR AND EVALUATION CRITERIA**

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the

evaluator, and cost containment criteria, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the District uses when it initiates an evaluation.

The contents of the evaluation must meet the criteria as set forth in 34 CFR 300.301-311, and as applicable to 300.502(c)(1). The District will define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This will include, but is not limited to, identifying the time constraints of such observation, district personnel who will participate in the observation and restrictions on student/teacher interactions. This opportunity will also be provided if the parents obtain an evaluation at private expense.

### **LOCATION LIMITATIONS FOR EVALUATORS**

Evaluators will be located within Region 3. Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using personnel outside the specified area. Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent educational evaluation.

### **MINIMUM QUALIFICATIONS FOR EVALUATORS**

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3))

Additionally, evaluators must meet the criteria for any school employee who works with children, i.e. TB testing and fingerprinting, as well as any other contract requirements enforced by the School District.

### **COST CONTAINMENT CRITERIA FOR EVALUATIONS**

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment, as identified above. Costs may include observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting; costs will be delineated on independent evaluator's contract with the School District. Reimbursement will be in an amount no greater than the actual cost to the parent or the maximum cost identified above (whichever is more), and will be subject to proof of payment.

Maximum costs for all IEEs are calculated by considering time required for the assessment and the appropriate School District employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria. A School District will not necessarily fund the attendance of the evaluator at the IEP team meeting convened to consider the IEE (34 CFR 300.321).

As part of the contracted evaluation, independent evaluators must:

1. Provide protocols of all the assessments,
2. Provide a written report prior to the IEP team meeting, and
3. Attend IEP meetings.

Independent evaluators must agree to release their written evaluation and results (as listed above) to the School District prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals With Disabilities Education Act.

Type of Assessment	Qualifications	Cost
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist	Determined By Market Value
Adaptive Behavior	School Psychologist Licensed Educational Psychologist	Determined By Market Value
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher	Determined By Market Value
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist	Determined By Market Value
Auditory Perception (Central Auditory Processing)	Licensed or Credentialed Speech/Language Pathologist	Determined By Market Value
Behavioral	School Psychologist Licensed Educational Psychologist	Determined By Market Value
Cognitive	Licensed Educational Psychologist School Psychologist	Determined By Market Value
Health (including neurological)	Licensed Physician Nurse	Determined By Market Value
Motor	Licensed Physical Therapist Licensed Occupational Therapist Registered (OTR) Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher	Determined By Market Value
Occupational Therapy	Licensed Occupational Therapist Registered (OTR)	Determined By Market Value
Speech and Language	Credentialed or Licensed Speech/Language Pathologist	Determined By Market Value
Social/Emotional	School Psychologist Licensed Educational Psychologist	Determined By Market Value
Visual Acuity Developmental Vision	Licensed Ophthalmologist Optometrist	Determined By Market Value
Functional Vision	Credentialed Teacher of the Visually Impaired	Determined By Market Value
Vision Perception	Credentialed Special Education Teacher School Psychologist	Determined By Market Value
Transition	Credentialed Special Education Teacher	Determined By Market Value



Superintendents' Council

Revised Approval Dates: April 18, 2007, March 28, 2012

Approval Date: January 18, 2006

Second Reading: January 18, 2006

First Reading: December 16, 2005