
SPECIAL EDUCATION INDEPENDENT EDUCATIONAL EVALUATION POLICY

The purpose of this policy is to outline the steps that will be taken by Excel Academy Charter School and its programs (“EACS”) Special Education (“SPED”) department when the parent/guardian of a student with a disability requests an Independent Educational Evaluation (“IEE”) subject to the provisions of federal and state law at public expense if they disagree with an evaluation completed by the Local Education Agency (“LEA”) and the LEA does not pursue its option to file a request for a due process hearing with the California Office of Administrative Hearings to establish the appropriateness of its assessment. An IEE is an evaluation conducted by a qualified evaluator who is not employed by the LEA of residence. Public expense means that the LEA pays for the full cost of the evaluation (in accordance with cost recommendations described herein) or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. This policy is adapted from the Sonoma County Special Education Local Plan Area (“SELPA”).

Policy and Procedures

Parent/guardian(s) of a student with a disability have the right to an IEE subject to the provisions of federal and state law at public expense if they disagree with an evaluation completed by the LEA and the LEA does not pursue its option to file a request for a due process hearing with the California Office of Administrative Hearings to establish the appropriateness of its assessment. If necessary, the LEA should request clarification regarding which evaluation(s) are in dispute. The term “evaluation” includes any individual assessment of a student that results in a report that is used by the IEP team to determine eligibility and services.

Parent/guardians must indicate in writing to EACS or inform EACS at an Individualized Education Plan (“IEP”) meeting that they:

1. Disagree with the LEA’s evaluation and
2. Are requesting an IEE at public expense.

EACS may ask for the parent/guardian(s) reason(s) for disagreeing with EACS’s evaluation, but the parent/guardian is not required to provide those reasons. EACS may offer to conduct another evaluation of its own with parent/guardian consent. If the parent/guardian agrees to another evaluation provided by EACS, this would not be considered an IEE and EACS would work with the parent/guardian to appropriately document the agreement of the parent/guardian to both the new evaluation completed by EACS and to the withdrawal of the IEE request pending the completion of the new assessment completed by EACS. EACS should ask the parent/guardian to revoke their request for an IEE in writing or ask them to sign that they agreed to the withdrawal of the request and to a new assessment completed by EACS.

If the parent/guardian does not agree to another evaluation completed by EACS, EACS must respond to the parent/guardian’s request by ensuring an IEE is provided at public expense in a timely manner or promptly submit a request for a due process hearing in accordance with this

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policy. EACS may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend the appropriateness of its evaluation. In addition, a copy of the Procedural Safeguards and Parent Rights should be provided anytime a parent/guardian requests an IEE. Parent/guardian(s) may only request one publicly funded IEE for each evaluation completed by EACS.

Responding to an IEE Request

Once the parent/guardian communicates his/her disagreement with the evaluation(s) completed by EACS and requests an IEE at public expense in writing or at an IEP meeting, the following procedures will be followed:

1. EACS Executive Director, EACS Program Specialist and the Director of Special Education will be notified
2. EACS will provide to the parent/guardian a copy of the Sonoma County SELPA policy and procedures including criteria for IEEs, a copy of the Procedural Safeguards and Parental Rights, and options for an IEE at public expense.

Options are as follows:

- a. A staff member from another LEA in the SELPA
 - b. A staff member from another SELPA
 - c. A non public agency provider
 - d. A provider on the SELPA IEE list
3. The parent/guardian(s) will communicate to EACS, in writing, their preferred option; OR
 4. EACS will determine whether they will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an IEE.

If EACS determines that it will initiate a due process hearing to establish the appropriateness of its evaluation, EACS will notify the parent/guardian of such a decision in writing prior to filing a due process hearing complaint. This written notice shall include all of the elements of prior written notice as required by section 300.503(b) of Title 34 of the Code of Federal Regulations.

If EACS agrees to provide an IEE at public expense, EACS will work collaboratively with the parent/guardian, at parent/guardian request, to identify potential IEE evaluator(s). Alternatively, the parent/guardian may provide, in writing, their preferred evaluator(s). EACS and the

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parent/guardian may utilize the Agreement for IEE form and/or the parent/guardian will be required to sign a release and exchange of information authorizing EACS to communicate directly with the parent/guardian(s) chosen independent evaluator. Please note: An EACS assessment plan is NOT completed because EACS is not conducting the assessment and is not responsible for the timelines and/or results of the IEE assessments.

EACS may directly contract with the independent evaluator for the IEE. Alternatively, EACS may issue payment to the independent evaluator for the costs of the IEE following its receipt of the items listed below, or EACS may reimburse the parent/guardian for the costs of a procured IEE in a timely manner in accordance with EACS policies and procedures and in an amount no greater than the actual cost to the parent/guardian.

If EACS initiates a due process hearing and the hearing officer issues a final decision finding that the EACS evaluation is appropriate, the parent/guardian will still have the right to obtain an IEE, but not at EACS's expense. If a hearing officer orders an IEE as part of a due process hearing decision, the costs of the IEE must be at EACS's expense.

If the parent/guardian obtains an IEE at private expense or through an agency other than EACS and shares the IEE with EACS, the results of the IEE:

1. Must be considered by EACS if the evaluation meets the agency criteria set forth below, in any decision made with respect to the provision of a free appropriate public education ("FAPE") to the student; and
2. May be presented as evidence at a due process hearing or other proceeding regarding the student.

LEA Criteria

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluator, 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 EACS uses when it initiates an evaluation.

If EACS observes the student in conducting the evaluation with which the parent/guardian(s) disagree or if its assessment procedures allow in-class observations, the independent evaluator will be provided with an equivalent opportunity to observe the student in the current educational setting and to observe the EACS proposed setting, if any. This opportunity shall also be provided if the parent/guardian(s) obtain an evaluation at private expense.

EACS shall define the nature and scope of an independent evaluator'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 protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such

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observation, EACS personnel who will participate in the observation, and restrictions on student/teacher interactions.

Geographical Limitations for Evaluators

Evaluators will be located within Orange, San Diego, Riverside, San Bernardino or Los Angeles Counties. Evaluators outside of this area will be approved only on an exceptional basis, providing parent/guardian(s) can demonstrate the necessity of using personnel outside the specified area in order to obtain an appropriate evaluation. Any expenses beyond that directly related to preparation of the evaluation (e.g., food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation. In addition, while EACS may agree to fund the independent assessment, it is the responsibility of the parent/guardian to coordinate with their chosen assessor(s) for participation in IEP meetings. EACS will not reimburse parents/guardians, or private assessors for time spent in excess of the agreed contracted rate for the independent evaluation.

Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent/guardian can demonstrate the appropriateness, under the specific facts of a given case, of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3))

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Adaptive Behavior	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher with appropriate training

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Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Behavioral	Credentialed Special Education Teacher School Psychologist Behavior Specialist Licensed Educational Psychologist Licensed Clinical Psychologist Licensed Psychiatrist
Cognitive	School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Health (including neurological)	Licensed Physician Nurse
Motor	Licensed Physical Therapist Registered Occupational Therapist Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist Licensed Psychiatrist
Visual Acuity/Developmental Vision	Licensed Ophthalmologist Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher School Psychologist

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Transition	Credentialed Special Education Teacher
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Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that EACS incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will be in an amount no greater than the actual cost to the parent/guardian and will be subject to proof of payment.

Based on the cost limitations contained in the Sonoma County SELPA LEAs and region, the suggested cost of an IEE should be limited to the following table of maximum costs, absent extraordinary circumstances:

Sonoma County SELPA Type of Assessment	Allowable Rate: up to
Academic Achievement	\$800.00
Adapted Physical Education	\$1,500.00
Adaptive Behavior	\$600.00
Assistive Technology	\$1,000.00
Autism/Behavior (ABA) with observation / data collection	\$1,500.00
Behavioral - functional behavior analysis (FBA) Conducted by Board Certified Behavior Analyst (BCBA)-all Costs Inclusive	\$2,000.00
Auditory Acuity or Perception	\$350.00
Auditory Verbal Therapy	\$1,500.00
CAPD (Central Auditory Processing)	\$1,500.00

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DHOH (Deaf and Hard of Hearing)	\$2,500.00
Occupational Therapy (fine/gross motor skills)	\$1,500.00
Physical Therapy	\$1,500.00
Full Psycho-Educational (rate allowed depends on components tested such as academic, adaptive behavior, cognition, social-emotional, etc.)	\$4,000.00
Speech & Language	\$1,500.00
Social-emotional	\$750.00
Visual Acuity & Perception	\$350.00
Visual Processing	\$350.00

Guidelines for all IEE costs are calculated by considering the time required for the assessment and the appropriate comparable EACS employee hourly rate. Costs above these amounts will not be approved unless the parent/guardian can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria. EACS will not necessarily be required to fund the attendance of the assessor at the IEP team meeting convened to consider the IEE.

When insurance will cover all or partial costs of the IEE, EACS will request that the parent/guardian voluntarily have their insurance pay the IEE costs covered by their insurance. However, parent/guardian(s) will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parent/guardian(s) including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy,
2. An increase in premiums or discontinuance of the policy or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent/guardian is willing to have EACS reimburse them for the amount

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of the deductible.

Independent evaluators must agree to release their assessment information, provide prior to the IEP meeting a written IEE assessment report, submit copies of any and all assessment protocols utilized to conduct the IEE, and provide detailed invoices including dates of assessment, observations and hourly rates, if applicable, to EACS prior to receipt of payment for services. All IEE evaluators must utilize testing and assessment materials and procedures, which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the student's primary language or other mode of communication, unless there are stated reasons why this provision and administration are not clearly feasible. All assessment instruments utilized must have been validated for the specific purpose for which they are used and be administered by trained personnel in conformity with the instructions provided by the publisher. All written reports must meet the requirements of the Individuals with Disabilities Education Act ("IDEA") and California Ed. Code Section 56327.

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. However, the results of an IEE will not control EACS's determinations and may not be considered if not completed by a qualified professional, as determined by EACS. EACS should consider contracting with a Nonpublic Nonsectarian ("NPA") for both assessment and services could compromise the reliability of the assessment performed.

References

Legal Authority:

20 U.S.C. 1414(a) – (c) -Evaluations and reevaluations;

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.

Education Code 56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements

Education Code 56506(c) Due process rights of pupil and parent