

Independent Educational Evaluations**Definitions**

For the purpose of this regulation:

An **Independent Educational Evaluation** (IEE) is an evaluation conducted by a qualified examiner who is not employed by the Bethany Public School District (District), which is the public agency responsible for the education of the child.

An **evaluation** means the formal testing and/or assessment procedures used to determine whether a child has a disability and the nature and extent of the special education and related services the child needs.

Public expense means the district either pays for the full cost of the evaluation or ensures the evaluation is otherwise provided at no cost to the parents/guardians.

Procedure

- A. Upon receipt of a request for an IEE by a parent/guardian, the District will, without unnecessary delay, either: a) initiate a due process hearing to show that the evaluation of the child conducted by the District is appropriate; or b) provide an IEE at public expense, unless the school district demonstrates through a due process hearing that the evaluation obtained by the parent did not meet the district's criteria. The District will provide the requesting parent/guardian with a written response to the IEE request generally within ten (10) school days if the request is made during the academic year, or within fourteen (14) calendar days if the request is made in between school years. If the school district requests a hearing and the final decision is that the district's evaluation of the child is appropriate, the parent/guardian still has the right to an IEE, but not at public expense. The district may deny public funding of an IEE, and need not request a due process hearing if the parent/guardian requests an IEE more than two (2) years after the district completed its evaluation.
- B. If in response to the parent/guardian request for an IEE, the District agrees to provide the IEE at public expense, the District will provide names, addresses, and phone numbers of possible IEE evaluators who meet the District's criteria (as set forth below). The list will identify those evaluators who, in the District's judgment, are qualified to perform the evaluation requested by the parent/guardian. Parents/guardians may also select evaluators not included on the District's list, provided the evaluators fully satisfy all of the criteria set forth below. Parents/guardians have the opportunity to demonstrate unique circumstances to justify the use of an independent evaluator who does not meet the District's IEE criteria.
- C. Parents/guardians will be expected to contact the evaluator they have selected to conduct the IEE in a timely manner and to schedule any necessary appointments.
- D. The District will only reimburse a parent/guardian for the cost of an IEE if the District receives a copy of the IEE from the parent/guardian or evaluator and it meets the District's criteria as set forth here. If written consent is required for the independent evaluator to provide the results of the IEE to the District and the parent/guardian refuses to provide consent, thereby denying the District access to the information in the IEE, the District will deny reimbursement for the IEE because the District will be unable to consider the results of the IEE.

Voluntary Resolution and Mediation

- A. After an IEE request is made, the parent/guardian and the District may agree to engage in a voluntary resolution process through which the parties attempt to resolve the issues and concerns related to the IEE request. The period of time for resolution shall not be considered an unnecessary delay in responding to the request of the parent/guardian for an IEE at public expense. If the parties agree to this process, each party shall sign the District's Voluntary Resolution form.
- B. The parties shall agree on a reasonable period of time for resolution. This reasonable period of time generally shall not exceed twenty (20) school days from the initial request when the request is made during the school year or thirty (30) calendar days from the initial request when the request is made in between school years.
- C. The parties may also agree to engage in mediation through the Connecticut State Department of Education or another independent mediator. Voluntary participation in the mediation process shall not be considered an unnecessary delay in responding to the request of the parent/guardian for an IEE at public expense.
- D. If the parties do not resolve the dispute after the voluntary resolution period or mediation, the District shall either file a request for due process or ensure that the IEE is provided at public expense.

Criteria for Independent Evaluators

Evaluators chosen to conduct independent evaluations must meet **ALL** of the criteria established by the District as follows:

- A. Minimum Credentials for Evaluators
 - 1. For Psychologists:
 - a. Licensure or Certification
Psychologists must either:
 - i. Hold a valid license as a psychologist from the Connecticut Department of Public Health and have achieved a Doctor of Philosophy (Ph.D.) or Doctor of Psychology (Psy.D.) in Psychology, Neuropsychology or Clinical Psychology from an accredited university; **OR**
 - ii. Hold an appropriate and valid certificate in school psychology from the Connecticut State Department of Education.
 - b. Additional Requirements:
Psychologists must:
 - i. Have training and experience in evaluating students of the same age level; and
 - ii. Have clinical background, advanced training, and recent experience in the areas of disability being evaluated.

INSTRUCTION

Regulation 6171.1(c)

2. For individuals conducting academic achievement testing, the individual must either:
 - a. Fulfill the following requirements:
 - i. Have experience and training in teaching and evaluating students in the area of suspected disability; and
 - ii. Have attained a minimum of a Master's degree; or
 - iii. Hold an appropriate and valid special education or other academic specialization (such as reading or mathematics) certificate from the Connecticut Department of Education.

OR

- b. Fulfill the requirements of the psychologist above.
3. For Speech Pathologists, Audiologists, Occupational Therapists, Physical Therapists, and Physicians:
 - a. Hold a valid license to practice from the Connecticut Department of Public Health or Department of Education, as applicable;
 - b. Have clinical pediatric experience in evaluating and treating children in the area of disability being evaluated; **and**
 - c. In the case of physicians, be Board Certified in the appropriate specialty area (pediatrics, care of children and adolescents, etc.).
4. For individuals conducting assistive technology testing, the individual must either:
 - a. Fulfill the following requirements:
 - i. Have experience and training in teaching and evaluating assistive technology needs for students in the areas of suspected disability; and
 - ii. Have attained a minimum of a Master's degree; or

OR

- b. Fulfill the requirements for Psychologists, Speech Pathologists, Audiologists, Occupational Therapists, Physical Therapists or Physicians listed above and have experience and training in teaching and evaluating assistive technology needs for students in the areas of suspected disability.
5. For individuals conducting, or leading the process to conduct, a functional behavioral assessment, the individual must **either**:
 - a. Fulfill the following requirements:
 - i. Have experience and training in conducting functional behavioral assessments and analyzing the relationship between observed behavior and antecedents and consequences preceding and following such behavior, respectively; and

INSTRUCTION

Regulation 6171.1(d)

- ii. Fulfill the requirements of the psychologist above; **or**
- iii. Be a Board Certified Behavior Analyst and/or hold a valid behavior analyst license from the Connecticut Department of Public Health; **or**
- iv. Hold an appropriate and valid social worker certification from the Connecticut Department of Education; **or**
- v. Hold an appropriate and valid special education certificate from the Connecticut Department of Education.

In addition, functional behavioral assessments must include a review of information provided by the student's school team.

B. Cost:

Evaluators must charge fees for evaluation services which, in the judgment of the District, are reasonable and customary for such evaluations. Parents/guardians may request specific cost information from the District. Parents/guardians have the opportunity to demonstrate unique circumstances to justify the use of an independent evaluator whose fees exceed the District's criteria.

C. The evaluator must not be an employee of the District.

D. The evaluator must be permitted to directly communicate with school staff who work with the child in school and the members of the Planning and Placement Team (PPT), including the Director of Special Services, as well as to obtain information from the school and share information with the school.

E. The evaluator must obtain and consider school information and observations of the child in the school setting in the evaluation process and the written report. All in-school observations as part of an IEE must be scheduled in advance with the Director of Special Services or his/her designee. The scope, schedule, setting, and length of any such observations shall be based, in part, on the purpose of the IEE and the District's obligation to ensure programming of all of its students free from disruption. The District may limit the length of in-school observations that are part of IEEs to the same length as observations conducted as part of District evaluations.

F. The evaluator must agree to provide the assessment information and results, including the results of teacher and parent checklists and surveys, in a written report to the District prior to receipt of payment for services. The report shall be provided to the district and the parent/guardian at the same time. In addition, if the District, in its sole discretion, determines that it needs to review the test protocols used by the independent evaluator conducting the IEE, the District will require that the independent evaluator provide an opportunity for District officials to inspect and review the test protocols and the independent evaluator must provide an explanation of the test protocols if requested by the District.

G. The evaluator must comply with all requirements under the Individuals with Disabilities Education Act (IDEA) and its implementing regulations and the Connecticut State Department of Education regulations regarding the evaluation of children with disabilities. The failure of an evaluator to comply with these federal and state regulations regarding requirements for evaluations means that the IEE performed by the evaluator does not meet District criteria. For reference, the applicable federal and state regulations are included in an appendix to these criteria. The evaluator must also comply with all applicable confidentiality requirements under state and federal law.

INSTRUCTION

Regulation 6171.1(e)

After Completion of the IEE

The results of an IEE funded by the District will be considered at a PPT meeting. The PPT is not required to implement the recommendations from the IEE or to invite the independent evaluator to the PPT meeting. The District shall ensure that a participant of the PPT meeting can interpret the instructional implications of the IEE results.

Geographic Location

Evaluators who will be considered for approval must be located within a radius of seventy-five (75) miles of the District. The District shall not be responsible to provide transportation, nor pay any travel expenses, to and from the location of the evaluator. Parents/guardians have the opportunity to demonstrate unique circumstances to justify obtaining an IEE from an evaluator located outside of these geographic limitations.

Additional Information

If the District has not conducted an evaluation of a child, or an evaluation or reevaluation of the student is currently pending, the parent/guardian does not have a right to an IEE at public expense. The District has the right to conduct its evaluation or reevaluation first. A parent/guardian may request only one IEE at public expense for each evaluation conducted by the District.

Private Evaluations Obtained by Parents/Guardians

Evaluations and/or assessments obtained by parents/guardians that do not meet the criteria for an IEE are considered parent-initiated private evaluations for which parents/guardians are not entitled to reimbursement or payment from a public school district.

If a parent/guardian shares a parent-initiated private evaluation with the district and it meets these criteria, the District will review the evaluation at a PPT meeting and consider it relative to any decision made with respect to a free appropriate public education for the student.

Questions

Please contact the Director of Special Education/Pupil Services with any questions regarding the criteria for IEEs.

Evaluators Meeting Criteria

A list of evaluators meeting District criteria will be provided upon request.

Legal References: 34 C.F.R. 300.502

Regulations Connecticut State Agencies § 10-76d-9

Guidelines Regarding Independent Educational Evaluations at Public Expense and In-School Observations, Connecticut State Department of Education (March 28, 2018).

Regulation approved: December 12, 2018

AGREEMENT TO PARTICIPATE IN VOLUNTARY RESOLUTION OF REQUEST FOR INDEPENDENT EDUCATIONAL EVALUATION

_____ (the "Parent") has requested an independent educational evaluation ("IEE") at public expense from the Bethany Public School District (the "District") based on the Parent's disagreement with an evaluation obtained by the District.

The Parent and the District (collectively, the "Parties") understand that pursuant to the regulations of the Individuals with Disabilities Education Act ("IDEA"), upon such a request for an IEE at public expense, the District must, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show its evaluation is appropriate; or
2. Ensure the IEE is provided at public expense unless the District demonstrates in a due process hearing that the evaluation obtained by the parent does not meet the District's IEE criteria.

The Parties understand that the right to request an IEE at public expense upon the Parent's disagreement with an evaluation obtained by the District is a procedural safeguard and parental right under the IDEA regulations.

The Parties believe that it is in both parties' interest to participate in an informal, voluntary resolution period to further discuss the request for an IEE at public expense and related issues and concerns of the parties before the District files a due process complaint or agrees to fund the IEE, in order to avoid the potential costs of litigation and direct resources toward a possible resolution between the Parties.

The Parties agree that the time period necessary to engage in an informal, voluntary resolution period does not constitute an unnecessary delay relative to the federal requirements imposed on the District when an IEE request is made by a parent.

Based on this mutual consideration, the Parties agree to the following:

1. The time period for the informal, voluntary resolution period shall be:
 - One week (End date: _____)
 - Two weeks (End date: _____)
 - Three weeks (End date: _____)
 - In order to participate in the Connecticut State Department of Education's mediation process, or mediation through an independent mediator
 - Other: _____ (End date: _____)
2. Either Party may terminate this Agreement at any time in writing provided to the other Party.
3. The Parent shall not raise a claim in any forum that the District was untimely in responding to the Parent's request for an IEE at public expense based on the time covered under this Agreement. This Agreement does not waive any other rights, obligations, or defenses of either Party.
4. Upon the expiration or termination of this Agreement, including the conclusion of the mediation process, the District shall have ten (10) school days or fourteen (14) calendar days (whichever is fewer) to either file for due process or ensure the IEE is provided at public expense.
5. The Parent understands and acknowledges that the Parent has no obligation to sign this Agreement or otherwise agree to participate in the informal, voluntary resolution process. If this Agreement is not signed by the Parent, the District will, without unnecessary delay, respond to the IEE request in accordance with federal law.

For the Parents:

For the Bethany Public School District:

Parent/Guardian

District Administrator

Parent/Guardian

Date

Date