

## INDEPENDENT EDUCATIONAL EVALUATION

### Policy:

North Santa Cruz County Special Education Local Plan Area (SELPA) has developed this policy, corresponding procedures and criteria which govern independent educational evaluations. 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 the entire document 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 independent educational evaluations should contact the SELPA administrator of the North Santa Cruz County SELPA or contact the California Department of Education as outlined in their Notice of Procedural Safeguards.

### NOTICE TO PARENTS

- Please read this document before obtaining or paying for an independent educational assessment. This document may limit your right to reimbursement.
- Before obtaining an independent educational assessment, please contact the special education administrator to discuss your assessment questions and options.
- The district will not automatically reimburse parents who unilaterally obtain independent educational assessments. Please review this document for further information about a parent's right to obtain independent assessments at public expense.
- An independent educational evaluation, if not obtained in accordance with SELPA's policy, procedures and criteria, may not be considered by your child's IEP team. Please ensure that any independent educational evaluation conforms to SELPA requirements.

### DEFINITIONS:

"Independent educational evaluation" (IEE) means an evaluation conducted by a qualified examiner who is not employed by the responsible local educational agency.

"Public expense" means that district either pays for the full cost of the evaluation or evaluation components or ensures that the evaluation or evaluation components are otherwise provided at no cost to the parent.

### PARAMETERS FOR SEEKING INDEPENDENT EDUCATIONAL EVALUATION:

If a parent disagrees with an evaluation by the district and seeks an independent educational evaluation, the district will either initiate a due process hearing to show that its evaluation is appropriate or will provide the parent an opportunity to obtain an independent educational evaluation at public expense. Disagreement with an IEP offer of a free, appropriate public education (FAPE) is not the equivalent of disagreement with an assessment. A parent is entitled to only one

independent educational evaluation at public expense each time the LEA conducts an evaluation with which the parent disagrees.

The SELPA requires that the parent first inform the district in writing or communicate to the district at an IEP meeting that the parent:

1. Disagrees with district's evaluation; and
2. Is requesting an independent educational evaluation at public expense.

EXPLANATION OF DISAGREEMENT:

If parents request an independent educational evaluation at the expense of the district, the parents will be asked for a reason why they object to the district's evaluation. The explanation by the parent is not required. In addition, the district may not unreasonably delay completion of a new assessment, completion of the independent educational evaluation at public expense, or the initiation of due process hearing to defend its evaluation. There is no requirement that the parents specify areas of disagreement with district's evaluation as a prior condition to obtaining the independent educational evaluation.

NORTH SANTA CRUZ COUNTY SELPA'S RESPONSE TO A REQUEST FOR AN INDEPENDENT EVALUATION:

If parents request an independent educational evaluation at public expense, the district will, without unnecessary delay, offer the parent an alternative examiner (option 1 below) and also provide options for an independent educational evaluation at public expense (option 2, 3 or 4 below) as follows:

1. A staff member from another school;
2. A staff member from another LEA in the SELPA;
3. A staff member from another SELPA;
4. The Diagnostic Center; or
5. 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 independent education evaluation is provided at public expense.

If the district initiates a hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

TIMELINE REGARDING INDEPENDENT EDUCATIONAL EVALUATIONS:

In the interest of consistency between public and private evaluations, the SELPA encourages parents to choose an option for additional assessment offered by the district within 15 days of receiving the options.

After the parent of the student with a disability chooses an option for an additional evaluation and signs an assessment plan, the district will arrange for or initiate a contract with the examiner within 15 days of the date that the parent's written consent to the evaluation is received by the district.

The district will make arrangement for a new evaluation, or contract with a qualified independent examiner who is able to provide a written report for an IEP meeting, within 60 days of the date of contracting for an evaluation. If the selected evaluator cannot meet the time line, the district will inform the parent and ask for agreement to an extension of time or selection of another option.

INFORMATION PROVIDED TO PARENTS:

Upon parent request for an independent educational evaluation, the SELPA will provide the parents with a copy of its policy, procedures and criteria for independent educational evaluations.

CONSIDERATION OF THE INDEPENDENT EDUCATIONAL EVALUATION:

Independent educational evaluations are designed to determine the educational needs of a student with disability. The district is responsible for determining placements and services. Therefore, the district will consider recommendations obtained in independent educational evaluations completed in accordance with this policy and its implementing procedures and criteria. However, independent educational evaluations will not control district's determinations and may not be considered if not completed by a qualified professional, as determined by the district.

PARENT INITIATED EVALUATIONS:

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

1. Must be considered, if it meets the district's 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.

EVALUATIONS ORDERED BY HEARING OFFICERS:

If a hearing officer requests an independent educational evaluation as part of a hearing the cost of the evaluation must be at the district's expense.

NORTH SANTA CRUZ COUNTY SELPA's CRITERIA:

1. If an independent educational evaluation 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 limits, and use of approved instruments must be the same as the criteria the district uses when it initiates an evaluation.

2. If the LEA observed the student in conducting the evaluation with which the parents 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 LEA's proposed setting, if any. This opportunity shall also be provided if the parents obtain an evaluation at private expense.
3. The LEA 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 observation, LEA personnel who will participate in the observation and restrictions on student/teacher interactions.

#### LOCATION LIMITATIONS FOR EVALUATORS

Evaluators will be located within the greater Santa Cruz area including: Santa Clara, Monterey, San Benito and San Mateo counties. 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 in order to obtain an appropriate evaluation. If a qualified evaluator is available within the above physical boundaries, such request will be denied. Any expenses beyond that directly related to preparation of the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation.

#### **Minimum Qualifications for Evaluators**

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

<b>Type of Assessment</b>	<b>Qualifications</b>
<b>Academic Achievement</b>	Credentialed Special Education Teacher School Psychologist Licensed Psychologist
<b>Adaptive Behavior</b>	Credentialed Special Education Teacher School Psychologist Licensed Psychologist
<b>Assistive Technology</b>	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher
<b>Auditory Acuity</b>	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
<b>Auditory Perception (Central Auditory Processing)</b>	Licensed or Credentialed Speech/Language Pathologist

<b>Behavioral</b>	Credentialed Special Education Teacher Certified Behaviorist School Psychologist Licensed Psychologist Licensed Psychiatrist
<b>Cognitive</b>	School Psychologist Licensed Psychologist
<b>Health (including neurological)</b>	Licensed Physician Nurse
<b>Motor</b>	Licensed Physical Therapist Registered Occupational Therapist Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher
<b>Occupational Therapy</b>	Licensed Occupational Therapist
<b>Speech and Language</b>	Credentialed or Licensed Speech/Language Pathologist
<b>Social/Emotional</b>	School Psychologist Licensed Psychologist Licensed Psychiatrist
<b>Visual Acuity/Developmental Vision</b>	Licensed Ophthalmologist Licensed Optometrist
<b>Functional Vision</b>	Credentialed Teacher of the Visually Impaired
<b>Vision Perception</b>	Credentialed Special Education Teacher School Psychologist Registered Occupational Therapist
<b>Transition</b>	Credentialed Special Education Teacher

#### **Cost Containment Criteria for Evaluations**

The cost of an IEE shall be comparable to those costs that the LEA 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 not be in an amount greater than the actual cost to the parents and will be subject to proof of payment.

The cost of a psycho-educational IEE shall not exceed \$3,500.00 absent extraordinary circumstances. The cost of a speech and language, occupational therapy, and/or adaptive physical education shall not exceed \$1,500.00. The cost of other types of IEEs will be considered on a case-by-case basis. Guidelines for all IEE costs are calculated by considering time required for the assessment and the appropriate LEA 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. The LEA 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, the LEA will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents 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 the 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 is willing to have the LEA reimburse them for the amount of the deductible.

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 relevant IEP Team meetings via telephone or in person to discuss their findings.

Independent evaluators must agree to release their assessment information and results to the LEA 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.

All independent educational 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 the assessment plan indicates reasons why this provision and administration are not clearly feasible. All assessment instruments must have been validated for the specific purpose for which they are used, and be administered by trained personnel in conformance with instructions provided by the publisher.

#### CIRCUMSTANCES RESULTING IN EVALUATIONS NOT FUNDED BY THE DISTRICT:

Because the parent must first disagree with the district's evaluation in writing, the district does not have an obligation to reimburse parents for private evaluations obtained prior to the date that the district's evaluation is completed and discussed at an IEP team meeting. The district is not obligated to reimburse parents for privately obtained evaluations if the parent disagrees with the district's evaluation and independently seeks a private evaluation without first

notifying the district in writing of their disagreements with the district's assessment and requesting an independent educational evaluation from the district except as provided below.

Reimbursement will be in accordance with the North Santa Cruz County SELPA policy, procedures and criteria and in an amount no greater than the actual cost to the parents. 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.

EDUCATION CODE

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

*56506(c) Due process rights of pupil and parent*

CALIFORNIA CODE OF REGULATIONS, TITLE 5

*3022 Assessment Plan.*

UNITED STATES CODE, TITLE 20

*1415(b) (I)*

CODE OF FEDERAL REGULATIONS, TITLE 34

*300.502 Independent Educational Evaluation*